

Studies and Notes
supplementary to
Stubbs' Constitutional History

Down to the Great Charter

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PREFACE TO THE ENGLISH TRANSLATION.

THE twelve studies and notes here printed have been translated from the French of Professor Ch. Petit-Dutaillis in order to provide the English student with a supplement to the first volume of Bishop Stubbs' "Constitutional History of England."

The recent appearance of the first volume of a French translation of that classical work, more than thirty years after the publication of the corresponding volume of the original, is good evidence that it still remains the standard treatise on its subject. At the same time, the fact that M. Petit-Dutaillis, the editor of the French edition, has found it necessary to append over 130 closely printed pages by way of addition and correction shows that the early part of the book, at all events, has not escaped the ravages of time. The thirty years which have elapsed since it appeared have seen much fruitful research both in England and abroad upon the period which it covers. Continental scholars such as Fustel de Coulanges and Meitzen and in this country Maitland, Seeböhm, Round, Vinogradoff, and others have added greatly to our knowledge of the origin and early history of English institutions. The results of this research so far as it had proceeded in Stubbs' lifetime were very imperfectly incorporated by him in the successive editions of his book. Moreover, as M. Petit-Dutaillis points out in his preface, the study of these institutions is now approached from a standpoint different from that which was taken by Stubbs and his contemporaries. Some portions of the first volume of the "Constitutional

History" have, therefore, become obsolete and others require correction and readjustment.

Teachers and students of English constitutional history have long been embarrassed by a text-book which, while indispensable as a whole, is in many points out of date. Hitherto they have had to go for newer light to a great variety of books and periodicals. English historians were apparently too much engrossed with detailed research to stop and sum up the advances that had been made. It has been left to a French scholar to supply the much-needed survey. M. Petit-Dutaillis, who was, at the time when he brought out the first volume of his edition, Professor of History in the University of Lille, but has quite recently been appointed Rector of the University of Grenoble, had already shown an intimate and scholarly acquaintance with certain periods of English history in his "Etude sur la vie et le règne de Louis VIII." and in his elaborate introduction to the work of his friend André Réville on the Peasants' Revolt of 1381. The twelve "additional studies and notes" in which he brings the first volume of the "Constitutional History" abreast of more recent research meet so obvious a need and, in their French dress, have been so warmly welcomed by English scholars, that it has been thought desirable to make them easily accessible to the many students of history who may not wish to purchase the rather expensive volume of the French edition in which they are included.

M. Petit-Dutaillis willingly acceded to the suggestion and has read the proofs of the translation. The extracts from his preface, given elsewhere, explain more fully than has been done above the reasons for and the nature of the revision of Stubbs' work which he has carried out.

As M. Petit-Dutaillis observes, in speaking of the French version of the "Constitutional History," the translation of books of this kind can only be competently executed by historians. It has in this case been entrusted

to a graduate of the University of Manchester, Mr. W. E. Rhodes, who has himself done good historical work. I have carefully revised it, corrected, with the author's approval, one or two small slips in the French text, substituted for its references to the French translation of the "Constitutional History" direct references to the last edition (1903) of the first volume of the original, and added in square brackets a few references to Professor Vinogradoff's "English Society in the Eleventh Century," which appeared after the publication of the French edition. The index has been adapted by Mr. Rhodes from the one made by M. Lefebvre for that edition.

JAMES TAIT.

THE UNIVERSITY,
MANCHESTER,
September 8th, 1908.

EXTRACTS FROM THE AUTHOR'S PREFACE.

THE French edition of the "Constitutional History" of William Stubbs is intended for the use of the students of our Faculties of Arts and Law . . . The "Constitutional History" is a classic and the readers of the "Bibliothèque internationale de Droit public"¹ have seen it more than once quoted as a book the authority of which is accepted without discussion. It seems desirable, however, to emphasize the exceptional merits of this great work as well as to draw attention to its weak points and, as it is not an adaptation but a translation—complete and reverent—that is given here, to explain why we have thought some additions indispensable . . . All that we know of Stubbs inspires confidence, confidence in the solidity and extent of his knowledge, the honesty of his criticism, the sureness of his judgment, the depth of his practical experience of men and things. Despite the merit of his other works, and especially of the prefaces which he wrote for the *Chronicles* he edited, Stubbs only showed the full measure of his powers in the "Constitutional History." It is the fruit of prodigious labour, of a thorough investigation of the printed sources which a historian could consult at the period when these three bulky volumes successively appeared. It is an admirable storehouse of facts, well chosen, and set forth with scrupulous good faith. The word "Constitution" is taken in its widest sense. How the England of the Renaissance with its strong Monarchy, its House of Lords, its local institutions, its Church, its Nobility, its towns, its freeholders and its villeins was evolved from the old Anglo-Saxon Britain,

