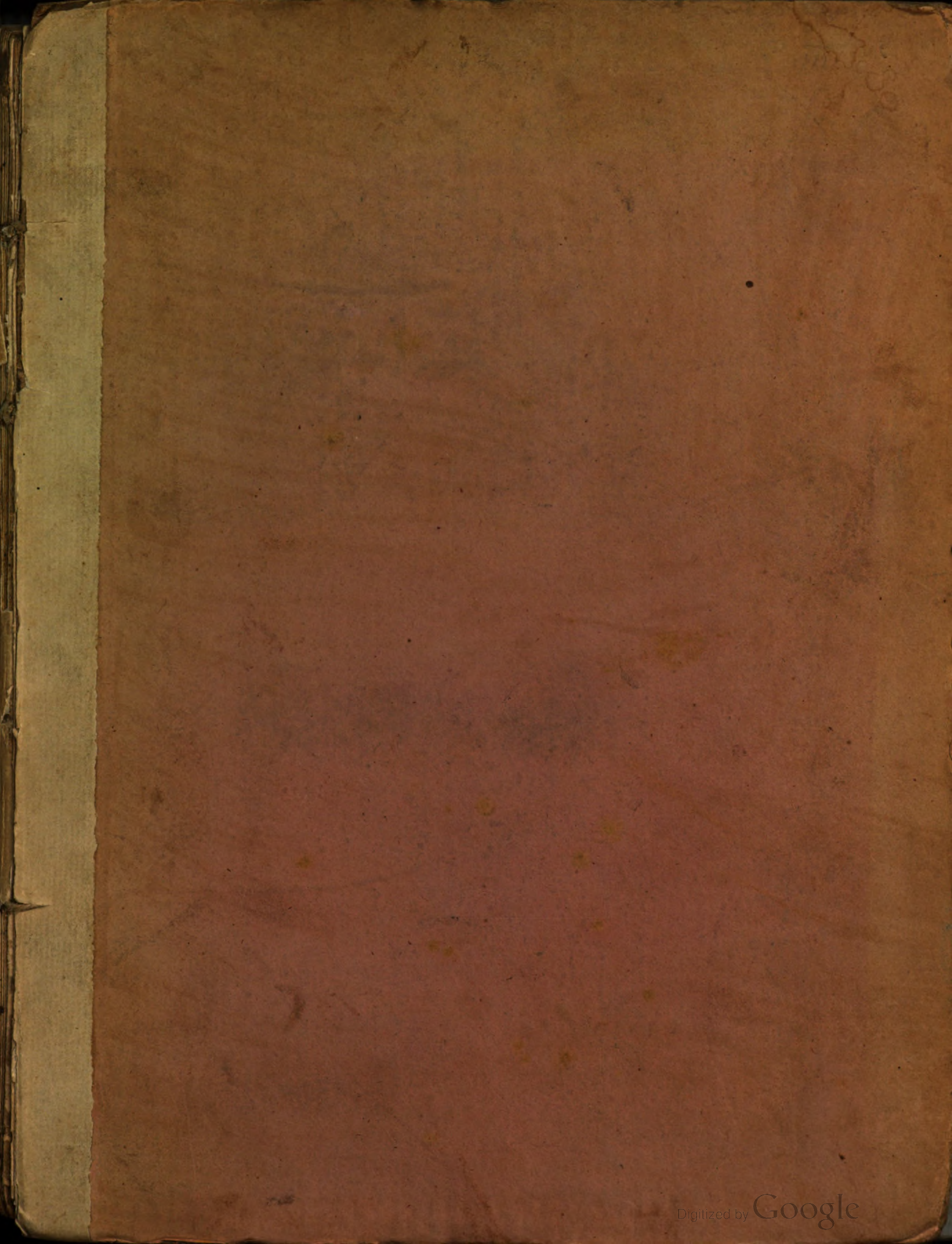

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Antiquities
OF THE
INNS OF COURT
AND
CHANCERY.

S. GOSNELL, Printer, Little Queen Street, Holborn.



INTERIOR OF THE TEMPLE HALL.

London: Published and Map by J. & W. Colver, Printers, J. Street, E.C.4. and J. & W. Colver, Chancery Lane, W.C.2.

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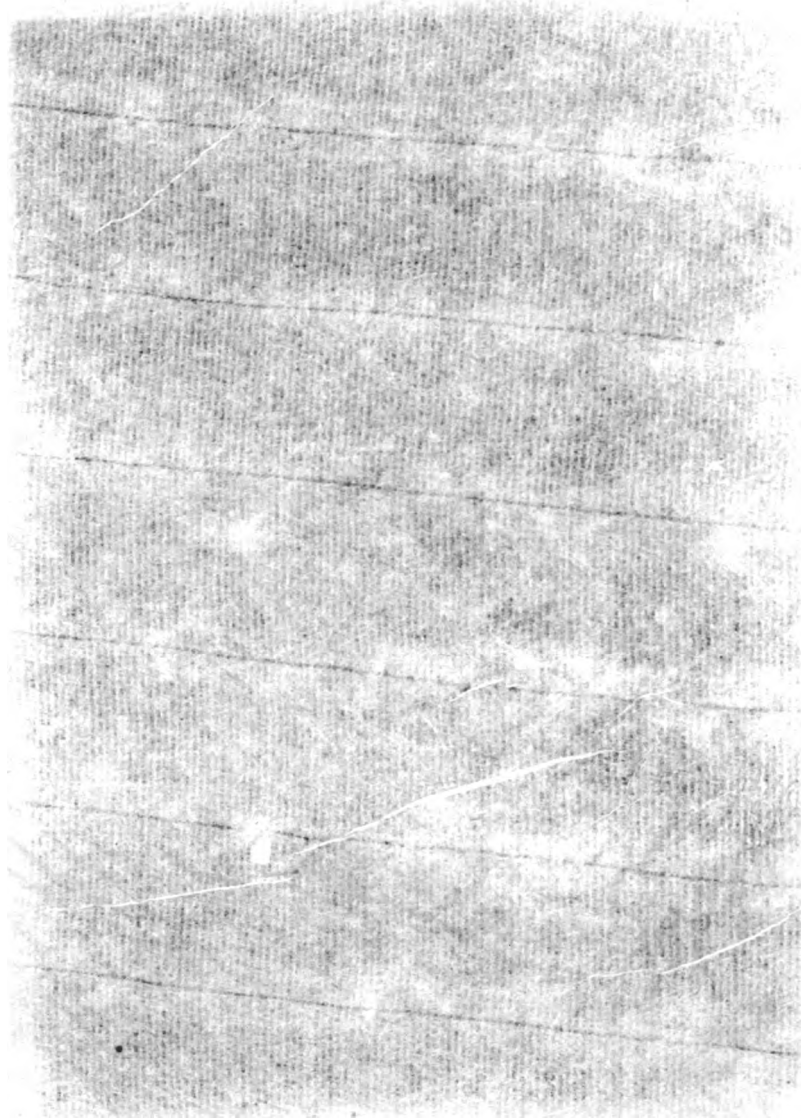
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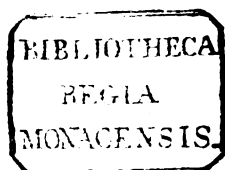


Antiquities
OF THE
INNS OF COURT AND CHANCERY;
CONTAINING
HISTORICAL AND DESCRIPTIVE
SKETCHES
RELATIVE TO THEIR
ORIGINAL FOUNDATION, CUSTOMS, CEREMONIES,
BUILDINGS, GOVERNMENT, &c. &c.
WITH
A CONCISE HISTORY
OF
THE ENGLISH LAW.

BY W. HERBERT.

EMBELLISHED WITH TWENTY-FOUR PLATES.

LONDON:
PRINTED FOR VERNOR AND HOOD, POULTRY; J. STORER
AND J. GREIG, CHAPEL STREET, PENTONVILLE.
1804.



TO
THE RIGHT HONOURABLE
JOHN SCOTT,
L O R D E L D O N,
BARON OF ELDON IN THE COUNTY OF DURHAM,
AND
LORD HIGH CHANCELLOR
OF
GREAT BRITAIN,
THIS VOLUME
(BY HIS LORDSHIP'S PERMISSION)
IS MOST RESPECTFULLY INSCRIBED.

ADVERTISEMENT.

THE following work is presented to the public as a compendium of *valuable* rather than *original* information. In its composition the author has freely availed himself of what was before written on the subject, and is very ready to anticipate the scrutiny of criticism, by avowing, that the greater part of his materials have been extracted from the well-known and justly-celebrated performance of sir William Dugdale, published in folio in 1666, 1667, and 1680, under the title of "*Origines Juridiciales*."

To give the substance of that expensive and interesting work, with the additional advantage of views of the places described, was the primary, and, in fact, the only object here aimed at. But many alterations and improvements presented themselves in proceeding ; by the adoption of which, the present volume will be found to differ very materially from an abridgment. Valuable as the *Origines Juridiciales* certainly is, it must be acknowledged to be a repulsive book to modern readers. Many of its details are dry and prolix ; much matter is interwoven with the text, which being but remotely connected with it, might have been with more propriety put

into notes; and it abounds in redundancy of expression, a fault imputable to the style of the age.

By taking advantage of these circumstances, what is really of importance in that book is not only here preserved, but room has been afforded for a great quantity of additional information; and the whole, while it assumes a more attractive form, it is hoped will be found of increased utility.

Two publications on this subject have already issued from the press:—one published in 1790, and called “Historical Memorials of the English Laws, Inns of Court,” &c. is a mere reprint of part of Dugdale; the other (a very recent performance), though it may, perhaps, have the advantage of the former in point of embellishment, is so extremely superficial, as by no means to answer the purpose of an History of the Inns of Court and Chancery: neither of them possesses *good* plates. This is not said to depreciate, but to apologize for the appearance of a *third* work; of whose superiority, after having thus fairly stated its claims, the public must judge.

Of the engravings, it is unnecessary to speak; their number and the accuracy with which they are executed will best plead for any deficiencies which may be found in the letter-press.

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CHAP. I.

OF THE ANTIQUITY OF THE COMMON LAW OF
ENGLAND.

THAT collection of unwritten maxims and customs which is called the common law of England, however compounded, or from whatever fountains derived, has, no doubt, observes a certain great author, subsisted immemorially in this kingdom; being, in fact, as ancient as the differences betwixt man and man: hence the old lawyers, with much warmth, contend that these customs are as remote as the primitive Britons, and continued down through the several mutations of government and inhabitants to the present time, unchanged and unadulterated; being, says Plowden¹, no other than pure and tried reason, or the absolute perfection of reason, according to Coke; who adds², “the ground thereof is beyond the memory or register of any beginning; and these,” says he, “were they which the Norman Conqueror at his coronation did swear to observe; being then by him said to be *bonæ et approbatæ antiquæ regni leges*,”

¹ Plowd. Comm. in his case of mines, fo. 316.

² Coke's Instit. part ii. p. 179.

the good and approved ancient laws of the kingdom³. Lord chancellor Ellesmere still more emphatically asserts⁴ that the common laws of England are grounded upon the law of God, and extend themselves to the original law of nature, and are not originally *leges scriptæ*⁵, written laws. Agreeable to this is what

³ In his Pref. to the eighth book of his Reports.

⁴ Ibid. fol. 32, 33.

⁵ "When I call these parts of our laws *leges non scriptæ*," says the eloquent Blackstone, "I would not be understood as if all those laws were at present merely *oral*, or communicated from the former ages to the present solely by word of mouth. It is true indeed, that in the profound ignorance of letters which formerly overspread the whole western world, all laws were entirely traditional, for this plain reason, that the nations among which they prevailed had but little idea of writing. Thus the British as well as the Gallic druids committed all their laws as well as learning to memory; and it is said of the primitive Saxons here, as well as their brethren on the continent, that *leges sola memoria et usu retinebant*. But with us at present the monuments and evidences of our legal customs are contained in the records of the several courts of justice, in books of reports and judicial decisions, and in the treatises of learned sages of the profession; preserved and handed down to us from the times of highest antiquity. However, I therefore style parts of our law *leges non scriptæ*, because their original institution and authority are not set down in writing as acts of parliament are, but they receive their binding power and the force of laws by long and immemorial usage, and by their universal reception throughout the kingdom; in the like manner as Aulus Gellius defines the *jus non scriptum* to be that which is '*tacito et illiterato hominum consensu et moribus expressum*.'"

"This unwritten or common law is properly distinguishable into three kinds: first, general customs, which are the universal rule of the whole kingdom, and form the common law in its stricter and more usual signification: secondly, particular customs, which for the most part affect only the inhabitants of particular districts: thirdly, certain particular laws, which by custom are adopted and used by some particular courts of petty, general, and extensive jurisdiction.

a venerable author, Bracton⁶, advances, that England, alone of all other nations, is governed by unwritten laws. And this circumstance by no means extenuates their authority nor the esteem due to them: "it not being incongruous," says Fleta⁷, "to call our English constitutions, laws, though they be not committed to writing; forasmuch as the law itself is, that what the king appointeth hath

"Of these general customs, or the common law, properly so called, is that law by which proceedings and determinations in the king's ordinary courts of justice are guided and directed. These customs or maxims are known, and their validity determined by the judges in the several courts, who are the depositaries of the laws; the living oracles who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. Their knowledge of that law is derived from experience and study, from the '*viginti annorum lucubrationes*,' which Fortescue mentions, and from being long personally accustomed to the judicial decisions of their predecessors; which decisions are carefully registered and preserved under the name of *records*, in public repositories set apart for that particular purpose; and are handed out to public view in the numerous volumes of *reports* which furnish the lawyer's library. These reports are extant in a regular series from the reign of king Edward II. inclusive; and from his time to that of Henry VIII. were published annually by authority, under the denomination of *year-books*, and since that time have been continued by many private and cotemporary hands, forming, with the valuable comments of the old lawyers, whose works contain a rich mine of common law learning collected and heaped together from these sources, the common law. And thus much for the first ground and chief corner-stone of the laws of England, which is in general immemorial custom or common law from time to time declared in the decisions of the courts of justice; which decisions are preserved among our public records, explained in our reports, and digested for general use in the authoritative writings of the venerable sages of the law."

⁶ Bracton, lib. i. chap. 1.

⁷ Fleta, in *Commentarii Juris Anglicani Prooemio*.

the strength of law ; viz. that, which in doubtful cases, by the advice of his nobles, and his own authority concurring, or proceeding, shall happen to be promulged : for if, through want of recording, they should not have the estimation of laws, the mere writing of them would attribute no more authority unto them, than the justness of the judge, or the reason of the composer."