1. In which the translation is included.

this is the subject of the author's enquiry. With the exception of diplomatic and military history he touches upon the most diverse subjects. His book is at once a scientific manual of institutions and, at least from the Norman Conquest onwards, a continuous history of every reign. Mr. Maitland has called attention to the advantages of the plan which by combining narrative and analysis allows no detail of importance to escape, and gives a marvellously concrete impression of the development of the nation.²

Does this imply that the perusal of the "Constitutional History" leaves us nothing to desire? The French who have kept the "classical" spirit and reserve their full admiration for that which is perfectly clear, will doubtless find that his thought is very often obscure and his conclusions undecided. This is really one result of the vast erudition and the good faith of the author. This honest historian is so careful not to neglect any document, so impressed with the complexity of the phenomena that he does not always succeed in disposing them in an absolutely coherent synthesis

But inconsistencies of view and the relative obscurity of certain passages are not the only fault which impairs Stubbs' work. There is another, at once more serious and more easily remedied, a fault which is particularly felt in the first volume. The book is no longer up to date. The chapters dealing with the Anglo-Saxon period, especially, have become obsolete on many points. The revisions effected by Stubbs in the successive editions which he published down to his death, are insufficient. They do not always give an accurate idea of the progress made by research, and they are not even executed with all the attention to details which is desirable. Although the author had not ceased to be interested in history the task of revision obviously repelled him. The "Constitutional History" has grown

2. Maitland, *Eng. Hist. Rev.*, xvi., 1901, p. 422.

out of date in yet another way. Stubbs wrote history on lines on which it is no longer written by the great mediævalists of to-day. He belonged to the liberal generation which had seen and assisted in the attainment of electoral reforms in England and of revolutionary and nationalist movements on the Continent. He had formed himself, in his youth, under the discipline of the patriotic German scholars who saw in the primitive German institutions the source of all human dignity and of all political independence. He thought he saw in the development of the English Constitution the magnificent and unique expansion of these first germs of self-government, and England was for him "the messenger of liberty to the world." The degree to which this optimistic and patriotic conception of English history could falsify, despite the author's scrupulous conscientiousness, his interpretation of the sources, is manifest in the pages which he devoted to the Great Charter. Nowadays when so many illusions have been dissipated, when parliamentary institutions, set up by almost every civilized nation, have more openly revealed, as they developed, their inevitable littlenesses and when the formation of nationalities has turned Europe into a camp, history is written with less enthusiasm. The motive of the deeds accomplished by our forefathers are scrutinized with cold impartiality, minute care is taken to grasp the precise significance which they had at the time when they were done, and lastly the economic conception of history exercises a certain influence even over those who do not admit its principles. Open the "History of English Law" of Sir Frederick Pollock and Mr. Maitland, the masterpiece of contemporary English learning, written twenty years after the "Constitutional History" and note the difference of tone.

This French edition being intended for the use of students and persons little versed in mediæval history, it was necessary to let them know that the work is not

always abreast of the progress of research and we have thought it possible to furnish them, although in a very modest measure, with the means of acquiring supplementary information . . . ³

I have specially written for this publication a dozen studies and additional notes. Some of these lay claim to no originality, and their only purpose is to summarize celebrated controversies or to call attention to recent discoveries. In others a study of English history of some duration has allowed me to express a personal opinion on certain questions. The problems most discussed by the scholars who are now investigating the Anglo-Saxon, Norman, and Angevin periods have thus been restated with a bibliography which may be useful . . .

M. Bémont, the Frenchman who has the best knowledge of mediæval England, has been good enough to read the proofs of the additional studies.

CH. PETIT-DUTAILLIS.

3. M. Petit-Dutaillis proceeds to state that he has added to Stubbs' notes references to works and editions by French scholars "which he was unacquainted with, or at least treated as non-existent," and has referred the reader to better editions of English Chronicles and other sources where Stubbs was content to use inferior ones, or where critical editions have appeared since his death.

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I.

THE EVOLUTION OF THE RURAL CLASSES
IN ENGLAND AND THE ORIGIN OF THE
MANOR.

AT the end of the Middle Ages, rural England was divided into estates, which were known by the Norman name of *manors*.¹ The manor, a purely private division,² a unit in the eyes of its lord, did not necessarily coincide with the township or village, a legal division of the hundred and a unit in the eyes of the king; but, except in certain counties,³ the two areas were normally identical. In each of his manors, the lord of the manor retained some lands in demesne, which he cultivated with the aid of labour services, and he let the remainder in return for fixed dues, to the tenants, free or villein, who formed the village community.⁴ Agriculture and cattle-rearing

1. The term is not absolutely general. At the end of the 12th century it is not used in the Boldon Book, the land-book of the Bishop of Durham; the rural unit, in this document, is the *villa*, though in reality the manorial organisation existed. (Lapsley, in *Victoria History of the Counties of England, Durham*, i, 1905, pp. 262, 268.)

2. Maitland, *Select Pleas in Manorial Courts*, 1889, i, p. xxxix.

3. In the counties of Cambridge, Essex, Suffolk, Norfolk, Lincoln, Nottingham and Derby, and in some parts of Yorkshire, the village was frequently divided between three or four Norman lords, at least at the date of *Domesday Book* (Maitland, *Domesday Book and Beyond*, 1897, pp. 22-23). The co-existence of several manors in the territory of one village sometimes brought about the partition of the village; or on the other hand it persisted, and was the cause of frequent disputes; see on this subject Vinogradoff, *The Growth of the Manor*, 1905, pp. 304 sqq.; *Villainage in England*, 1892, pp. 393 sqq.; Maitland, *Domesday Book and Beyond*, pp. 129 sqq.

4. See the description of the manorial organisation in Vinogradoff, *Growth of the Manor*, pp. 307 sqq., and *Villainage*, pp. 223 sqq. [Cf. also his *English Society in the Eleventh Century*, 1908, pp. 353 sqq.] Mr. Maitland has published an excellent monograph on the Manor of Wilburton in the *English Historical Review*, 1894, pp. 417 sqq. Numerous monographs of this kind would be very useful.

were carried on according to the system of the un-enclosed field, the open field.¹ In the manor there were several fields alternatively left fallow or sown with different crops.² Each of these fields, instead of belonging as a whole to a single tenant, was divided, by means of balks of turf, into narrow strips of land, whose length represented the traditional length of furrow made by the plough before it was turned round. The normal holding of a peasant was made up of strips of arable land scattered in the different fields, customary rights in the common lands, and a part of the fodder produced by the meadows of the village. Once the harvest had been reaped in the fields and the hay got in in the meadows, the beasts were sent there for common pasture. Every one had to conform to the same rules, to the same method of rotation of crops; even the lord of the manor, who often had a part of his private demesne situated in the open field.

Whatever progress individualism had made in the 13th century, the inhabitant of a village was a member of a community whose rights and interests restricted his own, and which, in its relation to the lord of the manor, still remained powerful.³ Common business was discussed periodically in the *hall* of the manor, and the villeins, the English term for the serfs, attended the *halimot* just as much as the free tenants; although the villeins were in a majority, the free tenants were amenable to this court in which we see the peasants themselves "presenting" the members of

1. The English open-field system has been often studied. The starting point is Nasse's essay *Zur Geschichte der mittelalterlichen Feldgemeinschaft in England*, 1869. F. Seebohm revived the subject in his celebrated book, to which we shall have to refer again: *The English Village Community*, 1883, pp. 1 sqq. See *ibid.*, pp. 2 and 4, the map and sketch made from nature—for there still exist some relics of these methods of cultivation. Cf. Mr. Vinogradoff's chapter on the Open-field System, in *The Growth of the Manor*, pp. 165 sqq.; Stubbs, i, pp. 52 sqq., 89 sqq.

2. For example: corn—barley or oats,—fallow.

3. See Vinogradoff, *Growth of the Manor*, pp. 318 sqq., 361 sqq. and passim; *Villainage*, pp. 354 sqq.

the community who had done their work ill. The reason is that the community as a whole was answerable to its lord. Sometimes, moreover, the village, like the free towns, farmed the dues and paid a fixed lump sum to its lord. It was, then, a juridical person.¹ Finally, the village had its share in local government, police and the royal courts of justice.²

Thus the English manor, like a French rural domain of the same period, was dependent on a lord; and the lord claimed dues from his tenants and day-work to till the land which he cultivated himself. But the customs to which the exercise of the right of ownership had to defer, the methods of husbandry and pasturage, the importance of the interests of all kinds entrusted to the peasants themselves, showed the singular strength of the English rural community.

What was the origin of this manorial organization, of the usages of the open field, of the condition of the freeman and villeins, of this village community which had the rights of a juridical person and formed the primordial unit of local government?

The question of the origin of the seignorial and manorial system, which, in the history of the whole of the West, is a subject of controversy, is particularly obscure and complex in England, because England underwent only a partial Romanisation which is imperfectly known, and the exact extent and character of which it is impossible to estimate.

The "Romanists" and "Germanists" of the other side of the Channel engage in battles in which analogy and hypothesis are the principal weapons; and the projectiles are not mortal to either of the two armies.