To wave, however, all question of the goodness and authority of the *leges non scriptæ*, and consider them in a mere historical point of view ; a very high antiquity must be conceded to these original elements of our constitution, though it may be necessary to qualify in some degree the strong expressions of the writers above mentioned, both with respect to their age and purity : for notwithstanding there was never any formal exchange of one system of laws for another, yet, doubtless, by the intermixture of adventitious nations, the Romans, the Picts, the Saxons, the Danes, and the Normans, they must have insensibly introduced and incorporated many of their own customs with those that were before established : thereby, in all probability, improving the texture and wisdom of the whole by the accumulated wisdom of divers particular countries. Our laws by this means, says lord Bacon, becoming " as mixed as our language : and as our language is so much the richer, the laws are the more complete ⁸."

Leaving the uncertain conjectures of antiquaries, who endeavour to trace the origin of the English

⁸ Blackstone.

laws to so remote a period as the existence of druidism, and the government of the early British princes, it may be observed, that the first code of which we have any certain record, is that used anciently by the Mercians, called *merchenlega*, which was translated by Gildas, and was observed in the midland counties and those bordering on the principality of Wales, the retreat of the ancient Britons, and therefore very probably intermixed with the British or druidical customs. The laws of Ethelbert², A. D. 612, which are extant in an ancient manuscript called *Textus Roffensis*¹, as recorded by bishop Ernulph, about the year 760; together with those of Ina, Alfred³, Edward the Martyr, Athelstan, and Etheldred, all kings of the West Saxons, whose collections are to be seen at large, recorded by Brompton and others³, and received the general de-

² Bedæ Eccl. Hist. lib. ii. cap. 5.

¹ Penès virum cl. Rog. Twysden, Bart.

³ In the time of Alfred, the local customs of the several provinces of the kingdom were grown so various, that he found it expedient to compile his *dome-book*, or *liber judicialis*, for the general use of the whole kingdom. This book is said to have been extant so late as the reign of king Edward IV. but is now unfortunately lost. It contained, we may probably suppose, the principal maxims of the common law, the penalties for misdemeanors, and the forms of judicial proceedings. Thus much may at least be collected from that injunction to observe it, which we find in the laws of king Edward the Elder, the son of Alfred: "*Omnibus qui reipublicæ præsumunt etiam atque etiam mando ut omnibus æquos se præbeant judices perinde ac in judiciali libro (Saxonice dom-bec) scriptum habetur: nec quicquam formident quin jus commune (Saxonice polcphre) audacter libereque dicant.*" Black. Com. vol. i. p. 65.

³ Hist. Angl. Script. antiq. col. 759, and col. 820, &c.

nomination of the *West Saxon lage*, or laws of the West Saxons. These obtained in the counties to the south and west of the island, from Kent to Devonshire, and were probably the same with those mentioned to have been compiled by Alfred, being the municipal law of far the greater part of his dominions, and particularly including Berkshire, the seat of his peculiar residence. The next we know of were promulgated by the Danes, who governed the eastern and northern shores of the kingdom, and were called the *Dane lage*, or Danish law; the very name of which speaks its original and composition. This was principally maintained in the rest of the midland counties, and also on the eastern coast, the part most exposed to the visits of that piratical people. As for the very northern provinces, they were at that time under a distinct government.

Out of these before-mentioned three laws, viz. *Merchen lega*, *West Saxon lega*, and *Dane lega*, each of which prevailed in different districts, and the inhabitants of which mutually sacrificed some of their own special privileges, in order that the whole kingdom might enjoy the benefit of one uniform and universal system of laws, did the Confessor select the best and choicest, and reducing them into one body to be observed throughout the whole kingdom, called them the common law⁴; which laws of Edward are published at large by Lambard⁵. This

⁴ Coke's Reports, part iii. in proœm.

⁵ De priscis Angl. Leg. fol. 126, b. Chron. H. Knighton, col. 2355.

work, however, we are assured upon the credit of ancient authors, was projected and begun by his grandfather king Edgar; and indeed both these undertakings of the two monarchs seem to have been no more than a new edition or fresh promulgation of Alfred's code, or *dome-book*, with such additions and improvements as the experience of a century and an half had suggested. For Alfred is generally styled by the same historians, the *legum Anglicanarum conditor*, as Edward the Confessor is the *restitutor*. These, however, "are the laws which our histories so often mention, under the name of the laws of Edward the Confessor, which our ancestors struggled so hardly to maintain under the first princes of the Norman line; and which subsequent princes so frequently promised to keep, and restore, as the most popular act they could do when pressed by foreign emergencies or domestic discontents. These are the laws that so vigorously withstood the repeated attacks of the civil law, which established in the twelfth century a new Roman empire over most of the states of the continent; states that have lost, and perhaps upon that account, their political liberties; while the free constitution of England, perhaps upon the same account, has been rather improved than debased. These, in short, are the laws which gave rise and original to that collection of maxims and customs which is now known by the name of the common law; a name either given to it in contradistinction to other laws, as the statute law, the civil law, the law merchant, and the like; or more pro-

bably as a law common to all the realm, the *jus commune* or *folcright*, mentioned by king Edward the Elder, after the abolition of the provincial customs and particular laws before mentioned."

William the Conqueror, on possessing himself of the government of the country, caused a view to be taken of all the before-mentioned laws; and approving some and rejecting others, added also his own Norman constitutions, to accommodate the subjects of that dukedom, many of whom he had brought over with him, and made an establishment of such as he thought most just and wholesome for his dominion⁶. But this incorporation was not effected without much suit of the native English⁷, for he would have imposed upon them⁸ the laws of the Danes and Norwegians, affirming them to be better than others; *profundiores et honestiores omnibus aliis, aliarumq. legibus nationum*. However, to quiet the growing discontents of his subjects, M. Paris tells

⁶ MS. in Scac. sub nomine Gerv. Tilb. cap. 32. Vide Jani Angl. p. 63.

⁷ "Post acquisitionem Angliæ, Willielmus rex, quarto anno regni sui, consilia baronum suorum, fecit summoniri, per universos Angliæ consulatus, Anglos nobiles, sapientes, & suâ lege eruditos, ut eorum leges, & vitam & consuetudines ab ipsis audiret: electi ergo de singulis patriæ comitatibus viri xii. jurejurando coram rege primùm confirmaverunt; ut, quoad possent, recto tramite, neq. ad dextram, neq. ad sinistram divertentes, legum veritatem suarum, & consuetudinum sibi patefacere; nil prætermittentes, nil addentes, nil prævaricantes, nil mutantes, &c."

⁸ Vide inter Leges S. Reg. Edw. per Will. Lamb. editas, f. 138, a. & f. 138, b. Vide etiam Spelm. Gloss. p. 436. Vide Flor. Wigorn. in anno 1142

us², "after many disputes in the presence of *Lanfrank*, archbishop of Canterbury, the king (at length), for quieting the people, swore upon all the precious reliques in the church of St. Alban, laying his hand upon the Holy Evangelists, Frederick, then abbot, ministering the oath to him, that he would inviolably observe the good and approved ancient laws which had been made by the good and pious kings of England, his ancestors, and chiefly by king Edward" (the Confessor).

Of these laws, *Ingulphus*, the then famous and learned abbot of Croyland, says¹, "I brought with me from London, unto the abbey of Croyland, the laws of king Edward the Just, in the same language wherein they were made; which my renowned lord king William having ratified and made authentic, did, by proclamation through all the realm of England, command, under grievous penalties, to be inviolably observed; and so recommended the same to his judges."

The religious houses, however, were severely taxed by William for the support of his troops, which before were free, and held their lands "*in pure and frank almoigne*" (free alms). For the same purpose he imposed military tenures upon the laity and upon the people in general, in his *purveyance* for victual, which he caused to be taken in *kind* throughout all the land. But the latter being found peculiarly oppressive, by the ad-

² In *Vitâ Frethrici Abbatis*, p. 48. n. 30. *Videsis etiam Jani Angl.* p. 63, 64, & 65; et *Rog. Hoved. in Vitâ Regis H.* 2. p. 347.

¹ *Ingulphi Hist.* p. 519, b. *De Legibus Will. Conq. vide Seldeni Jan. Angl. lib. ii. p. 123.*

vice of his nobles, he compounded for money, as we are told by Gervaise of Tilbury, an author who lived near the time⁹: "In the primitive state of this kingdom," says he, "after the (Norman) conquest, there was not any gold or silver paid to the king, out of his own lands, but only victual; whereby the daily necessities of the court were supplied; and those who were assigned to this service knew well how much came from each place; *coined* money issuing out of cities and castles, where no husbandry was exercised, being only employed in wages, and gifts to soldiers, and for other necessities relating to the courts and public conventions of the realm; which institution continued during all the reign of king William the Conqueror, and until the time of his son king Henry I.; so that I myself," adds this author, who lived in the time of king Henry II. "have seen some of those who thus brought these provisions to the court.

"The officers of the king's house had likewise from some counties of this realm, whence such provisions were due, a certain proportion of wheat; of others, several sorts of provender for horses; which being paid according to this settled form, the officers upon account with the shireeves did reduce them into rates of money; viz. *for so much wheat in measure as was a competency to make bread for one hundred men, one shilling*; for the carcase of a *pasturing ox, one shilling*; and for a *ram, or sheep, fourpence*. But af-

⁹ Ex MS. nuncupato Gerv. Tilbur. penes Camerar. Scacc. cap. 23. Videsis etiam Jani Angl. p. 74 & 75.

terwards the king (Henry I.) being necessitated to go beyond sea, for the quieting of those stirs which were there raised, and to that end requiring ready money as most necessary to such a purpose, there came a sad complaint to his court by a multitude of countrymen; nay, which was more grievous, they brought their *ploughshares*, as a testimony of the decay of tillage, and offered them up to him, being so much distressed by his purveyance of victual, thus taken from their dwellings.

“The king, therefore, being not a little moved therewith, did, by the advice of his nobles, send throughout his realm divers persons, of whose prudence and discretion for that purpose he was ascertained; who travelled thereupon into all parts, and viewed every man's land, estimating the proportion of victual paid out of the same, which they reduced into a rate of money; and constituted the shireeve of each shire the general receiver thereof; adding, that he should pay the same into the exchequer by weight.”

A general survey of the whole kingdom was made by command of the same monarch¹, in order that he might know how much land each of his barons possessed, as also the number of knights fees and ploughlands that it contained; likewise what bondmen and what cattle any one had, from the greatest to the least; and what rent every man's estate could yield; all which he appointed to be recorded in his

¹ Flor. Wigorn. p. 449.

exchequer at Westminster, in that well-known volume called *Doomsday Book*; so named, says an ancient writer, "not that in it was contained a judgment of any doubtful matters, but that it might not be lawful to decline that sentence for any respect whatsoever."

From the *Conqueror* we date many other regulations, some salutary, others so arbitrary as to have been long since disused. He first appointed that charters should be sealed with wax² by each man's peculiar seal; also that pleadings should be in French, and that that language should be taught in schools. He made the loss of eyes the penalty of taking a *deer* or a *goat*³; homicide he punished⁴ by loss of life; and *rape*, by gelding the offender; and for preventing insurrections, commanded that at the ringing of a bell⁵ every evening, the fire in all houses should be covered, which bell was thence called *coverfeu*, and afterwards by corruption *curfew*, a name still remembered in the writings of the poets⁶.

¹ Ingulphi Hist. f. 512.

² M. Paris.

³ H. Hunt. f. 212, b.

⁴ Polyd. Virg. Hist. lib. ix.

⁵ A print of the curfew, or coverfeu, used for the purpose of suddenly putting out the fire, is given in a late periodical work with the following description: "The method of applying it was thus; the wood and embers were raked as close as possible to the back of the hearth, and then the curfew was put over them, the open part placed close to the back of the chimney: by this contrivance the air being almost totally excluded, the fire was of course extinguished.

"This curfew is of copper, rivetted together, as solder would have been liable to melt with the heat. It is ten inches high, sixteen

We have no memorial of any laws made by William Rufus, except that to him is ascribed the origin of that custom by which his successors first claimed the profits of vacant livings in the royal patronage, commonly called "FIRST FRUITS".

Henry I.⁸ confirmed the good laws and customs of king Edward, his predecessor and kinsman, and caused them to be strictly observed as well of the rich as poor, throughout his kingdom. Or rather, says sir Edward Coke⁹, "because he abolished such customs of Normandy as his father had added to our common laws, he is said to have restored the ancient laws of England."

Henry's charter of confirmation¹ of those laws, bears date at his coronation; and some of his own constitutions are added, viz. that counterfeits of money should have their *eyes* pulled out², be *gelt*³, and lose their *right hands*⁴; that halfpence and farthings should be round; that an ell for measure should be made the length of his own arm⁵; and

wide, and nine inches deep. The rev. Mr. Gosling, of Canterbury, to whom it belongs, says it has been in his family for time immemorial, and was always called the curfew. Some others of this kind are still remaining in Kent and Sussex.

"The curfew bell is still rung in many of our country towns."

¹ Polyd. Virg. Hist. lib. x.

² Ric. Prior Hagustald. inter Hist. Angl. Script. col. 310, &c.

³ Coke's Reports.

⁴ Hist. Angl. Script. antiq. M. Paris.

⁵ R. Hoved. p. 270, n. 40.

⁶ W. Gemetic. Hist. Norm. lib. viii. cap. 23. R. Hoved. p. 274, n. 20.

⁷ R. Hoved. p. 270, n. 40.

⁸ W. Malmesb. lib. v.

that the use of lights in the night should be restored⁶, which with fire had been prohibited by his father, after the ringing of *coverfeu*, every evening at eight o'clock. He likewise ordered the English to cut their hair like the Normans⁷; and lastly, fearing the loss of Normandy by invasion of *Louis le Gros* of France, "he first began," says Polydore Virgil⁸, "the imposing of a tax upon the people, for maintaining of his military forces; which practice his successors have since that time brought to a custom."

Stephen by his charter, bearing date at *Oxenford* (Oxford), in 1136, an. reg. 1. granted several laws mentioned by William of Malmsbury, Hovedon, &c. and abolished the tribute called *danegelt*, viz. two shillings for every hide⁹ of land, which his predecessors had for a long time enjoyed.

Henry II. is remarkable for having established the famous "constitutions of Clarendon," so called from the place where he assembled his nobles and prelates when they were passed, namely, at Clarendon in Wilts, an. 1164. These related principally to the clergy, who aimed at exemption of their persons and property from secular jurisdiction¹.

Anno 1169 he made other laws², being then in

⁶ Stow's Annals in an. 1100 (1 H. 1.).

⁷ Flores Hist. in an. 1124.

⁸ Polyd. Virg. Hist. Ang. 189, l. 7.

⁹ A hide of land was about 120 acres.

¹ Hist. Angl. Script. col. 1385 & 1386, &c. Math. Par. in an. 1164.

² Ibid. 1409.

France, and instituted the trial by grand assize³ instead of that by *battel*; and in the following years of his reign made likewise many other wholesome regulations.

In the year 1170, reg. 16. he constituted certain justices itinerant⁴; six years afterwards he assigned, at a grand council of his peers held at *Nottingham*⁵, more justices itinerant, viz. three to ride into each county to distribute justice to his people, agreeably to the before-mentioned constitutions of Clarendon, which had been renewed at Northampton.