The Germanists deny any importance in the develop-

1. We adopt on this point the views of Mr. Vinogradoff, *Growth of the Manor*, pp. 322 sqq.

2. Stubbs, *Const. Hist.*, i, pp. 88 sqq., 102, 115, 128, etc.

ment of English institutions to the Roman element, as indeed also to the Celtic. The earliest of them sought to explain the formation of the rural community and even that of the manor by the Mark theory.¹ Several years before the appearance of the famous works of G. L. von Maurer on the *Markverfassung in Deutschland*, Kemble in his *Saxons in England*, drew a picture, somewhat vague in outline it is true, of a Saxon England divided into *marks*, inhabited by communities of free Saxons, associated of their own free will for the cultivation of the soil and exercising collective rights of ownership in the lands of their mark. In this "paradise of yeomen" the free husbandman is judged only in the court of the mark, submits to the customs of the mark alone, acknowledges no other head but the "first markman," hereditary or elected, or the powerful warrior who secures the safety of the mark. This head, however, ends, thanks to his prerogatives and usurpations, by reducing the members of the community to economic dependence. The lands not yet exploited, which should have remained as a reserve fund at the disposal of the people, fall into the hands of the chief men. This capital phenomenon fully explains the formation of the feudal and manorial system.²

Kemble had the merit of raising questions which are still debated at the present day; unfortunately, his structure is a creation of fancy. Maurer, on the contrary, founded his Mark theory on a thorough study of the German village of the Middle Ages. But Fustel de Coulanges has accused him of having "attributed to ancient Germany

The Mark theory has been partially abandoned.

1. A summary of this controversy may be found in Vinogradoff, *Villainage in England*, pp. 16 sqq.; C. M. Andrews, *Old English Manor* (Baltimore, 1892) *Introduction*; E. A. Bryan, *The Mark in Europe and America* (Berlin, 1893), etc.

2. Kemble, *Saxons in England*, ed. W. de Gray Birch, 1876, vol. i, especially pp. 53 sqq., 176 sqq.

usages whose existence can only be verified twelve centuries later,"¹ and has partly succeeded in overthrowing the "mark-system." The Germanists can no longer maintain that the mark is "the original basis on which all Teutonic societies are founded,"² and even Stubbs, who appears to be unacquainted with the works of Fustel, and quotes those of Maurer with unqualified praise, makes some prudent reservations. He does not admit that the mark is a "fundamental constitutional element." But he thinks that the English village "represents the principle of the mark," and in the pages which he devotes to the township and the manor, he allows no place to Roman or Celtic influences.³ The majority of the best-known English historians of his generation and ours, Henry Sumner Maine, Freeman, Green, Maitland,⁴ are, like him, decided Germanists. In the same camp are ranged the German scholars who have studied or approached the problem of the origin of English civilization on any side, such as Konrad Maurer, Nasse, Gneist and Meitzen.

Until 1883, the Romanists had not given uneasiness to the English scholars of the Germanist school. The work of Coote⁵ was built in the air, on analogies and suppositions which were often extravagant; it is difficult to take seriously his theories on the fiscal survey of the whole of Britain, on the persistence of the Roman *Comes* and on the Roman origin of the shire. The book in which Fustel de

1. *De la marche germanique in Recherches sur quelques problèmes d'histoire*, 1885, p. 356. Cf. *Le problème des origines de la propriété foncière*, in *Questions Historiques*, ed. Jullian, 1893, p. 21 sqq.

2. Kemble, *Saxons*, p. 53.

3. *Const. Hist.*, i, pp. 35 sqq., 52 sqq., 89 sqq., 97 sqq. For Stubbs' general views on the Germanic origin of English institutions, see *ibid.*, pp. 2 sqq., 65, 68.

4. Mr. Maitland, however, entirely rejects the term 'mark' as applicable to the English village community. See *Domesday Book and Beyond*, pp. 354-355.

5. *The Romans of Britain*, 1878.

Coulanges had studied Roman Gaul was little known on the other side of the Channel; nor would it have shaken the conviction of scholars who consider that English institutions have had an absolutely original development and are the "purest product of the primitive genius of the Germans." In 1883, the famous work of Mr. F. Seebohm appeared to disturb the tranquillity of the Germanists.

Mr. Seebohm set himself to examine "The English Village Community in its relations to the manorial and tribal systems and to the common or open field system of husbandry." Such was the title of the book; the problem to be solved was indicated in the preface thus: "whether the village communities of England were originally free and this liberty degenerated into serfdom, or whether they were at the dawn of history in serfdom under the authority of a lord, and the 'manor' already in existence."

The author proceeds from the known to the unknown; his starting point is a description of the remains of open field cultivation which he has himself observed in England. He has no difficulty in proving that this system was already employed at the end of the Middle Ages, and co-existed with the manorial organisation and villeinage. He then goes back to the period of the Norman Conquest. According to him, when the Normans arrived in England, they brought with them no new principle in the management of estates. Already, *tempore regis Edwardi*, we find the manor, with a lord's demesne and a village community composed of serfs, whom the lord has provided with indivisible holdings; the Domesday Book of the eastern counties speaks indeed of *liberi homines* and *sochemanni*, but they were Danes or Normans: the natives were not free tenants. Earlier still, in the time of King Ine or Ini, at the end of the seventh century, the usages of the open field existed, the *ham* and the *tun* were manors, the *thegn*