In 1179 he still further augmented the number of judges⁶. The next year he made those constitutions for the *assize of arms*, "whereby every person, of what degree soever, was assigned what weapons and arms for the defence of the realm he ought to have." And lastly, in the year 1188, reg. 33. having made certain statutes and constitutions in order to an expedition to the Holy Land, which were at first framed in Normandy⁷; upon his return into England he confirmed them in a grand council held by him at his royal palace of *Gaylington* in Northamptonshire⁸.

Richard I. 1194, the fifth of his reign, constituted divers *rules for the proceeding of the justices in pleas of the crown*, as recorded at large by Hovedon, toge-

³ Glanvill, lib. ii. cap. 7, 8, 9. Vide Jani Angl. p. 110 & 111.

⁴ Hist. Angl. Script. col. 1410.

⁵ Annal. Rog. Hoved. f. 313, b.

⁶ Ibid.

⁷ Brompton.

⁸ Ib. f. 366, a. n. 20. Et Chron. Gerv. Dorobern. inter Hist. Angl. Script. col. 1522.

ther with certain statutes concerning the Jews, and the regulating of tournaments; and ordered, that whosoever had any former grants from him should then come to confirm them under his new great seal.

The next year, 1195, Hubert, archbishop of Canterbury, and justice of all England, sent the form of an oath to be taken by every person throughout the kingdom.

“Anno 1197, reg. 8. the said king did establish and constitute a certain assize and rule for weights and measures.

“Anno 1198, he imposed a tallage² of five shillings upon every ploughland throughout the kingdom, and appointed one clerk and one knight, with the assistance of the shireeve, to collect the same.”

The same year he sent his justices itinerant into Lincolnshire, and the rest of the northern counties, to dispatch those pleas of the crown which were not heard by them who went into those parts last. Hugh Nevil, chief justice of his forests, was sent also with strict articles of direction what to inquire of, and how to proceed. These articles subjected transgressors upon his venison to the loss of their eyes and privy members, as in the time of his grandfather Henry; and for lesser trespasses upon his *vert*, leading of dogs uncoupled, and bows and arrows, to be at the king's mercy.

The first constitution of *John* was for regulating and moderating the fees of the great seal, which had been enlarged in the time of Richard I. and for re-

* Brompton.

ducing them to what they were in the reign of his father Henry II. His next law was for establishing the prices of wines: he also granted to Hubert archbishop of Canterbury, the liberty of a mint for coining of money in his archiepiscopal city, together with authority to convert the tenure of such lands as were held of his church of Canterbury in *gavelkind*, into *knights service*.

In the second year of his reign he ratified the usage of his exchequer respecting such debts as were due to the crown. In the year 1201 he sent his precept to Hugh Nevil to enforce the strict observance of the forest laws; and the next year he made and constituted an assize of bread upon the several prices of wheat.

In 1204, the 6th of his reign, he issued out a proclamation against *clipt* money, and established an assize for coinage. The same year the price of a *sore goshauke* was by the king's justices fixed at twenty shillings, and of a mewed *goshauke*, at forty shillings. But the greatest event of this prince's reign was the granting of the *MAGNA CHARTA*, and *CHARTA DE FORESTA*, the grand foundations of English liberty, and which may be said to have permanently fixed the constitution of these kingdoms, till then uncertain, and liable to be changed at the will of every tyrant.

The barons had long been forming a confederacy against John, who was equally odious and contemptible both in public and private life; but their union was broken, or their aims disappointed, by various

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and unforeseen accidents. The concurrence of Langton the primate, who, though forced upon the kingdom by the see of Rome, amply compensated to his countrymen by his attachment to their real interests, assisted by the despicable humiliations of the monarch himself, offered the wished-for opportunity ; for now having given up the independence of his kingdom to a foreign ecclesiastic, his subjects justly thought they had a right to claim a part of that power which he had been granting so liberally to strangers.

The barons in consequence having been convened in St. Paul's by the archbishop, together with a synod of his prelates and clergy, on pretence of examining into the losses sustained by the exiled bishops ; they were shewn a copy of Henry I.'s charter, which had been luckily found in a monastery, and which contained so many articles tending to restore and fix the boundaries of justice, that Langton exhorted them to insist on the renewal and observance of it. The barons swore they would lose their lives sooner than forego those claims that were founded on nature, on reason, and on precedent.

Accordingly a new and more numerous meeting being summoned by Langton at St. Edmundsbury, under colour of devotion, he again produced to the assembly the confirmation of the Confessor's charter by Henry I. and renewed his exhortations to continue steadfast and zealous in their former laudable conspiracy. The barons, inflamed by his eloquence, and still more by their injuries, as also encouraged by

their numbers, solemnly swore before the high altar, "that if the king refused to do them justice in the demands they were about to make, they would forthwith put themselves in arms, and withdraw their allegiance from him until such time as by his charter, sealed, he would condescend thereto. And they further concluded, that after the Christmas following, they would repair unto him in a body, to represent these their desires; that in the mean time they would every one make such provision of horse and arms, that, in case he refused to abide by his oath, made the preceding year at Winchester, to restore the laws of his ancestors, especially those of St. Edward, and to do right to every one, they would, by seizure of his castles, compel him thereto."

At the appointed time, pursuant to their promise and obligations, they repaired in the beginning of January to the new Temple at London, where the king then lodged, accoutred in military garb and equipage, and boldly charged him with his oath made at Winchester, in which he had consented to a confirmation of the laws of Edward the Confessor. John, far from complying with their request, resented their presumption, and at first sought to intimidate them; but at length, perceiving their power and unanimity, begged a respite till Easter, under the pretence of considering what might be done consistent with his royal dignity. The barons, willing to afford him no just ground of complaint, after mutual consultation, and the delivery of hostages to them, acceded to his request, and departed quietly to their several

homes. They saw their own strength, and were certain at any time to enforce their demands.

Freedom, says an elegant writer, could never have found a more favourable juncture for its exertions than under the government of a weak and vicious monarch, such as John was; whose resistance only served to give splendour to every opposition. Although he had granted the barons assurances of his good intentions, yet nothing was further from his heart than complying with their demands; for no sooner did he perceive the success of this evasion, than, consulting his own safety, he required a renewal of the fealty of all his subjects, and, to secure himself the better, assumed the *cross* as a protection to his arbitrary measures. But the barons, who well knew his duplicity, and had provided against it, by increasing their resources and their numbers, met at *Stamford* in the Easter week, with a mighty army, and on the Monday following came to *Brackley*. On this, John, in great alarm, dispatched Hubert archbishop of Canterbury, Marshal earl of Pembroke, and other trusty persons, to know of them what laws and liberties those were which they required, and received from the barons a schedule, containing for the most part the ancient laws and customs of the realm; the barons expressing at the same time, that if the king should refuse to confirm them by his sealed charter, they would make seizure of his castles, until he *did* condescend thereto.

The king, on receiving this instrument, flew into a violent passion, asked why the barons did not also

demand his kingdom, and swore that he would never grant to them such liberties as would make him their servant. But the confederacy were now too strong to fear much from the consequences of his resentment: they were no sooner told his answer than they immediately betook themselves to arms, appointed *Robert Fitzwalter*, one of their associates, to be their general, calling him *the marshal of the army for God and holy church*, and proceeded without further ceremony to make war upon the king. They besieged Northampton during fifteen days; they took Bedford; they were joyfully received into London. They wrote circular letters to all the nobility and gentlemen who had not yet declared in their favour, and menaced their estates with devastation in case of refusal or delay.

In the mean time the timid king was left at Odiham in Hampshire, with a mean retinue of only seven knights, where he vainly endeavoured to avert the storm by the mediation of his bishops and ministers; but at length finding himself totally forsaken, and perceiving it vain to contend, he again sent the earl of Pembroke, with a few of his retainers, to say that he would meet them at a proper day and place, and settle all differences.

The ground whereon the king's commissioners met the barons was between Staines and Windsor, at a place called Runnemede^a, still held in reverence by posterity

^a From *Runne*, a Saxon word signifying council or deliberation, and *Mede*, a meadow. On the king's side appeared the archbishops of

as the spot where the standard of freedom was first erected in England. There the barons appeared with a vast number of knights and warriors, on the 15th day of June, while those on the king's part came a day or two after. Both sides encamped apart like open enemies. The debate between power and precedent is generally but of short duration. The barons, determined on carrying their aims, would admit of few abatements; and the king's agents being for the most part in their interests, few debates ensued. After some days the king, with a facility somewhat suspicious, signed and sealed the charters required of him: "charters which are the famous bulwark of English liberty." The first was called *CHARTA COMMUNIS LIBERTATUM*, or *MAGNA CHARTA*; the Charter of Liberties, or Great Charter; the other was called *CHARTA DE FORESTA*, or the Charter of

Canterbury and Dublin, with the bishops of London, Winchester, Lincoln, Bath, Worcester, Coventry, and Rochester; Pandolf, the pope's legate; and Aymeric, master of the knights templars in England: and of the laity, William Marshal, earl of Pembroke; the earls of Salisbury, Warren, and Arundel; with the barons Alan de Galloway, William Fitz-Gerald, Peter and Matthew Fitz-Herbert, Thomas and Alan Basset, Hugh de Nevis, Hubert de Burgh, seneschal of Poitou; Robert de Roppesley, John Marshal, and Philip de Albiney. As for those on the barons' side, they were almost innumerable, according to Matthew Paris: the chief were, Robert Fitz-Walter, the general; Richard earl of Clare; Geoffry earl of Essex and Gloucester; Roger Bigod, earl of Norfolk and Suffolk; Saher earl of Winchester, Robert earl of Oxford, Hugh earl of Hereford, William Marshal the younger, Eustace de Vescie, William de Moubray, John Fitz-Robert, Roger de Monte Begom, William de Llanvaley, Richard de Percy, Robert de Ross, Peter de Bruis, Nicholas de Stubevil, Roger de Creissy, &c. &c.

the Forests. The former, which now goes by the name of *MAGNA CHARTA*, either granted or secured very important privileges to every order of men in the kingdom; namely, to the clergy, to the nobility, and to the people: and this charter still continues in force. The remaining history of this celebrated grant is short.

John, whose seeming passiveness was all dissimulation, had no sooner given his forced consent, "than, thinking it stood not with the dignity of a king to be thus constrained, and repenting of what he had done, he caused his castles to be manned and fortified, and sent messengers to the pope (Innocent III.), offering to hold this his kingdom of him as his feudary, in case he would annul his grants made to the barons." The pontiff, tempted by so splendid a bait, warmly espoused his cause, and annulled the whole charter. The barons had recourse to foreign assistance, the flame of civil war was lighted, and a train of distractions ensued, which reduced the kingdom to extremity, and at length terminated in the death of the king; who fell, it is thought, the victim of his own pernicious policy.

Henry III. at the age of nine years was solemnly brought to the high altar at Westminster, by *Walo*, the pope's legate, and the bishops and noblemen of England, and taking his oath "that he would bear reverence to God and holy church, and exhibit justice to his people, abolish all evil laws and customs, as also cause the good laws to be observed," &c. was

crowned, and received the fealty of his nobles; and the famous William earl of Pembroke being appointed governor of his person and of the kingdom, caused the charters ratified by John to be proclaimed in the several counties of the realm.

A short time afterwards the validity of Henry's grant being thought doubtful on account of his youth, the archbishop of Canterbury, with the rest of the peers, on the octaves of the Epiphany, in the year 1223, *reg.* 8. required his further confirmation of the laws and liberties for which they had contested so much with his father; alleging, that upon the departure of the dauphin out of England, both himself and all the nobility of this realm did make oath, that those laws and liberties should be kept and preserved inviolable.

To this demand *William de Buirvere*, one of the king's council, answered, that laws extorted by force ought not to be observed: "but the king, well remembering the oath which he had taken, resolved not to break it; and therefore, upon mature advice, sent his precepts to the sheriffs, requiring them, by a jury of twelve men, to make inquiry what those liberties were which the people of England enjoyed in the reign of his grandfather (Henry II.), and to make return thereof to the king within fifteen days next after Easter then ensuing."

Notwithstanding this, nothing was done till two years afterwards, viz. in 1225, *reg.* 9. when the king celebrating the feast of the Nativity at Westminster,

with all befitting solemnity, the clergy, commons, and peers being present, Hubert de Bourg, chief justice, acquainted them with the losses and injuries which the king had sustained in parts beyond sea, and desiring their advice and assistance for the recovery of the ancient rights and dignities of the crown lost in those parts, proposed as the only remedy a full fifteenth of the moveable goods of both clergy and laity; with which the assembly deliberately answered that they would cheerfully comply, so that he would grant to them their long-desired liberties, and made performance thereof accordingly.

Whereunto the king then assented, forthwith causing several charters to be sealed with his seal, and sent into every county; and into those where any forest lay, he sent two, viz. one of their common *liberties*, and the other of the *liberties of the forest*.

All which being done, a certain day was appointed, within a month after Easter, "that twelve knights or other lawful men should be chosen^{*} out of every county, who upon oath should distinguish between the new and old forests, so that all those which were afforested after the first coronation of Henry II. might be disforested." This appointment was punctually executed under the direction of the chief justice of the forests, *Hugh Nevil*, and Brian de L'Isle, with other special commissioners.

Two years later, at a great council held at Oxford,

^{*} M. Paris.

in which the king was declared to be of age², he caused every thing to be cancelled, under pretence that the grants were obtained in his minority. At the same time it was made known, that all persons, clergy or laity, might have a renewal and confirmation of their former charters, sealed with the king's new seal, paying for the same according to their abilities and the discretion of his judges; and that none but those ratified would be esteemed valid³.

The barons, alarmed at these proceedings, in the July following petitioned the king⁴, in a way which shewed they would not be refused, to restore the charters of the *forest liberties*, sealed, which he had thus cancelled at Oxford. Henry pacified them for the present; and perceiving it in vain to trifle, soon afterwards (reg. 21.), on the octaves of St. Hilary, the 21st January, in a full parliament held at Westminster, having first obtained a grant of a thirtieth part of their moveable goods⁵, sealed them a new charter, confirming the former made in his minority, in which the greater part of the assembly are specially named as witnesses; and upon the 16th of March next following⁶, he issued out his special precept to the sheriffs, to publish it again, and see it firmly observed.

Nor was even this thought sufficient; for it appears

² Claus. 9 Hen. 3. Flor. Hist.

³ Flor. Hist.

⁴ M. Paris.

⁵ Autogr. in Bib. Cott.