or *hlaford* was the lord of a manor, the *ceorl* was a serf. And as in the laws of Ethelbert a century older, there is mention of *hams* or *tuns* belonging to private individuals or to the king, the manor must already have existed at the end of the sixth century. Now, the Anglo-Saxons, at that time, had scarcely completed the conquest of the island; it is impossible, therefore, that the free village community, conforming to the mark system, can have been introduced by them into England, since the first documents that we have on their social condition prove that this free community did not exist. Therefore either the Saxons brought the system of the manor and the servile community into England, or else they found it already established there, and made no change in it. This second hypothesis is the more probable; the manorial and servile organisation must go back to the period of Roman domination in Britain. It will be objected that the Romans were few in number, that the Britons were Celts, and that, in the countries where Celtic civilization persisted, Wales and Ireland, the manorial organisation did not exist in the Middle Ages. The Celtic tribal community was entirely unacquainted with the fixed and indivisible holding which is one of the essential features of the manor. But, declares Mr. Seebohm, there is nothing to prove that before the arrival of the Anglo-Saxons the whole of Briton was still under the empire of the customs of pastoral and tribal civilization. The evidence of Cæsar proves that the inhabitants of the south-east had already passed out of this stage. The Romans found subjects accustomed to a settled life. They had no difficulty in establishing in their new province the régime of the 'villa,' the great estate, that is to say, the manor: and the administrative abuses of the Lower Empire hastened the formation of the seignorial authority and the enslavement of the free husbandmen, Germans for the

The manor
and villeinage
of Roman
origin.

most part, whom the emperors had imported in large numbers to colonise the country. The Romans, for the rest, improved agriculture and introduced the use of the triple rotation of crops; they thus gave to the open field system, which the Britons had only practised until then in its most rudimentary form, its definitive constitution.

As for the hypothesis according to which the open field system with triple rotation and lordship with servile, indivisible holdings, was introduced after the fall of the Roman domination, by the Anglo-Saxons, it is not indefensible, but only upon condition that the Anglo-Saxons came from Southern Germany, which had undergone contact with Roman civilization, and not, as is generally thought, from Northern Germany, where the triple rotation of crops was unknown. Mr. Seebohm does not reject this supposition, which, indeed, does not exclude the first hypothesis. Half Romanised Germans may have found in England the system of husbandry with which they were already acquainted on the Continent. In either case the English manor has a Roman origin.

Mr. Seebohm's work compels attention by the skill with which the author sets forth his ideas and puts fresh life into the subject. As we shall see, it has obliged the Germanists to make important concessions. But the theory, taken as a whole, is untenable. We are struck, in reading it, by the viciousness of his general method, by the missing links in his chain of proof, by the poverty of many of his arguments. The method of working back adopted by Mr. Seebohm is extremely fallacious; it falsifies the historical perspective, and the author is inevitably led to reason in most cases by analogy. By such a method, if some day the documents of modern history disappear bodily, a scholar might undertake to connect the trades unions of the nineteenth century with the Roman *Collegia*. "No amount of

Objections.

The Roman origin is not proved.

analogy between two systems," says Stubbs wisely, "can by itself prove the actual derivation of one from the other."¹

Mr. Seebohm juggles with texts and centuries very adroitly, but not by any means enough to create the illusion of continuity which he claims to see himself in going back through the course of the ages. There are yawning gaps in his demonstration.

The alleged proof drawn from the laws of Ethelbert amounts to nothing; the thesis of a Roman England entirely divided into great estates is an absurd improbability; the same is true of the supposition that the Saxon pirates could have come from the centre of Europe. Even when Mr. Seebohm treads on ground which appears more solid, and quotes his documents, he is unconvincing. In fact, from the time that he arrives, in his backward march, at Domesday Book, he loses hold on realities and allows himself to be duped by his fixed idea. He is the sport of a veritable historical mirage, when he sees the whole of England in the eleventh century, covered with manors like those of the thirteenth and cultivated by serfs. Still more misleading is the illusion by which England presents itself to him under the same aspect during the Anglo-Saxon period. According to him, the ceorl is a serf; he is the conquered native; the Saxon conquerors are the lords of manors, the successors of great Roman landowners. He takes no account of the texts which prove the freedom of the ceorl, and the existence of the small landholder; he does not explain at all what became of the mass of the German immigrants who had crossed the North Sea in sufficient numbers to impose their language on the Britons. His mistake is as huge as that of Boulay-villiers, who sought the origin of the French nobility and of feudalism in the supremacy of the Frank conquerors and the subjection of the Gallo-Romans.

1. Stubbs, *op. cit.* i, p. 227.

Mr. Seebohm's Romanist thesis, despite a brilliant success in the book market, has, in short, turned out but a spent shot. Among English historians of mark Mr. Ashley now stands alone, and with many reservations too, as its defender.¹ But it has had the merit of stimulating the critical spirit and of inducing the moderate Germanists, such as Green or Mr. Vinogradoff, to make concessions which we think justified.