⁶ Claus. 21 H. 3. m. 15.

that in a parliament held at *Marlebridge*, *reg.* 52. he ratified them again⁷. But the final confirmation of these memorable statutes, notwithstanding, may be said not to have been fully completed till the reign of his son Edward I. and for this reason :

The nobility of those days, enjoying vast possessions and retinues, conceived themselves little less than princes, as may be seen by the bold answer of John earl of Warren to the king's justices, when asked to shew by what title he held his lands—" *pro-duxit in medium, gladium antiquum,*" &c.⁸ " He drew out an old sword, and told them by *that* title he held them : for my ancestors," quoth he, " coming into England with William the Bastard, acquired their lands by the sword ; and by the sword I resolve to hold them against any man who would have them ; for he did not conquer and subdue this nation of himself, but our progenitors were sharers and assistants with him," &c. And as their estates and power were very great, so were their animosities one against the other ; some being not willing to endure any equal, others no superior. In this state the object was to get partisans among the vulgar, by making them discontented with the government and the king, and promising every thing on their own parts if they would join the standard of rebellion ; to which the multitude, ever prone to change, seldom want much instigation. Having by these means gathered a power

⁷ Stat. de Marlebridge, cap. 5.

⁸ MS. in Bibl. Bodl. inter Codices Digb. (n. 270), f. 17, b.

ful army at *Oxford*, they forced the king's consent to ordinances of their own framing, which in substance were no other than to divest him of his royal power, and plant it in themselves, leaving him the mere name and empty pageantry of royalty. In this they now so far succeeded, that having overthrown at *Lewes* the army which the king levied against these usurpations, and being possessed of the person of the young prince Edward, they in his name summoned a parliament (as appears by the writs, bearing date at *Worcester*, 14th December, and at *Woodstock*, 24th December, 49 Hen. III.) to meet at London "on the octaves of St. Hilary then next ensuing: and likewise directed precepts⁹ to every sheriff throughout England, to send thither two knights out of each county; as also to the cities and boroughs, the like numbers of citizens and burgesses; and to the barons of the cinque ports a certain number of their discreetest men; whereby they might with the fairer colour settle the realm, and please the people with some shadow of those fair liberties for which they so long had seemed to contend; but the little less than miraculous escape of prince Edward out of their custody, happened soon after; by which means, he giving them battle at *Evesham*, about the beginning of August following, obtained so clear a victory, that it did then put an end to their usurped power."

The struggle between monarchy and aristocracy

⁹ Claus. 49 Hen. 3. m. 2. indorse in scedula.

being thus terminated, a way was opened for the people to obtain their rights; and Edward afterwards, in the twenty-fifth year of his reign, voluntarily bestowed what was attempted to be wrested from him by force. In a parliament held at Lincoln it was appointed by act, that there should be sent into every county of the realm the formal recital and solemn confirmation of the two long-disputed charters, under the king's great seal, as well of his justices of the forest, as others; and to all sheriffs of shires, and all other the king's officers; as also to all the cities throughout the realm, together with the writs in which were contained the full cause of the publication thereof; and likewise a command to let the people know that the king had so confirmed them in all points. The judges of the land were directed to allow them in judgment whenever they were pleaded, viz. the *Great Charter* as the common law, and the Charter of the Forest, for the wealth of the realm. All of which was done, and sentence of excommunication pronounced by Kilwarby archbishop of Canterbury, against all violaters. For this confirmation the king had a grant of a tenth from the clergy of London, a fifth from York, and a ninth from the commonalty of the whole realm¹. They were again finally confirmed, with additions, 28 Edward I.

¹ T. Walsing.

CHAP. II.

OF PARLIAMENTS.

THE restitution to the people of those privileges which had been tyrannically wrested from them by the Norman conqueror, being thus solemnly confirmed^a, a way was opened for their gaining that political importance in the scale of legislation they have since done by means of their representatives; though the origin of that great council by which the deliberations of the

^a The advantages which Magna Charta gave to the barons and clergy are of little consequence to the present age, as the hardships they were meant to lessen are now all done away. All that it imports to us is to know "what the people gained." Here then are the clauses in their favour:

"Immunities granted to barons are extended to their vassals. No baron to levy money from his vassals except in trinodal cases (these were, 1. Attending the king to war: 2. Repairing his castles: 3. Repairing bridges, roads, &c. &c.). Weights and measures equal through the realm. Merchants not to be illegally taxed. Free egress and regress to freemen. London and all cities, &c. to preserve their privileges, and not to be taxed except by the great council (great council and parliament seem here synonymous. The term parliament is not found in any English record, according to sir R. Cotton, before the year 1205). Bridges to be equitably built or supported. Freemen to dispose of their goods by will, or if intestate the next heir to succeed. The king's purveyor not to seize goods, &c. Courts of justice not to follow the king, but to be stationary, open, and equal to all men. Justice (this was a necessary proviso in a realm where bribes were re-

state were guided, and which has received the modern denomination of *parliament*, is, as well as the common law from which it emanates, of higher antiquity than memory can reach³. For it is not to be doubted, observes a certain author, but these good and wholesome laws were framed upon great and mature deliberation had and taken by the most eminent men for power and prudence in the kingdom; the convention of which persons was by the Britons called *Kyfr-y-then*, by reason that laws were therein made: for that they had such meetings before the arrival of the Romans here, is extremely probable, from the words of Caesar⁴ as well as Tacitus; the latter in particular ascribing the success the Romans had against

ceived by the king to a great amount, and shamelessly set down in a book kept on purpose) not to be paid for, nor to be refused to any one. Sheriffs not to put any one on trial without good cause and lawful witnesses. No freeman to be any way injured in person or goods, unless by the law of the land. Redress to be given to those who have suffered illegally. No extravagant fines to be levied on freemen. No villain (rustic) to be deprived of his cart or other instruments of husbandry by fine."

These regulations, saith the acute Hume, involve all the chief outlines of a legal government, and provide for the equal distribution of justice and free enjoyment of property.

³ "Nothing," says Blackstone, "is more difficult than to ascertain the precise beginning and first spring of an ancient and long-established custom. Whence it is, that in our laws the goodness of a custom depends upon its having been used time out of mind, or, in the solemnity of our legal phrase, time whereof the memory of man runneth not to the contrary. This it is that gives it its weight and authority; and of this nature are the maxims and customs which compose the common law, or *lex non scripta*, of this kingdom."

⁴ Lib. 5. *de Bello Gallico*.

them to their neglect in the due holding of such public and common councils⁴.

This general council has been held under several names, as *micel synoth*, or the great council, *micel gemote*, or great meeting; the English Saxons, however, more frequently termed it *wisa gemote*, or the meeting of wise men.

“Ethelbert,” says Bede⁵, “amongst other good things he did for his people, constituted laws *with the advice of his wise men*, according to the example of the Romans.” The Germans, Tacitus informs us, did the like; and from them, their offspring the Saxons, our ancestors, it is reasonable to suppose, took their pattern. Such great councils at least, however they might originate, existed among the earliest of the Saxon princes, as is evident from the preamble to the laws of Ina: *Ego Ina, Dei gratia, West-Saxonum rex, exhortatione & doctrina Ceonridi patris mei, & Heddæ episcopi mei & Herchenmaldi episcopi mei & omnium aldermannorum meorum, & de statu regni mei, constitui, &c.* Here is the advice and council, we see, of two bishops, and all his earls, with other persons of his kingdom eminent for their wisdom.

Alfred, after the dissolution of the heptarchy, ordained, A. D. 873, for a perpetual usage, that these councils should meet twice in the year, or oftener if need be, &c. using these remarkable words—Ego

⁴ Tacitus in vitâ Agric. cap. 12.

⁵ K. Ethelbert, lib. 2. cap. 5. Eccl. Hist.

tunc Alfredus rex, hæc collegi, &c. *consilio sapientum meorum*, &c. The same council of wise men is mentioned by Athelstan, Edmund, and Edgar. The latter, in a parliament held at Salisbury, says, *cunctis regni proceribus congregatis*. Ethelred in the same manner calls them *sapientes sui*; and Canute, *venereundo sapientum ejus consilio*.

Ingulphus tells us these *sapientes* were all the great men of the kingdom, *universi magnates regni; tam archiepiscopi & episcopi, ac abbates, quam ceteri totius regni proceres & optimates, Londoniis conveniunt ad tractandum de negotiis publicis totius regni*: which words *optimates* being here in the place of *seniorum sapientum* in the preamble of *Ina's* law, before recited, may, doubtless, as well be interpreted to include the representatives of the people, or commons, as the words *servorum sapientum*, conjectured to have that meaning by Lambard; who judiciously enforces his argument by observing, that those towns which were the ancient demesne of the crown (that is, in the possession of king *Edward* the Confessor, and his ancestors), having ever since prescribed to be privileged from sending burgesses to parliament, it must consequently follow, that there were parliaments before that time, to which the inhabitants of other places sent burgesses. At all events, it appears from the words of king *Edward* the Confessor's laws, which were made *à rege, baronibus & populo*, that the commons were then represented in some manner or other¹.

¹ The original, or first institution of parliaments, says Blackstone,

With respect to the practice after the Norman conquest, the first guide is an old chronicle, written in the time of Stephen, which, speaking of the Conqueror, says, *he was a person of great worth (or honour). Thrice he wore his crown each year, as oft as he was in England. At Easter, he bore it at Winchester; at Whitsuntide, at Westminster; and at Christmas, at Gloucester; and then were with him all the wealthy (or potent) men throughout England, archbishops, bishops, abbots, earls, barons, and knights.* Hence it may be inferred, that if those meetings were his *communia concilia* (as doubtless they were), some of them must represent the common people. For that they were represented in his great council, seems clear, from passages, both of Hovedon and

is one of those matters which lie so far hidden in the dark ages of antiquity, that the tracing of it out is a thing equally difficult and uncertain. The word *parliament* itself (*parlement*, or *colloquium*, as some of our historians translate it) is comparatively of modern date; derived from the French, and signifying an assembly that met and conferred together. It was first applied to general assemblies of the states under Louis VII. in France, about the middle of the twelfth century. But it is certain, that long before the introduction of the Norman language into England all matters of importance were debated and settled in the great councils of the realm. A practice which seems to have been universal among the northern nations, particularly the Germans; and carried by them into all the countries of Europe, which they overrun at the dissolution of the Roman empire. Relics of which constitution, under various modifications and changes, are to be met with in the diets of Poland, Germany, and Sweden, and the assembly of the estates in France: for what is there now called the *parliament* is only the supreme court of justice, consisting of the peers, certain dignified ecclesiastics, and judges, which neither is in practice, nor is supposed to be in theory, a general council of the realm.—Comment. vol. i. p. 147.

Sulcardus (a monk of Westminster), both writers of a very early age ².

Whether any solemn convention of this kind was held by William Rufus, is doubtful; but it is certain that when his brother Robert, purposing an expedition to the Holy Land, sent to him to borrow ten thousand marks of silver, with a promise that he should have *Normandy* in pledge for it; to satisfy him, he required from the great men of England a loan of what money they were able to spare: whereupon, says the same author ³, the bishops, abbots, and abbesses brake in pieces the silver and gold ornaments of their churches; the earls, barons, and shireeves, *suos milites & villanos spoliaverunt, & regi non modicum summum auri & argenti detulerunt*—That is, took from their tenants, and brought a deal of gold and silver to the king: whence it being clear, that the lords then answered for their tenants; it may the more likely be presumed, that they at other times represented them in all great and public councils.

Of king Henry I. it is certain ⁴ that *per commune*

² The latter says, that the said king, in his charter of ratification of the liberties of that church, after he had subscribed his own name, with the sign of the cross, adding many of the clergy and nobles; instead of *cum multis aliis*, has these words—*multis præterea illustrissimis virorum personis, & regum principibus diversi ordinis omissis, qui similiter huic confirmationi, piissimo affectu testes & fautores fuerunt. Hii etiam illo tempore à regiâ potestate è diversis provinciis & urbibus, ad universalem synodum, pro causis cujuslibet Christianæ ecclesiæ audiendis & tractandis, ad præscriptum celeberrimum synodum, quod WESTMONASTERIUM dicitur, convocari, &c.*

³ R. Hoved. in A. 1096, p. 466. (Impr. Francs.)

⁴ Mat. Paris. Jani Angl. p. 78.

concilium baronum he was crowned; which words Lambard supposes to signify the *commonalty* as well as the *nobles*², considering that the Germans render the word *baro* by *frehere*, (that is) a *freeman*: hence it was, says he, that the citizens of *London* were at that time called *barons*³, and the burgesses of the cinque ports ever since have been known by that name; likewise, that the courts in every manor are termed *courts baron*, though the lords of them are of no higher degree than gentlemen. He further adds⁴,

² Archæon. p. 261.

³ "The citizens of London," says Fitzstephen, "every where and throughout the whole kingdom are esteemed the politest of all others in their manners, their dress, and the elegance and splendour of their tables; insomuch, that whilst the inhabitants of other cities are styled *citizens*, they are dignified with the name of *barons*." This clause appears not in Stowe's and Hearne's MSS. but it is nevertheless extremely proper and pertinent, and probably came from the author's pen. Sir Henry Spelman writes in his Glossary, v. *Baro*, *Barones de London*; i. e. *Cives seu homines de London*—Ita sæpe in antiquis paginis: . . . aliàs autem dici videtur de civibus in genere (non sine nota eminentiæ) aliàs de primariis tantum. In genere ut M. Paris in Hen. III. An. Dom. 1253 (p. 863), Londonienses quos propter civitatis dignitatem et civium antiquitatem barones consuevimus appellare, &c. and so we are to understand it here: see lord Lyttelton, iii. p. 143, 351; where, however, his lordship adds, Yet I hardly think the inferior citizens could ever be called barons, but only the magistrates, or those in whom the power of the city resided. See also Maitland, p. 1021. Indeed, at first sight, it appears to be most natural that by *barones* in these cases should be meant the more eminent citizens; and yet when one considers that the inhabitants of the cinque ports were in general called *barones* (Spelman, v. *Baro*), and that *baro* was originally equivalent to *vir* or *homo* (*ibidem*), there seems to be no more impropriety in extending the term to the citizens of London universally, as Fitzstephen and M. Paris have done.—See САНБ. Brit. Orders of Eng. Note to English translation of Fitzstephen, ed. 1772.

⁴ Lib. p. 262.

it is not altogether without ground said, that both the *nobility* and commonalty of the realm went under these words, viz. the *barons* of the *realm*; and the rather because that expression is accompanied with the word *common council*, by which all our writs, grounded upon old statutes, do intend the *parliament*; and that our old historian *Matth. Paris* afterwards uses the words *communis assensus baronagii*, when he means to signify a just parliament; and moreover, the better to illustrate that it is so meant, he vouches a writ ⁵, directed by king *John* to the shireeve of ROTELAND, in the 6th year of his reign ⁶.

In 1103, Henry I. is said, by Brompton, to have convened "the *clergy* and *people* to his council at London;" and the constitutions passed at Clarendon, by Henry II. in 1164, were, says Diceto, *concurrentibus episcopis & proceribus*; or, as Hovedon has it, *congregato clero & populo*. Benedictus Abbas, in his life of the same monarch, speaking of the council held by him at Northampton in 1176, is still more conclusive: "*per consilium comitum & baronum & militum & hominum suorum*," &c. And Richard I. is expressly said to have convened the bishops, earls, and barons of his kingdom—*parliamentum Londiniis* ⁷.

⁵ Pat. 6. Joh. in dorso.

⁶ Rex, &c. vicecomiti ROTELAND, &c. Sciatis, quod provisum est, cum assensu archiepiscoporum, comitum, baronum, & omnium fidelium nostrorum ANGLIÆ quod novem milites per totum Angliam, inveniant decimum militem, bene paratum, equis & armis ad defensionem regni nostri: et quod illi novem milites inveniant decimo militi quolibet die duos solidos ad liberationem suam, &c.

⁷ Brompton, 1166, l. 61.

These testimonies alone would be sufficient to prove that the people were at these periods in some sort represented; but the words of *Magna Charta* place the matter beyond a doubt, as well as John's oath previous to granting it, namely, that he would *restore* the laws of his ancestors, and especially those of king Edward—"I will not impose any scutage or aid in our kingdom," says he, "unless by the *common council* of our kingdom, except to redeem our person," &c. "And for the assessing of scutages we shall cause to be summoned the archbishops, bishops, abbots, earls, and great barons of the realm, singly by our letters. And furthermore, we shall cause to be summoned in general, by our sheriffs and bailiffs, all others who hold of us in chief⁸, at a certain day, that is to say, forty days before their meeting at least, to a certain place; and in all letters of such summons we will declare the cause of such summons. And summons being thus made, the business shall proceed on the day appointed, according to the advice of such as shall be present, although all that were summoned come not."

Now that all peers had of ancient right their particular summons is sufficiently evident from what M. Paris says of the parliament held at Westminster in 1255, that many of the peers, for want of such sum-

⁸ It seems to follow from this article, that none but tenants in chief had a right to sit in the common council or parliament. Otherwise it was natural to mention here the representatives of the commons, had they enjoyed that right in those days.—Rapin, but vide supra.

mons, were absent ; and that the rest of the barons refused to answer the king's proposals then made to them on that account. And, as MAGNA CHARTA itself is acknowledged to have been no new grant to the people of England, but a confirmation of their ancient rights and liberties ; it must necessarily follow, that the persons who held of the king *in capite*, were the representatives of most of the commons, called by some⁹ *barones minores*, lesser barons. For that the whole body of parliament had the title of *baronage* is evident from a writ of Henry III. to the sheriff of Herefordshire, in which it is said *de communi concilio baronagii nostri*, &c. And that the dependant tenant's consent was included in the assent of his immediate superior lord, or representative, whose presence was ever so required in these great councils, is a conclusion that seems naturally warranted by the premises.

Nor does it appear that the commons were otherwise represented than by these tenants in chief, for the most part of Henry III.'s reign, in the 9th year of which the Great Charter is said to be confirmed *per commune concilium totius regni*, by the common council of the whole kingdom.

It is, perhaps, notwithstanding all that has been advanced, however, only from the battle of Lewes, in which Henry III. and the prince his son were made prisoners by the celebrated earl of Leicester, that we are enabled to trace the confirmed outline of

⁹ Selden, Tit. of Honour, p. 708.

an English house of commons, as it exists at present, though, as we have shewn, the people were in those great and public councils certainly represented by the king's tenants in chief; but after this period by two knights for each county, and certain burgesses for several boroughs, &c.

It is remarkable, however, that Henry's precept for summoning two knights for each county, &c. was issued when the barons had him in their power, and exercised regal authority in his name; and though there were several parliaments before the 23d Edward I. yet there is no testimony upon record of any summons to them till that year, the form of which continued till the 6th Edward II. and is nearly the same as in use at this day.

It seems, at the time we are speaking of, that the lords, with their numerous attendants, were entertained at the king's charge, as appears by the writs bearing date 30th August next ensuing the date of the summons of parliament held that year (which was the 6th of July before): these were directed to the sheriffs of the following counties, for the provision of oxen, muttons, and hogs, at certain prices, for the said king's household, in respect of his then residence at Westminster, viz. to the shireeve of Devon for CC oxen, and a thousand muttons: to the shireeve of Hampshire for CCC oxen, two thousand muttons, and two thousand hogs: to the shireeve of Somerset and Dorset for CCCCCC oxen and a thousand muttons: and to the shireeve of Surry

and Sussex for CC oxen, a thousand muttons, and a thousand hogs¹.

In thus tracing the rise and progress of the English parliament, we may perceive the consideration the people had been gaining since the gradual diminution of the feudal system. The establishment of corporation charters, by which many of the rustic slaves were in a capacity of rescuing themselves from the dominion of their masters, increased not only the power of the people, but their ardour to be free. As arts increased, the number of these little independent republics, if they may be so called, increased in proportion; and we find them at the present period of consequence enough to be adopted into a share of the legislature. Such was the beginning of an institution that has since been the guardian of British liberty, and the admiration of mankind. In this manner it owed its original to the aspiring aims of a haughty baron, who flattered the people with the name of freedom, with a design the more completely to tyrannize.

CHAP. III.

OF THE JUSTICE OF ENGLAND.

THAT the power of government, or right of administering justice, was at first vested in the father of the household, and when generations of men in-

¹ *Origines Juridicales*, p. 19.

creased, in the chief of the tribe, both reason and history sufficiently testify; or, in other words, when society grew too large to subsist with convenience in that pastoral state wherein the patriarchs appear to have lived, it necessarily subdivided itself by various migrations into more, as is excellently expressed by sir Walter Raleigh: "In tract of time," says he¹, "as people grew numerous, and kindreds more remote, obedience, the fruit of natural reverence, waxing cold, and brotherly affection by little and little withering away; wisdom being likewise severed from power, and strength from charity, covetousness begot oppression, and the more powerful man encroached upon the weake; necessity, therefore (which maketh wise even the brute creatures as well as men), occasioned both the prudent and ignorant at once to understand that the condition of reasonable men would become far more miserable than that of the beasts; and that a general flood of confusion would a second time overflow them, did they not by a generall obedience to order and dominion prevent it: for the mighty, who trusted in their own strength, found others again (by enterchange of times) more mighty than themselves; the feeble fell under the forcible, and the equal from equal received equal harmes; insomuch, that licentious disorder, which seemed to promise liberty upon the first acquaintance, proved, upon a better tryall, no less perillous than an unindurable bondage."

¹ Hist. of World, lib. i. cap. 9. sect. 1.

This increase of society requiring a magistrate with more extensive jurisdiction, the transfer of power from private to public hands, from the chief or father of a family, to the monarch, or father of a nation, naturally followed; and hence the king, as the depositary of that power, "and no other," says Bracton, "ought to judge, if he alone were able to perform the task, being thereunto obliged by the tenour of his oath: to him, therefore, it belongs to exercise the power of the law, as God's vicegerent and officer on earth. But if the king cannot of himself determine every controversy, to the end his labour may be less by dividing the trouble amongst divers persons, he ought to choose men of wisdom, fearing God, and out of them to constitute judges."

The expression of Edward I. in the preface to his book of laws, called *Breton*², precisely agrees with this opinion; for, having declared that he is God's vicegerent, and has distributed his power into several portions, as not being able alone to hear and determine all the complaints of his subjects, he proceeds, *nous volons que nostre jurisdiction, &c.* We will that our own jurisdiction be superior to all the jurisdictions of our realm; so that in all felonies, trespasses, contracts, and in all other actions, personal or real, we have power to give, or cause to be given, such judgments as do appertain (without any other process), wheresoever we know the direct truth, as judges.

² Breton, impr. Lond. per Rob. Redman (temp Hen. 3. f. 1. b.).

Hence it is that the king being *justiciæ fons et origo*, the head and fountain of justice, appeals from such as are his ministers for distribution of justice, in case they fail in performing of that their trust, are made to him himself, as is evident from the laws of king Edgar, already mentioned, where it is said³ *Nemo in lite regem appellato nisi quando domi jus consequi non poterit*, &c.

JUDGES.]—The first persons to whom our Saxon kings committed the general trust of administering justice universally under them were Ailwin⁴, the pious founder of Ramsey abbey, then called alderman of all England, Tosti⁵ earl of Northumberland, and Harold⁶, son to Godwin earl of Kent. After the Norman conquest, the principal judge was termed *capitalis justicia*, or *justiciarius Angliæ*, of which rank were Odo bishop of Bayeux, and William Fitz-Osbern; and it is not improbable but that Lanfrank archbishop of Canterbury, Goisfride bishop of Constance, and Robert of Morton, had jointly the administration of the same office during some part of the Conqueror's reign; for it appears⁷ that several precepts were directed to them from that king, which imply as much. Richard Basset and Alberic de Vere, by a special precept⁸ from Henry I. were invested likewise with similar powers.

³ Leges Edgari, edit. per Lamb.

⁴ H. Hunt. Hist. lib. vi. Jani Angl. p. 128, 129.

⁵ Ibid.

⁶ Ibid.

⁷ Regist. de Ely in bibl. Cotton. sub effigie Titi A. 1. f. 25 b.

⁸ Ex ipso autogr. in bibl. Cotton.

Diceto, a canon of St. Paul's, in his Annals of king Henry II. says, the bishops of Ely, Winchester, and Norwich, were constituted chief justices of England in 1179, the very year that Richard de Lucie, quitting that great office, took the habit of a canon regular, in the abbey of Lesnes, of his own foundation.

The last person that held the office of *justiciarius Angliæ*, was Philip Basset, constituted in the 45 Henry III. ; the King's Bench and Common Pleas having afterwards each a presiding judge, who had the appellation of chief justice there.

Basset received, in order to enable him to support his office with greater dignity, a pension of one thousand marks, which was granted⁹ to him out of the king's exchequer, by even portions, as did likewise his predecessor Hugh Bigod¹.

LAWYERS.]—It is believed, and with great probability, that the chief, and in fact the only persons learned in the laws of England, before the Norman conquest, were the clergy: those ages being so illiterate, on account of the continual inroads of the barbarous northern nations, which obliged the nobility and gentry to employ their whole time in martial exercises; and on account of this ignorance it no doubt happened that the decision of most controversies, in *civil* cases, was so much by combat, and in *criminal* by *fire* and *water* ordeal.

In the great controversy which existed betwixt

⁹ Rot. Liberat. 45 Hen. 3. m. 3.

¹ Liberat. 44 Hen. 3. m. 7.

Lanfrank archbishop of Canterbury, and Odo earl of Kent, it appears that Agelric bishop of Chichester was the lawyer then chiefly employed; "being brought thither," says the *Textus Roffensis*, "in a chariot, to discuss and instruct them in the ancient laws of the land, as the most skilful person in the knowledge of them." In the same reign also, one Alfwyn, rector of Sutton, and several of the monks of Abbingdon, particularly Sacolus and Godric, were said to be persons so expert in the laws, that their opinion was held in great reverence.

Ranulph, a clergyman, in the reign of William Rufus, is likewise called by William of Malmsbury an unvanquished lawyer, though in fact there were in those days not many others to contest the palm with him, it being long after this period before settled seminaries for the study of the common law were established. The first restraint that was put upon the clergy from publicly pleading and acting as attornies, was about the beginning of the reign of Henry III. when Richard Poor, bishop of Salisbury, forbid, by his constitution, the clergy of his diocese from practising in the secular courts, except under certain limitations².

This restriction, however, did not extend to prevent ecclesiastical persons from sitting as judges in the secular tribunals; for, besides several canons of St. Paul's, who fulfilled that duty, and some of whom were lord chancellors, lord treasurers, and

² Spel. Concil. tom. ii. sub an. 1217.

keepers of the great seal, the following persons were justices in the courts at Westminster, or itinerant, before the 6th of Edward I.—Martin de Patshull, in 2 Henry III. ; Will. de Eboraco, in 11 Henry III. ; Rob. de Ros and Alex. de Swereford, in 18 Henry III. ; John de Gatesden, in 34 Henry III. ; Gilb. de Segrave, in 35 Henry III. ; Egid. de Erdinton, in 36 Henry III. ; Rog. de Wyrecestre, in 38 Henry III. ; Herveius de Borham, in 49 Henry III. ; Raphe de Hengham, in 55 Henry III. ; Solomon de Roff. (id est de Roucestre) and Raphe de Frenyng-ham, in 3 Edward I. ; and Philip de Wilegheby, in 6 Edward I.

The judges in the same courts, from the conquest till the above period, were chiefly ecclesiastics, and some of them canons of St. Paul's: as ³ Hugh de Bockland, justice of England in the time of Henry I. ; Godfrey de Luci, one of the judges in temp. Henry II. ; John Comyn, a justice itinerant in the same king's time ; Thomas de Husseburne, a judge in Richard I. ; Eustace de Fauconberge, in 3 John ; and Henry de Northampton, in 4 John.

OF COURTS.]—"A court is defined to be a place wherein justice is judicially administered ⁴: and as by our excellent constitution, the sole executive power of the laws is vested in the person of the king, it will follow, that all courts of justice, which are the medium by which he administers the laws, are derived from the

³ An ancient MS. in the possession of the dean and chapter.

⁴ Co. Lit. 58.

power of the crown⁵; for whether created by act of parliament, or letters patent, or subsisting by prescription (the only methods by which any court of judicature can exist), the king's consent in the two former is expressly, and in the latter impliedly given. In all these courts the king is supposed, in contemplation of law, to be always present; but as that is in fact impossible, he is there represented by his judges, whose power, as before observed, is only an emanation of the royal prerogative."

That courts originally flowed from the same fountain that all laws did, viz. *necessity*, there can be no doubt, an instance of which we have in sacred writ, in the case of Moses: for when, by the multiplying of the people, it was found impossible for one person to hear and determine the differences that arose, or one place to be of sufficient capacity to receive all the suitors, God commanded that great lawgiver to set over the Israelites (the first nation unto whom any written laws were delivered) certain rulers under himself, in different places, for the more speedy distribution of justice⁶.

Of the great antiquity of courts we have here a sufficient evidence; with respect to the places where they were held, it will appear that they differed in different nations. The Jews had theirs in the gates of their cities, as we learn from various passages of scripture, particularly in *Jeremiah*, where it is said, that the prophet being condemned to die by the

⁵ See book i. ch. 7. Blackstone's Comment.

⁶ Exodus, ch. 18.

consistory of priests, was, by the consistory of princes secular, or *judges sitting in the gate*, absolved and discharged¹; and the reason of so public a situation being chosen was probably on two accounts: that their proceedings might be generally seen, and that none might go out of the common way to seek for justice.

The ancient Romans had their first seats of justice within their temples, purposely to shew that justice was a divine thing: afterwards *in curia* and *foro*, the court and public market-place.—The Athenians had theirs also in their temples; the Britons theirs in some hallowed place, as is evident from various expressions of Cæsar concerning the Druids.