There is, in fact, no necessity to range oneself in either camp, to be "Germanist" or "Romanist," to neglect completely, as Stubbs has set the regrettable example of doing, all facts anterior to the Germanic conquest, or to fall, like Coote or Mr. Seebohm, into the opposite extreme.

It is not reasonable to seek a single origin for English institutions, and to pretend to explain by one formula a very complex state of things, which was bound to vary not only in time, but also in space. The eclectic method adopted by Mr. Vinogradoff in his recent work on the "Origin of the Manor," appears to us a very judicious one, and we believe it alone to be capable of leading to the real solution.

To begin with, room must certainly be left for an original element which the uncompromising Germanists and Romanists alike have, by common consent, ruled out of the discussion: the Celtic element.²

1. *The origin of Property in Land*, by Fustel de Coulanges, translated by Margaret Ashley, with an introductory chapter on the English Manor, by W. J. Ashley, 1891; 2nd edition, 1892.—*An introduction to English Economic History*, vol. 1, 3rd edition, 1894, translated by P. Bondonio and corrected by the author, under the title of *Hist. des doctrines économiques de l'Angleterre*, 1900, vol. 1, pp. 30 sqq.

2. We do not mean to say that England, before the arrival of the Romans and Germans, was peopled by Celts only. There were pre-Celtic populations, perhaps more important as regards numbers, but the Celtic civilization predominated. See a very interesting general sketch of the English races in H. J. Mackinder, *Britain and the British Seas*, 1902, pp. 179 sqq. A summary bibliography of works relative to the Prehistoric and Celtic periods will be found in Gross, *Sources and Literature of English History*, 1900, pp. 157 sqq.

We can get an approximate idea of its character and creative action,—on condition of being content with general conclusions,—by consulting the much later and indirect sources which we possess on Celtic tribal civilization: the Welsh laws especially, the Irish laws, and the information we have on the Scottish clan, or on the Celts of the Continent.¹

Whatever Mr. Seebohm may say, it is allowable to believe that the Britons, as Pytheas or even Cæsar knew them,² had not passed, from an economic point of view, the stage of tribal and still semi-pastoral civilization. Judging by the general history of the Celts and the data of comparative history, they knew nothing similar to the manor. The inferior class called *taeogs* dwelt apart, and did not work for the benefit of the free men. There was neither servile tenure nor even private property in the strict sense of the word. Their principal resource was cattle-rearing; Celtic agriculture was an extensive superficial agriculture, which required neither careful work, nor capital for the improvement of the soil. It was little fitted to inspire the feeling of individual proprietorship.

On the other hand the method of labour required the spirit of co-operation. The plough was large and heavy; eight oxen were usually yoked to it; it was so costly a thing that it could only belong to a group of persons, and it is for this reason that, according to the Welsh laws, the land was divided into parcels assigned to the members of each plough-association, one supplying the plough-share, others the oxen, others undertaking to plough and lead the team.³ An understanding between

1. For all that follows, cf. Vinogradoff, *Growth of the Manor*, pp. 3 sqq.

2. For the fragments of the journal of Pytheas, preserved in various ancient authors, and for Cæsar's description, see J. Rhys, *Celtic Britain*, 2nd edition, 1884, pp. 5 sqq., 53 sqq.

3. Seebohm, *English Village Community*, pp. 122 sqq.

the workers being indispensable for ploughing, and individual effort being reduced to a minimum, the conception of private property could not be the same as with our peasantry. The assignation of shares by lot, and the frequent redistribution of these shares were quite natural things. Finally, the great importance of sheep and cattle rearing, of hunting and fishing was very apt to preserve communist habits. Everything inclines us to believe that in England the English village community and the open field system have their roots in the Celtic tribal civilization.¹

This probability cannot be rejected unless it can be proved that the Britons were exterminated and their agricultural usages completely rooted out, either by the Romans or by the Anglo-Saxons; and that is a thing which is impossible of proof.

The Romans did not exterminate the Britons, and recent archæological excavations appear to prove that the manner of living of the native lower classes, their way of constructing their villages and of burying their dead, remained quite unaffected by contact with Roman civilization.²

Many regions of Britain entirely escaped this contact, none underwent it very thoroughly. The emperors' chief care was to occupy Britain in a military sense, in order to protect Gaul, and its foggy climate attracted few immigrants.³

1. I do not claim, it must be understood, that primitively the open field was peculiar to the Celts. Mr. Vinogradoff is of opinion that the system originated in habits of husbandry common to all the peoples of the North (*Growth of the Manor*, p. 106, Note 58). Mr. Gomme likewise thinks that the village community existed among all the Aryan peoples (*The Village Community*, 1890). This goes to show that these institutions had not been brought into England by foreigners, within historical times.