The Saxons, imitating the old Germans, did, says Tacitus, "*jura per pagos*," &c. "distribute justice in each town and territory." For which purpose twelve of the most eminent men for their wisdom and worthiness, were made choice of from among others, to ride different circuits for the seeing of justice done, and good customs observed. And this regulation was most probably observed after they acquired the dominion of this country, as it was by no means possible that the people from all parts could repair to the king himself (the fountain of justice). But at length the same necessity which taught men first to frame governments and establish

¹ Jeremiah, ch. xxvi. ver. 15, &c. "When the princes of Judah heard these things, then they came up from the king's house unto the house of the LORD, and sat down in the entry of the *new gate*, &c. saying, This man is worthy to die."

laws, did further instruct their posterity as to the more easy and effectual administration of justice.

Hence it was that the realm became first divided into counties or shires, by Egbert, about A. D. 800, and those again into hundreds afterwards, by king Alfred; who, when he became sole monarch, kept courts and administered justice in every territory and town, "and had one hundred men out of the common people as companions and assistants to perform that business."—"He first divided," says *Ingulphus*², "or rather renewed the division of England into counties, by reason that the neighbour inhabitants, after the example and under colour of the Danes, committed great ravages and robberies. Moreover, he caused the counties to be parted into *centuries* or hundreds³, and into *decimes* (tithings); and commanded withal, that every homeling, or natural inhabitant, should be in some one hundred, or tithing.

"He likewise divided the governors of the provinces, who before were called *vice-domini* (vice-lords),

² *Ingulphus*, Hist. f. 495. b.

³ The institution of hundreds seems first to have obtained in Denmark, and in France a regulation of this sort was set on foot by Clotharius and Childebert, with the same view as Alfred's, namely, that of obliging each district to answer for the robberies committed in its own division; and, from an expression of Tacitus, it is probable an institution of this nature existed even among the old Germans. These hundreds consisted of ten tithings, or ten times ten families, as the tithing itself consisted of ten freeholders, and an indefinite number of them compose a shire. Each tithing, or town, had originally a church, and celebration of divine service, sacraments, and burials. The hundred is governed by a high constable or bailiff. In some of the more northern counties these hundreds are called wapentakes.—Blackstone.

into two offices, that is, judges and vicecounts (now justices and sheriffs), who still retain the same names: by whose care and industry, peace so much flourished, within a short space, through the whole province, that had a travelling man let fall a sum of money, how great soever, in the fields or common highways, if he returned thither the next morning, or a month after, he might be sure to find it there safe and untouched⁴.” Malmsbury speaks largely to the same purpose; “By occasion,” says he, “and example of the barbarians (the Danes), the proper and natural inhabitants also were greedy of spoil; so that no man could pass to and fro in safety, without weapons for his defence. Alfred therefore ordained centuries, which they term hundreds; and decimes, which they call tithings; that every Englishman, living under law, as a liege subject, should be within some one hundred or tithing. And, if a man were accused of any transgression, he should forthwith bring in some one, out of the same hundred and tithing, who would be bound for his appearance, to answer the law: but he who could not find such surety, should abide the severity of the laws. And in case any man, standing thus accused, either before or after suretyship, fled, then all the hundred and tithing was to incur a fine, to be imposed on them by the king.”

From this division, the origin of county courts, hundred courts, and town courts, may evidently be

⁴ *De Gestis Regum Angl.* f. 24. a. n. 40.

dated; but the first and principal place for the administration of justice was the court kept in the king's own house, in which himself, or the *justiciarius Angliæ*, sat. To this court any man might appeal who had not justice done him in the lesser courts nearer home, as appears from the laws of Edgar⁵: an instance of which right occurs in the reign of Henry II. who being beyond sea, the celebrated earl of Leicester, then *justiciarius Angliæ*, upon an appeal made to the king, issued his writ to the prior of Ely⁶, by which he, as justice of England, commands the same prior to do the complainant right in his court, in case the land in question did not extend to a knight's fee, and the decision thereof should not be tried by the great assize next; that if the said prior neglected, the bishop of Ely, whose court was superior to that of the prior, should see right done; and lastly, that if the said bishop should fail, he himself (the *justiciarius Angliæ*) would do it. The tenor of the laws of Canute is to the same effect, that no man should require justice to be done him by the king, unless the same could not be obtained in his county court. The writ of right⁷

⁵ Lamb. de priscis Angl. Leg. cap. 11.

⁶ Robertus comes Legrecestrie priori de Ely salutem. Præcipio quod sine dilatione teneas plenum rectum Humfrido filio Gaufridi de terrâ de Dunnigelande, nisi sit feodum militis, et nisi remaneat pro assisâ regis: et nisi feceris episcopus de Ely faciat: et nisi fecerit ego faciam.

⁷ Rex, &c. A. B. domino manerii de S. Præcipimus tibi, quod sine dilatione plenum rectum teneas T. D. de uno messuagio, cum pertinentiis, in W. quod clamat tenere de te per liberum servicium, &c. et quod N. P. ei deforciat; et nisi feceris vicecomes S. faciet, ne amplius clamorem audiamus pro defectu recti. Teste meipso, &c.

affords an additional testimony, as well as many passages in the ancient law writers, Glanville and Bracton.

This great court, originally held in the king's palace, and called from that circumstance by most ancient authors *aula regia*, or *aula regis*, was composed of the king and such of his nobles as he pleased to associate with himself for that purpose, who were resident in his palace, and usually attendant on his person; and before them were anciently held such pleadings as are now distributed into the different courts of Westminster. The principal of these nobles was the *justiciarius Angliæ* (an officer not much unlike the ancient grand seneschal of France, called *major domus*), named by the Saxons *alderman*; for so, in the time of Edgar, we find Alwyn distinguished—*totius Angliæ aldermanus*. The *justiciarius* was the principal minister of state, and decided all causes in the king's absence, as his vicegerent or deputy. This high officer was assisted by certain persons learned in the laws, who were called the king's justiciars, or justices, and by the greater barons of parliament, all of whom had a seat in the *aula regia*, and formed a kind of court of appeal, or rather of advice, in matters of great moment and difficulty. And this officer it was who principally determined all the vast variety of causes that arose in this extensive jurisdiction, and from the plenitude of his power at length grew both obnoxious to the people and dangerous to the government which employed him.

COURT BARON.]—The court baron is a court incident to every manor in the kingdom, to be holden by the steward within that manor, and is of two natures¹; the one being a mere customary court, and appertaining entirely to the copyholders, in which their estates are transferred by surrender and admittance, and other matters transacted relative to their tenures only: the other, which is connected with the subject of this discourse, is a court of common law, and it is the court of the barons, by which name the freeholders were sometimes anciently called, on account of its being held before such of them as owe suit and service to the manor, the steward being rather the registrar than the judge. These courts, though in their nature distinct, are frequently confounded together. The court we are now considering (viz. the freeholders' court) was kept in the lord's manor-house, and was composed of his tenants, who were bound by their feudal tenure to assist their lord in the dispensation of domestic justice: it consisted of ten judges or *triers*, called anciently *friburgi*, or *tenementale*. These were to undertake² for every inhabitant, and to satisfy for the offence of each man. Among them presided a person called *decanus*, *fribourghed*, or *headborough* (a name still retained); and by this tribunal were all civil actions, as of debt, trespass, detinue, or the like³, which arose betwixt any

¹ Co. Litt. 58.

² Leges Edw. Conf. apud Lamb. f. 132. a.

³ " This court may hold plea of any personal actions where the debt or damage does not amount to forty shillings, which is the same

of their township, determined. When a cause was tried which concerned the tenants of different lordships, it was transmitted to the next superior jurisdiction, viz. the hundred court, in some places called the wapentake.

These court barons were in the time of king Henry I. and afterwards held once every fortnight; but king Henry III. in the eighteenth year of his reign, ordered them to be held once in three weeks only⁴.

HUNDRED COURT.]—This court is only a larger court baron, being held for all the inhabitants of a particular hundred instead of a manor; and on this account it received its denomination of *hundred gemot*, and *centuriata*, because it was originally composed either *ex hidarum aliquot centenariis* (as *hida de centum acris* commonly), for that it consisted of an hundred hides of land, as an hide usually consisted of one hundred acres, or else because it had jurisdictions over ten *deans*, or an hundred *friboroughs*.

sum, or three marks, that bounded the jurisdiction of the ancient Gothic courts in their lowest instance, or *ferding-courts*, so called because four were instituted within every superior district or hundred; but the proceedings on a writ of right may be removed into the county court by a precept from the sheriff, called a *tolt*, *quia tollit atque eximit causam e curia baronum*; and the proceedings in all other actions may be removed into the superior courts by the king's writs of *troue*, or *accedas ad curiam*, according to the nature of the suit. After judgment given, a writ of false judgment lies to the courts at Westminster to rehear and review the cause, and not a writ of *error*, for this is not a court of record; and therefore, in some of these writs of removal, the first direction given is, to cause the plaint to be recorded—*recordari facias loquelam*." Blackst. vol. iii.

⁴ Claus. 18 H. 3. m. 10. in dorso. Cart. 2 R. 2. m. 12. per Inspex.

This court is said by sir E. Coke to have been derived out of the county court for the ease of the people; that they might have justice done to them at their own doors without any charge or loss of time: but its institution was probably coeval with that of hundreds themselves, which, as before observed, were introduced, though not invented, by Alfred, being derived from the ancient polity of the Germans. Cæsar speaks positively of the judicial power exercised in their hundred courts, and their courts baron: "*Principes regionum atque pagorum*" (which we may fairly construe the lords of hundreds and manors), "*inter suos jus dicunt controversiasque minuunt.*" And Tacitus, who had examined their constitution still more attentively, informs us, not only of the authority of the lords, but of that of the *centeni*, the hundredors or jury, who were taken out of the common freeholders, and had themselves a share in the determination: of these, one of the better sort, or principal inhabitants, called alderman, was judge, as appears by the Register of Ely, where it is said, that "*Ægelwyn, the alderman, came to Ely, and within the churchyard near the north gate of the monastery, held pleas for the whole hundred;*" and the witness of contracts and purchases then was *testimonio hundredi*. Here not only temporal, but ecclesiastical causes were tried, the alderman, or chief judge, being said to be such a one as *Dei leges & hominum jura studebat promovere*, WHO STUDIED TO PROMOTE THE LAWS OF GOD AND MAN.

^s Ex Regist. de Ely, in bibl. Cotton. sub effigie Titi, A. 1. f. 6. b.

The bishop or archdeacon usually sat in this court with the alderman till prohibited by a special precept from William the Conqueror, which ordered ⁶, *quod nec episcopus nec archidiaconus de legibus episcopalibus amplius in hundredo placitum teneat*.

Before the above-mentioned period the hundred court was held twelve times in the year ⁷, viz. once every month; and in king Henry I.'s time, once every fortnight ⁸: but king Henry III. in the eighteenth year of his reign, ordained ⁹ (as of the court baron), that it should be held once every three weeks.

As causes are equally liable to removal from hence as from the common court baron, and by the same writs, and may also be reviewed by writ of false judgment, the hundred court is fallen into equal disuse with the court baron with regard to the trial of actions ¹.

THE TRIHING OR LATHE.]—Of this tribunal vestiges exist in Kent, where such a conjunction of three or four hundreds still remains; and to this court ² *deferrebantur causæ quæ non poterant definiri in wapentachiis*, &c. were brought ³ such causes as could not be determined in the hundred court.

⁶ Cart. 2 R. 2. m. 12. n. 5. per Inspex.

⁷ Leges Edw. Conf. per Lambardum, fol. 136. b.

⁸ Cart. 2 R. 2. m. 12. per Inspex.

⁹ Claus. 18 H. 3. in dorso, m. 10.

¹ Of the reuniting of these hundreds and wapentakes to the bodies of the counties, according to the act of 2 E. 3. cap. 12. see Rot. Fin. 2 E. 3. in dorso, m. 33.; and Analecta Anglo-Britt. cl. Viri J. Seld. lib. ii. cap. 7.

² Lamb. de priscis Angl. Leg. f. 135. b.

³ Vide Leges Edw. Conf. apud Lamb. f. 134. a. sub titulo De Centurionibus & capitalibus Eriborgis.

Here the barons or freeholders of those parts, as in the hundred, were judges, as appears by the suit which Wulstan de Delham had for Stanneie in Cambridgeshire in the days of Edward, successor to Edgar; the story of which is briefly this: A certain widow, named Æscuen, having given Stanneie, with the fen belonging to it, to this Wulstan de Delham, he bestowed it on the monks of Ely, and they let it to farm for a rent of eels unto certain kinsfolk of the said Æscuen, who, having held it some time, at length retained it as their own, "*sine judicio & sine lege civium & hundredanorum*—without any judgment or law of the freemen and hundredors:" whereupon Ægelwyn the alderman summoned those persons who so unjustly held it to attend him at Ely to answer the same: but they declining to appear, at length the said Ægelwyn sitting at Cambridge, held a court there of the freemen and hundredors, before twenty-four judges; where, after open manifestation of the wrong done, judgment was not only given that the monks should be repossessed of those lands and fen, and to receive the arrear of the rent, but that the king should have a fine from the defendants on account of their injurious dealing: and moreover, that certain persons, then named, should perambulate the said land, and put the monks into possession thereof again.

In like manner, upon a great dispute betwixt the monks of Ely and one Ulfe concerning lands in Chipenham, the said Ægelwyn the alderman, Alwold his brother, and the abbot of Ely, with all the ancient men of the East Angles and Cambridge, met at a

town called Hēgentune, the inhabitants of three hundreds being there assembled, where the claim on each part was heard, and judgment given therein.

Moreover we find, that the same Ægelwyn, & *primates Northamptonienses, placitum habuerunt apud Walmesford, in octo hundredis.* And that contracts for land were also made in such conventions, in those elder times, we want not several instances :—to notice only a few.

In ^s *Stretham quædam vidua, Wlfled vocabulo dicta, &c.* There was a certain woman, called Wlfled, dwelling in Stretham, the widow of Siberth, who sold twenty-four acres of land to the abbot of Ely; which land her father purchased in king Athelstan's time, and she had afterwards quietly enjoyed; & *hoc noverrat totum hundredum*; and of this all the hundred had knowledge.

So also in Chipenham, one Wine purchased eighty acres, and five pieces of ground whereon houses were built, for which he gave one hundred shillings unto Lefsius de Frakenham; and likewise twenty acres, and one parcel of land with building on it, for twenty shillings; and from Wulfelm, brother to Wulfin, ten acres for ten shillings: *Hoc quoq. factum est coram hundredi testimonia*; this also was done in the face of the hundred.

And upon a controversy respecting certain lands in Swafham, claimed by one Wulstane, the witness of no less than eight hundreds on the southern side

^s Ex Hist. Elien. MS. in bibl. Cotton. [Domitian. A. 15.], f. 76. a.

of Cambridgeshire, was produced to prove his purchase.

Nor is testimony wanting that such was the practice after the Norman conquest, as is evident by the conclusion of an original deed ⁶, apparently as ancient as the time of king Henry II. ⁷, in which Richard de Merburie, of Merburie in Cheshire, grants the whole lordship of Merburie to William de Merburie, his brother and his heirs, for certain services to him the said Richard and his heirs reserved.

And that titles of land were tried also in this court, as well after the Norman entrance as in the Saxons' time, is equally evident from a precept of the above-mentioned king to the shireeve of Norfolk ⁸.

THE SHERIFF'S TURN.]---This was anciently called scyre mote (the meeting of the inhabitants of the shire), and was held twice in the year, long before the Norman conquest, as appears from several

⁶ Penès Tho. Merburie de Merburie in com. Cestr. arm. 14 Sept. 1663.

⁷ "Hoc autem feci consensu," &c.—"Willielmus frater meus prædictus dedit mihi; partem coram omni comitatu Cestriæ, et partem in curiâ domini mei Guarini de Vernon, et partem coram wapentachio de Hathelstonâ, testibus Lidulfo de Twamlowe, &c. et omni comitatu Cestriæ."

⁸ Ex ipso autogr. in bibl. Cotton. H. rex Angliæ, et dux Norm. et Aquit. et comes Andegaviæ, vicecomiti suo de Norfolk, salutem. Præcipio, quod ecclesia S. Trinitatis de Norwico teneat benè et in pace, et justè, et liberè communiam pasturam suam, quæ est inter Bescheleiam et Framingeham, sicut meliùs et quietiùs tenuit tempore regis Henrici avi mei, et sicut dirationatum est per homines hundredi: et nisi feceritis justicia mea faciat fieri. Teste Tomâ Cancellario apud S. Edmundum.

testimonies : it afterwards received the name of the sheriff's turn, from the French word *tour* (*vicis*), and in English *turn*. In this court sat the bishop of the diocess and the earl or ealderman, in shires that had ealdermen ; and the bishop and sheriffs in such counties as were committed to sheriffs, as appears from the laws of both Edgar and Canute : " In every county let there be twice a year an assembly of the people, whereat the bishop of the diocess and the earl shall be present, the one to direct in divine, the other in human matters."

These judges were empowered to determine, as well ecclesiastical as civil causes ; and this institution so continued, the bishop and earl sitting therein together, till William the Conqueror, in a full convention⁹ of his archbishops, bishops, abbots, and temporal lords, commanded, that ecclesiastical matters should thenceforth be handled by the bishops in courts of their own, and not any more be discussed amongst secular affairs.

In this court grants and contracts were anciently made upon special occasions, as appears by an original deed¹, bearing date 4 Edw. I. ; wherein Alice, the daughter of William de Wrottesle, of Wrottesle in Staffordshire, in her pure widowhood, bestows all that land which her father gave in frank marriage with her unto one Henry Fitzhugh, and which thus concludes :—*Data apud Wlvrenehamptone, &c. coram*

⁹ Cart. 2 R. 2. per Inspex. m. 12.

¹ Penes Walt. Wrottesley baronettum an. 1662.

domino Bogone de Cnovyle, tunc temporis vicecomite Staff. & Salop. & magnum TURNUM suum, &c.

But it seems, notwithstanding the old laws before cited, that the sheriffs kept their turns oftener than twice a year before the statute of Magna Charta; for by that statute it was decreed, that no sheriff or his bailiff should keep his turn in the hundred but twice in a year, and no where but in due place and accustomed, viz. once after Easter, and again after Michaelmas².

It likewise appears, that after the passing of the same statute, the sheriffs did compel religious persons as well as others to come to this court until the statute³ of Marlebridge in 52 H. III. which exempts all archbishops, bishops, abbots, priors, earls, barons, and all other religious men and women, from coming thither, except their appearance be specially required thereat for some other cause.

THE COUNTY COURT.]—The county court is a court incident to the jurisdiction of the sheriff, and is also very ancient, as appears from the following passage in the laws of Edward the Elder: "Every sheriff shall convene the people once a month, and do equal right to all, putting an end to controversies at times appointed." An instance of the cognizance of this court may be found in a precept of William the Conqueror, directed to *Will. de Cahannis*, and commanding him to convene the inhabitants of Northampton-

² Videsis etiam Claus. 18 H. 3. in dorso, m. 10. quod turnus vicecomitis per hundreda nisi bis in anno teneatur. T. Reg. apud Westm. 11 Oct.

³ Cap. 10.

shire to inquire whether the tenants to the monks of Ramsey for lands in Isham had paid the rent, or not ⁴.

To this court anciently were appeals made from the hundred court, as we learn by the laws of Canute: "No man by a distress shall compel another to the county court, unless he have thrice complained in the hundred court; but if he have not right the third time, he may then sue in the county court, which is called the *scyregemot*."

In those times the county court was a court of great dignity and splendour, the bishop and the ealdorman (or earl), with the principal men of the shire, sitting therein to administer justice both in lay and ecclesiastical causes: and therefore Sivardus ⁵, in the time of king Edgar, having made his testament, and caused it to be written in three chirographs, sent it to Ægelwyn, the alderman before mentioned, who was principal judge in the county court, to be there approved and recorded; all causes, whether for perjury, adultery, tithes, &c. being only there to be discussed.

"It belongeth to the shireeve (says Glanville) to hold plea in this court upon a WRIT OF RIGHT concerning freehold, in cases where the lord of the manor (wherein land lieth) hath not done justice; as also to hold plea concerning bondmen, but by the king's writ." To which Bracton adds, "Also in the county court, and in presence of the shireeve, many things

⁴ Ex Regist. de Ramsey, in Scacc. penès Remem. Regis.

⁵ Ex Præf. Regist. de Ely, f. 4. b. Vide Selden's Tit. of Honour, p. 629.

may be tried, wherein the shireeve is constituted judge by the king's writ to do right, viz. of services and customs of debt, and other disputes without number." And Fleta: "In the county there is held a twofold court, for the king has his, and the judge his, viz. the shireeve, whensoever such a jurisdiction is committed to him by writ whereby he hath a record, the precept being to him, and not to the suiters of the county, that he shall proceed according to right therein. This court also is of the nature of a court baron, or the king's, which is held in some of his manors where the shireeve is no other than a bailiff or fermour of the king's, and where wrong judgments, pronounced by the suiters without the shireeve, are to be punished."

In the time of the Saxons not only causes of great moment were heard and determined in this court, but the *justiciarius Angliæ* himself sat there frequently, as appears from what has been before said of Ægelwyn, who was *totius Angliæ aldermanus regnante rege Edgardo*; and this custom continued a considerable time after the conquest, though it has been many ages since disused: for in the great trial between Lanfrank archbishop of Canterbury, and Odo the king's brother, before mentioned, which was in the county court of Kent, at that time held at *Pinendenie*, sat Geoffry bishop of Constance, justice of England, with other bishops, and many barons⁶.

The judges in these courts at that time were only the above-named Geoffry, Egelric bishop of

⁶ *Origines Juridicales.*

Chichester, and Hamon the sheriff of the county, as appears by a grant of archbishop Anselm to the monks of Rochester, preserved in the Cotton library.

In this court matters of title were likewise frequently tried, a cause of that kind occurring in the reign of Stephen between Raphe Picot, then sheriff of Kent, and the monks of Canterbury⁷, *in pleno auditu comitatus*, in the full hearing of the county. Agreements upon disputes and controversies for title of land were also recorded in the same court⁸, as well as bargains and sales of land anciently made there: of the latter, an instance may be produced upwards of six hundred years ago, when *Harcisia de Iselham*, with Raphe her husband, and Roger their son and heir, did pass the grant of their land of Iselham to William Briwer, in the county court of Devon.

By the statute 2 Ed. VI. c. 25. no county court shall be adjourned longer than for one month, consisting of twenty-eight days. And this was also the ancient usage, as appears from the laws of king Edward the Elder before mentioned.

The county court was sometimes held in the church, as appears from a passage in an ancient writer⁹, respecting a priest who lay with his wife the night before he was to sing mass, which it seems he ought not to have done. "*Quadam die*," &c. "Upon a certain day many persons, as well noble as other, met together (at the church) early in the morning to

⁷ Ex vet. MS. in bibl. Cotton. Faustinae, b. 6. n. 19.

⁸ Ex Registro de Leeston in bibl. Cotton. f. 38. a. b.

⁹ Hist. S. Dunelm. col. 35. 7.

plead ; but before the pleading began, they inquired for the priest to say mass," &c. This is further confirmed by the testimony of *Gervasius Dorobernensis*, who, describing the cathedral church of Canterbury, in speaking of the *south door*, says, " which place, in the old laws of the kingdom, is often expressed by name, at which also all disputes of the whole kingdom, whether in the hundred or county, were wont to be tried," &c.

This practice was not totally discontinued for a long time after, as is evident from certain ecclesiastical constitutions made in a synod held at Exeter in anno 1287 (15 Ed. I.) by Peter de Wivill, then bishop of that diocess, when it was (*inter alia*) decreed that secular pleas should not be held in the church or churchyard. The like prohibition may be found in a synod held at Winchester about that time¹.

" Thus we may see (says judge Blackstone) the policy of our ancient constitution, as regulated and established by the great Alfred, was to bring justice home to every man's door, by constituting as many courts of judicature as there are manors and townships in the kingdom, wherein injuries were redressed in an easy and expeditious manner by the suffrage of neighbours and friends. These little courts, however, communicated with others of a larger jurisdiction, and those again with others of a still greater power, ascending gradually from the lowest to

¹ Ex cod. MS. in bibl. Cotton. Othonis, a. 15. fol. 144. a.

the supreme courts, which were respectively constituted to correct the errors of the inferior ones, and to determine such causes as by reason of their weight and difficulty demanded a more solemn discussion:—
“the source of justice thus flowing in large streams from the king as the fountain to his superior courts of record, and being then subdivided into smaller channels till the whole and every part of the kingdom were plentifully watered and refreshed. These inferior courts, at least the name and form of them, still continue in our legal constitution; but as the superior courts of record have in practice obtained a concurrent original jurisdiction with them, and as there is besides a power of removing complaints or actions thither from all the inferior jurisdictions; upon these accounts (among others), it has happened that these petty tribunals have fallen into decay, and almost into oblivion; whether for the better or the worse, may be matter of some speculation, when we consider on the one hand the increase of expense and delay, and on the other the more upright and impartial decision that follow this change of jurisdiction.”

OF THE FOUR GREAT COURTS.

THE CHANCERY.

It is the opinion of several learned men, as Camden, Dr. Cowell, in his Interpreter, &c. that this court had its name originally from certain bars of wood or iron, laid one over another crosswise like a lattice,

with which it was environed to keep off the press of people, and yet afford a view to the officers who presided therein, such gates or cross bars being by the Latins called *cancelli*², which, as some think, was the reason why those places that were only peculiar to the priest, being by the appointment of pope Felix³ severed from the body of our churches for that purpose, with certain grates or lattices, were called chancels.

It has been thought that the chancellor's office originally was to register the acts and decrees of the judges, *qui conscribendis et excipiendis judicium actis dant operam*, as says Lupanus. Pytheus also supposes that he was anciently the same as we now call *secretarius*. But the office and name of chancellor, however derived, was certainly known, not only in this kingdom, but in the courts of the Roman emperors, where it originally seems to have signified, according to the above opinions, a chief scribe or secretary, who was afterwards invested with several judicial powers, and a general superintendency of the rest of the officers of the prince⁴.

² The high court of chancery is, in matters of civil property, the most important of any of the king's superior and original courts of justice: it has its name of chancery, *cancellaria*, from the judge who presides here, the lord chancellor or *cancellarius*, who, sir Edward Coke informs us, is so termed *a cancellando*, from cancelling the king's letters patent when granted contrary to law, which is the highest point of his jurisdiction.—Blackstone.

³ M. Paris.

⁴ "From the Roman empire, this title passed to the Roman church, ever emulous of imperial state; and hence every bishop has to this day his chancellor, the principal judge of his consis-

With respect to its antiquity in this realm, it is no less, as the learned Selden conceives⁵, than the time of the first Christian monarch Ethelbert; for a charter⁶ of his to the church of Canterbury, bearing date A. D. 605, amongst other witnesses thereto, mentions *Augemundus referendarius*: "where *referendarius*," says he, "may well stand for *cancellarius*;" and that the office of both (as the words applied to the court), "is used in the *Code*, *Novells*, and story of the declining empire, signifying an officer who received petitions and supplications to the king, and made out his writs and mandates as a *custos legis*: for though," says he, "there were divers *referendarii*, as sometimes thirteen, then eight, then more again, and so divers chancellors in the empire; yet one, especially here exercising an office of the nature of those many, might well be styled by either of those names."

It would be a difficult, and perhaps impossible task, to exhibit a perfect series of these great officers

tory: and when the modern kingdoms of Europe were established upon the ruins of the empire, almost every state preserved its chancellor, with different jurisdictions and dignities, according to their different constitutions: but in all of them, he seems to have had the supervision of all charters, letters, and such other public instruments of the crown as were authenticated in the most solemn manner; and therefore, when seals came in use, he had always the custody of the great seal; so that the office of chancellor or lord-keeper (whose authority, by stat. 5 Eliz. c. 18. is declared to be exactly the same) is with us created at this day by the mere delivery of the king's great seal into his custody." Comment. vol. iii. p. 47.

⁵ A Discourse of the Name and Dignity of Lord Chancellor, presented to sir Francis Bacon.

⁶ Monas. Anglic. p. 24. col. 1. l. 40.

through the successive reigns of the Saxon kings, until the Norman conquest; the bare mention of such as occur, and are warranted by good authority, may suffice: of these, Unwona is the first, who is styled cancellarius to Offa the Great about A.D. 758; next to him is Bosa, in king Withlafa's time, about A. D. 825, but styled *scriba*; after him Swithulphus, called notarius, under king Berthulph, about the year 851.

Then Turketill, under king Edward the Elder, who, says Ingulphus, *cancellarium suum eum constituit*; "he constituted him his chancellor," &c.: which Turketill continued in his office under king Althelstan, Edmund and Edred (all sons and successors to the said king Edward the Elder); likewise *consiliarius primus, præcipuus, et à secretis familiarissimus*, his chief and principal privy counsellor. This minister, in his old age, was constituted abbot of Croyland.

After him king Edgar had Adulphus for his chancellor; and king Ethelred, Alfric the twelfth, abbot of St. Alban's. The latter king appointed and ordained, that the abbots of Ely, St. Augustine's in Canterbury and Glastonbury, should exercise the office of chancellor by turns annually, dividing the year into three parts.

Whether the above kings had any seals, the custody of which in succeeding times was one of the principal duties appertaining to the office of chancellor, is not so clearly ascertained: they were used in the

time of Ingulphus, as we learn from various passages in his history ⁷.