2. See A. H. L. F. Pitt Rivers, *Excavations in Cranborne Chase*, 1887-1898.

3. These characteristics of the Roman occupation are very well brought out and explained by Green, *Making of England*, 5th edition, 1900, pp. 5 sqq. Mr. Haverfield somewhat exaggerates the Romanisation of

Still the Roman domination lasted for three and a half centuries on the other side of the Channel, and every year English archæologists bring to light some comfortable or luxurious villa, with pavements in mosaic, painted stucco, hypocausts and baths.¹

Evidently the Roman officials, like the English in India to-day, knew how to make themselves comfortable; they brought with them industries and arts which pleased the higher ranks of the Britons. And this at least must be retained out of the hazardous theories of Mr. Seebohm, that the estate organised on the Italian model, the great landowner living in a fine country house, having the part he had reserved for himself cultivated by slaves, and letting out the rest of his property to *coloni*, were by no means unknown in Britain. By the side of the free Britons grouped in communities, there was a landed aristocracy.

The disturbance caused by the German conquest, by the wholesale immigration of the Angles and Saxons was no doubt immense. Stubbs is justified in appealing to the philological argument; the fact that the Celtic and Latin languages disappeared before Anglo-Saxon is sufficient to prove how thoroughly England was Germanised. But Stubbs is mistaken in looking upon England at the arrival of the Germans as a *tabula rasa*. What he calls the 'Anglo-Saxon system' was not built up on ground that was levelled and bare. It was the interest of the conquerors

Britain in the *Introductory Sketch of Roman Britain*, printed at the beginning of the excellent studies which he has written for the *Victoria History of the Counties of England*; for instance, in the *Victoria History of Hampshire*, vol. 1, 1900. See also his *Romanization of Roman Britain* in the *Proceedings of the British Academy*, vol. ii (1905-6). Cf. on the Roman occupation; Vinogradoff, *Growth of the Manor*, pp. 37 sqq., and the chapter by Mr. Thomas Hodgkin, in vol. i of the *Political History of England*, edited by W. Hunt and R. L. Poole, 1906, pp. 52 sqq.

1. See Mr. Haverfield's studies: *Victoria History of Hampshire*, vol. i, 1900; *Worcester*, vol. i, 1901; *Norfolk*, vol. i, 1901; *Northamptonshire*, vol. i, 1902; *Warwickshire*, vol. i, 1904; *Derbyshire*, vol. i, 1905, etc.

to utilise the remains of Roman civilization. Nor is it by any means proved that where they settled they exterminated the native population.¹ They had no aversion to the usages of the open field, and could quickly accustom themselves to live side by side with the British peasants. The Celtic tribal communities would be absorbed in the village communities formed by the *ceorls*. At the same time, the very great inequality which prevailed among the Anglo-Saxons, the development of royal dynasties and ealdorman families richly endowed with land, and, lastly, the grants made to the Church, necessarily preserved the great estate, cultivated with the help of 'theows' or slaves and of *coloni*.

Nevertheless, for the establishment of the seignorial system in England it was not enough that there were rich men and 'theows.' The predominance of the small freehold, the existence of numerous 'ceorls' cultivating their hide² and members of independent communities, were incompatible with the general establishment of the manorial system. A new classification of

Persistence of the earlier agrarian customs.

Tendencies towards a new classification of society.

1. J. Rhys, *Celtic Britain*, pp. 109-110. See also R. A. Smith in the *Victoria History of Hampshire*, vol. i, p. 376; he gives the bibliography of the question.

2. The hide has been the subject of numberless controversies. There is a whole literature on the question, and the subject is not exhausted, for the good reason that the term has several meanings, and the hide was not, as a matter of fact, a fixed measure. Stubbs states that the hide of the Norman period "was no doubt a hundred and twenty or a hundred acres" (*Const. Hist.*, i, p. 79). But he should have drawn a distinction between the fiscal hide, which was a unit of taxation, and the real or field hide. Mr. Round (*Feudal England*, 1895, pp. 36 sqq.; see also *Victoria History of Bedfordshire*, 1904, vol. i, pp. 191-193) and Professor Maitland (*Domesday Book and Beyond*, pp. 357 sqq.) have shown the artificial character of the Domesday hide. This hide was very generally divided into 120 fractions called acres [for fiscal hides of fewer acres see Vinogradoff, *Growth of the Manor*, p. 155], but these appellations did not correspond to any fixed reality, any more than did the "ploughland" (*carrucata*) and the "sulung" or the French "hearths" of the Middle Ages. The *hide* (or *hiwisc*, *hiwship*), in its other sense, the primitive one, which it continued to retain alongside its fiscal sense, denoted the quantity (obviously variable according to locality) of

society had to come into existence; some freemen had to descend in the social scale, while others raised themselves. This transformation was inevitable in an age in which the old bonds of tribe and family no longer sufficed to give security to the individual, and in which the royal power was not yet able to ensure it. Throughout Christendom patronage and commendation, along with private appropriation of public powers, paved the way for a new political and social system.

The Anglo-Saxon kings, under the pressure of necessities which were not peculiar to them, at an early period bestowed on their thegns and on churches either lands or the rights which they possessed over some village and the community of freemen who dwelt there.

Gifts of land and royal rights to thegns and churches.

Thenceforward such thegns or churches levied on their own account the taxes, dues and supplies hitherto due to the king; for example, the profitable *firma unius noctis*. Armed with this right the recipient

Commendation.

became the lord of the free village, the peasants commended themselves to him,¹ and the parcel of land or the house which he possessed in the neighbourhood became a centre of manorial organisation; the lands of the peasants who had commended themselves came ultimately to be considered, as in some way held of him. The grant of judicial rights

Sac and Soc

(*sac and soc*) was also a powerful instrument of subjection. When a church or thegn received a grant of soc and soc in a district the rights

arable land and rights of common necessary for the maintenance of a family. The actual number of acres in the real hide was often 120, but not always. The hide is not therefore an agrarian measure; it is the unit of landed property, the *terra familiae*, and we must doubtless conclude that the hundred was an aggregation of a hundred of these hides. See Vinogradoff, *Growth of the Manor*, pp. 141, 151 sqq., 170, 250, Note 33. Stubbs says elsewhere (*op. cit.* p. 185) that "the hide is the provision of a family." He ought to have adhered to that definition.

1. On Anglo-Saxon commendation, see Maitland, *Domesday Book and Beyond*, p. 69; Pollock and Maitland, *History of English Law*, vol. i, pp. 30, 31.

so conferred were exercised, either in the court of the hundred or in whatever popular court it pleased the grantee to set up; the reeve of the church or 'thegn presided over the court and received the fines. Stubbs ascribes the beginning of grants of sac and soc to the reign of Canute; but Mr. Maitland makes them go back to the seventh century.¹

The evolution which was carrying England towards the seignorial régime became a very much speedier process in consequence of the struggles against the Danes in the ninth and tenth centuries. Professional soldiers, expensively armed, were alone capable of arresting this new wave of barbarians, and they necessarily became privileged persons. Military service was henceforth the obligation and attribute of thegns. Most of them had at least five hides, that is to say, landed property five times as large as the old normal family holding, and the revenue of their estates allowed them, with the serjeants whom they maintained (*geneats, radknights, drengs*) to devote themselves entirely to the profession of arms. A deeply defined division began to show itself between these thegns or *twelfhynd-men* and the simple *ceorls* or *twyhynd-men*,² who continued to till the land and lost their old warlike character, that is to say, their best title to the privileges of a freeman. There remained soldiers on the one hand and tillers of the soil on the other. Labour in the fields had been formerly the occupation of every freeman; it was henceforward a sign of inferiority. At the same time the old tradition of the inalienable family holding grew weaker, many of the *ceorls* no longer had the hide necessary for maintaining a household and the

Results of the struggle against the Danes.

Military and landed aristocracy

1. Maitland, *Domesday Book and Beyond*, pp. 80 sqq., 226 sqq., 236 sqq., 258 sqq., 318 sqq.; Vinogradoff, *Growth of the Manor*, pp. 212 sqq.

2. On the meaning of the terms *twelfhynd-men* and *twyhynd-men*, see below, pp. 36 sqq.

virgate, the quarter of a hide¹ became the common type of small freehold. To escape calamity therefore men were obliged to abase themselves before some powerful neighbour. Little by little, for reasons at once economic and political, the bonds of dependence were drawn closer between the "liber pauper" and the thegn, rich, esteemed, endowed by the king with a portion of public authority, and become, as it were, his responsible representative in the district.² This formation of a military and landed aristocracy is a general phenomenon in the history of the West, which explains, in France as in England, the decay of the small freeholders and the definitive entrance of the seignorial system.

Domesday Book, drawn up twenty years after the Norman invasion, allows us to form some idea of the state of rural England at the end of the Anglo-Saxon period. It is a document bristling with difficulties, and of baffling obscurity. But, since the appearance of the 'Constitutional History,' it has been the subject of a number of admirable studies, some of which were known to Stubbs and might have been utilised more by him in the last editions of his work. Mr. Round has elucidated some particularly thorny questions in his *Feudal England*, and he and other scholars are at present furnishing the editors of the *Victoria History of the Counties of England* with a detailed examination, county by county, of all the historical information that *Domesday Book* contains. Mr. Maitland has drawn a masterly picture of Anglo-Saxon society in the eleventh century in his *Domesday Book and Beyond*, an at times daring but extremely suggestive synthesis, one of the finest books which

1. On the virgate, see Vinogradoff, *Villainage*, p. 239; J. Tait, *Hides and virgates at Battle Abbey*, in *English Historical Review*, xviii, 1903, pp. 705 sqq.

2. Maitland, *Domesday Book*, pp. 163 sqq.; Vinogradoff, *Growth of the Manor*, pp. 216 sqq.; A. G. Little, *Gesiths and Thegns*, in *English Historical Review*, iv, 1889, pp. 723 sqq.