It is clear, however, from charters of Charles the Great, and his son Ludovicus Pius, kings of France, that seals were used by the French long before this period ; and it is the opinion of some learned men, that Edgar's charter to the monastery of Pershore in Worcestershire, beginning, *Orthodoxorū vigoris ecclesiasticā monita*, &c. and whereon are apparent signs of three labels, by the places cut for them, had three seals appendant to it, viz. of the king, Dunstan, and Alferus, afterwards duke of Mercia ; which is further countenanced by a letter from Godfrey archdeacon of Worcester, to pope Alexander III. in which *sigilla tria*, three seals, are expressly mentioned, and the persons to whom they belonged: "*Est autem sigillum primum illustris regis Edgari, secundum S. Dunstani Cantuar. archiepiscopi, tertium Alferi ducis Mericiorum*," &c. In confirmation of the circumstance of seals being used at this time, many other evidences may likewise be adduced.

Sulcardus, a monk of Westminster, in his Register of that abbey, now preserved in the Cotton library, gives a charter of the last-mentioned king, which is

⁷ "Nam chirographorum confectionem Anglicanam, quæ antea, usq. ad Edwardi regis tempora, fidelium præsentium subscriptionibus, cum crucibus aureis, aliisq. sacris signaculis firma fuerunt ; Normanni condemnantes, chirographa cartas vocabant, et chartarum firmitatem, cum ceræ impressione, per uniusq. speciale sigillum, sub institutione trium vel quatuor testium astantium, conficere constituebant," &c.

confirmed by his subscribing his hand, and causing the same to be sealed with his *seal*; and in another instrument of archbishop Dunstan's, A. D. 959, it is said, "*Impressione sigilli mei et annuli, in super et agalmate S. Crucis diligenter consignavi,*" &c. King Edwy, brother of Edgar, the following year, in his charter of *Gaing*, made to the monks of Abingdon, says, *Ego Eadwi rex*, &c. "I Edwy, king, confirm my gift with my proper *seal*." And Godwin bishop of Rochester, in the time of Etheldred, in a controversy between Leofwin, the son of Aelfage, makes positive mention that the king's writ and seal were sent to assemble the people of East and West Kent for the ending of that controversy.

Admitting these examples, it is certain, that as sealing charters in the time of our Saxon kings was not common, so the office of chancellor was not originally denominated from the keeping of the king's seal: and that, for a constant succession of seals, we are not to look higher than king Edward the Confessor, in whose reign Leofricus, surnamed Britannicus, Wulwius, and Rembaldus, were chancellors; the two last being also keepers of his seal, as is evident from the very words of his charters to the church of Westminster, *Nostræq. imaginis sigillo insuper assignari jussimus*, &c. And afterwards, *Wulwius regie dignitatis cancellarius relegit et sigillavit*, &c.

And to the other, *Ego Reimbaldus regis cancellarius, relegi & sigillavi*, &c.

So likewise was Mauritius, chancellor to king

William the Conqueror, the keeper of his seal, as appears by that king's charter of confirmation to the same abbey of Westminster, viz. *Ego Willielmus, &c. hoc præceptum scribere præcepi; et scriptum hoc, signo dominico confirmando + stabilivi; nostraq. imaginis sigillo insuper assignari curavi, &c.* And after, *Mauritius regis cancellarius relegit et sigillavit*⁹.

From these few (and indeed very rare) instances it will appear, that the sealing of charters before the Norman conquest was little practised, but after that time it became very usual, though sometimes the seals were used of those who were not parties to the grant: for instance, king Henry III. in the first year of his reign, ends his letters patent, sent to Peter de Mauley, thus, *Et in hujus rei testimonium, &c.* In witness whereof these our letters patent we have sealed with the seal of William Marshall earl governor of us and our kingdom. *Teste, &c. apud Winton. xv. Martii.*

Henry did not conclude his writs and grants with *teste rege*, or *teste meipso*, till the eighth year of his reign, though he had a seal in the third; but during the time he used the seal of William Marshall, with *teste Will. Mareschallo*¹: and in the third year of his reign, "for then began the seal of our lord the king to run," as the words of the record are, sometimes with *teste H. de Burgo justiciario*: sometimes *teste domino Petro (de Rupibus), Winton. episcopo*: sometimes, *teste comite* (the above-named William Marshall); and in the fourth, fifth, and sixth of his reign,

⁹ Ex præf. Regist. Cart. Abb. Westm.

¹ Pat. 1 Hen. 3. m. 11.

most of them with *teste Huberto de Burgo justiciario*, &c. and even in the tenth of his reign, some precepts, though with *teste rege*, were *sub sigillo justiciarum*.

With inferior persons it was not unusual at this period to seal with the seal of a dean and chapter, corporation, or some eminent man, whose seal was well known, with his expression—" *Et quia sigillum meum plurimis est incognitum, sigillum decani et capituli N. N. or sigillum ballivorum et communitatis de N. N. Sc. apponi procuravi.*"

The dignity of the lord chancellor is of the highest kind: he takes precedence of every temporal lord², is a privy counsellor by virtue of his office³; and, according to lord chancellor Ellesmere, prolocutor of the house of lords, by prescription. To him belongs the appointment of all justices of the peace throughout the kingdom. Being, as before noticed, usually an ecclesiastic, and presiding over the royal chapel⁴, he became keeper of the king's conscience; visitor, in right of the king, of all hospitals and colleges of the royal foundation; and patron of all the king's livings under the value of twenty marks per annum in the king's books. He is the guardian of all infants, idiots, and lunatics; and has the general superintendence of all charitable uses in the kingdom. And all this over and above the vast

² Stat. 31 Hen. 8. c. 10.

³ Selden, Office of Lord Chanc. sec. 3.

⁴ Madox, Hist. of Exch. 42.

and extensive jurisdiction which he exercises in his judicial capacity in the court of chancery.

With respect to the origin of the judicial power possessed by this great officer, it is the opinion of Lambard, that the lord chancellors of England had not any jurisdiction, for the hearing and determining of civil causes, till the reign of king Edward I. ; but that then, the power of the *justiciarius Angliæ* declining, it being restrained *ad placita coram rege tenenda*, the king committed to his chancellor, together with the trust and charge of his great seal, his own royal and extraordinary pre-eminence of jurisdiction in such civil causes, as well for amendment as supply of the common law ; which power, that it was not so disposed of by the king till then, “ may very well (says he) be inferred from Breton (a learned lawyer), who, in that king’s time, writing of all other courts, from the highest tribunal to the court baron, maketh no mention of the chancery : howbeit, towards the latter end of this king’s reign, it was enacted, that the chancellor and the justices of his bench should follow the king, wheresoever his court did move ; so that he might have at all times near unto him some sages of the law, which were able to order all such matters as should come unto the court, at all times when need should require ; the justices, as to matter of law (as it is most like), and the chancellor for equity.”

Nevertheless, this act did not give an absolute power to the chancellor alone of determining in such civil causes, as appears by the law which was made

20 Edw. III. where we learn, that the treasurer was joined with him to hear the complaints of all them who would complain of sheriffs, escheators, bailiffs of franchises, and their under-ministers; and also of maintainers, common embracers, and jurors in the county; and of the gifts and rewards which those ministers did take of the people to execute their office, &c. and to ordain that speedy remedy should be made thereof.

But in the 36 E. III. by an act of parliament concerning purveyors and escheators, as also of what things the mayor and constables of the staple should take cognizance, then made, it was ordained, "that if any man found himself grieved contrary to those articles (viz. respecting purveyors, &c.), or others contained in divers statutes, and would come into the chancery, or any for him, and thereof make his complaint, he should presently there have remedy, by force of the said articles and statutes, without elsewhere pursuing for redress.

Notwithstanding this act, however, there does not appear in the reports of the common law, as Lambard observes⁹, to have been any frequent mention of causes, usually drawn before the chancellor, for help in equity, till from the time of king Henry IV. in whose days, by reason of those intestine troubles, feoffments to use did either first begin, as some have thought; or else did first grow common and familiar: nor are there found any bills and decrees in

⁹ Archeion, p. 67.

chancery before the 20th of Henry VI. ; such causes as since that time were heard in that court, having formerly been determined in the lords house of parliament, as may seem from the number of petitions in parliament, of that nature, which are yet extant.

“ The place where the lord chancellor anciently sat and held this court was at the upper end of Westminster Hall, at a long marble table which is there situate, though now covered with the courts there erected, whereunto are five or six steps of ascent ; for in 36 E. III. when Simon Langham bishop of Ely was made lord chancellor, which was on Sunday the 19th of February, the record ¹ says, that on Tuesday next following, taking the great seal with him to Westminster, *et in sede marmorea, ubi cancellarii sedere sunt assueti, sedens, &c. literas patentes, &c. consignari fecit* :—he placed himself in the marble chair wherein the chancellors used to sit, and sealed patents, &c. ; which marble chair to this day remaineth, being fixed in the wall there over against the middle of that marble table.”

“ It is further said ², that Thomas, the son and heir of Raphe de Greneham, having entered upon his manor of Keten in Rutland, which he held by military service, before he accomplished his full age,—*allocutus fuit in aula Westmonasteriensi ad tabulam marmoream, coram venerabili patre Ebor. archiepiscopo, thesaurario ; Roberto de Baldok, archidiacono Midd. can-*

¹ Claus. 36 E. 3. in dorso, m. 39.

² Claus. 19 E. 2. in dorso, m. 30.

cellario, Galfrido le Scrope capitali justiciario domini regis, et aliis ipsius regis fidelibus, super eo, &c."

As to the ancient state in which this great officer went to Westminster Hall, after he was advanced to that dignity, sir Francis Bacon, knight, will afford an instance, who, being the king's attorney general, having received the great seal upon the 7th of March, 14 Jacobi regis, upon the first day of Easter term then next ensuing, went thus :

First, the clerks and inferior officers of the chancery ; secondly, young students of the law ; thirdly, the gentlemen of his own family ; fourthly, the serjeant at arms, and the bearer of the seal,—all on foot. Then the lord keeper himself on horseback, in a gown of purple satin, betwixt the lord treasurer and the lord privy seal ; divers earls, barons, and privy counsellors ; as also the judges and many gentlemen of note following after.

Being come into the court, the lord treasurer and lord privy seal received his oath, the clerk of the crown reading it.

KING'S BENCH.

THE court of king's bench, called anciently *curia domini regis*, because the king used to sit there in person, the style of the court being *coram ipso rege*³,

³ King Edward I. frequently sat in the court of king's bench to hear causes. Edward IV. is likewise said to have sat on the bench with his judges ; and even so late as the beginning of the seventeenth century this court was honoured by the presence of the sovereign in

before the king himself, is a remnant of the *aula regia* before mentioned, and the supreme court of common law in the kingdom⁴. The judges of this court are at present four in number, and consist of a chief justice and three *puisne* judges, "who are by their office the sovereign conservators of the peace and supreme coroners of the land."

In this court ought criminal actions to be determined, or such wherein the king on the part of the public is the plaintiff, which are called *pleas of the crown*, and *personal* pleas, which include all civil actions depending between subject and subject: the former were the proper object of the jurisdiction of the court of king's bench, the latter of the court of common pleas, "which is a court of record, and is styled by sir Edward Coke, the lock and key of the common

propria persona; James I. being the last monarch that so distinguished it, but was informed by his judges, that he could not deliver an opinion; for, notwithstanding the king himself used to sit in this court, and still is supposed so to do, he did not, neither by law is he empowered (as on this occasion was proved), to determine any cause or motion but by the mouth of his judges, to whom he hath committed his whole judicial authority.

* "The jurisdiction of this court is very high and transcendent; it keeps all inferior jurisdictions within the bounds of their authority, and may either remove their proceedings to be determined here, or prohibit their progress below; it superintends all corporations in the kingdom; it commands magistrates and others to do what their duty requires in every case where there is no specific remedy; it protects the liberty of the subject by speedy and summary interposition; it is likewise a court of appeal, into which may be removed by writ of error all determinations of the court of common pleas, and of all inferior courts of record in England, and to which a writ of error lies also from the king's bench in Ireland," &c.—Comment. vol. iii. 43.

law ; for herein can only real actions, that is, actions that concern the right of freehold, or the realty, be originally brought ; and all other or personal pleas between man and man are likewise here determined, though in some of *them* the king's bench has also a concurrent authority."

The moveable quality of this court is indicated in all process issuing thereout in the king's name, which is made returnable *ubicunque fuerimus in Anglia*, wheresoever we shall be in England ; and this, as well as its power and dignity, are fully expressed by Bracton, when he says, the justices of this court are "*capitales generales perpetui et majores ; a latere regis residentes ; qui omnium aliorum corrigere tenentur injurias et errores :*" but notwithstanding it is in this respect directly contrary to the court of common pleas, it does not appear to have been often moved till after the 28 Edward I. when it was especially provided by the statute called *Articuli super cartas*, " that the chancellor and the justices of his bench should follow the king, for that he might at all times have near unto him some who were learned in the laws that might be able to order all such matters as might come unto the court at all times when need should require."

Before that time, viz. in 42 H. III. the king, whose removal to several of his palaces was frequent, as our public records plainly shew, appointed it to be held at Westminster till he should otherwise determine, as appears by his special commission⁵ to

⁵ Pat. 42 Hen. 3. m. 2.

Roger de Thurkelby, Gilbert de Preston, and Nicholas Handlo : these judges, it seems, soon after took their oaths in the exchequer before the lord treasurer ; for in 1 Edward II. Roger le Brabazon, and the rest of his fellow-justices of this court then constituted, being appointed to do the like, the record adds, *prout moris est* ⁶.

The first who had the office of *capitalis justiciarius ad placitam coram rege tenenda* was Robert de Bruis, constituted 8th of March, 52 Hen. III. ; the title of *justiciarius Angliæ* having an end in Philip Basset, who was advanced to that place by the king in the 45th of Hen. III.

In the 17th of Edward II. *Hervie de Staunton*, then chancellor of the exchequer, was constituted chief justice of this court, with command that he should not quit his office of chancellor, but cause it to be executed by some other fit person at such times as he should be necessitated to attend the hearing of causes in this place.

It is said that John Whiddow, a justice of this court in 1 Mariæ, was the first of the judges who rode to Westminster Hall on an horse or gelding ; for before that time they rode on mules.

COMMON PLEAS.

THE court of common pleas, or, as it is frequently termed in law, the court of common bench, was

⁶ Claus. 1 Edw. 2. in dorso, m. 1.

established with jurisdiction to hear and determine all pleas of land and injuries merely civil, between subject and subject : it was anciently kept in the king's palace distinct from that of the king's bench. This appears not only from a charter of Henry I. whereby he granted to the abbot of B. conusance of all pleas, with this expression⁷, " so that neither the justices of the one bench or of the other, or justices of assize, should meddle," &c. ; but by the express words of *Magna Charta*, that " common pleas should not follow the court, but be held in some certain place." This place was the exchequer, where those causes were heard, and not any other peculiar court, at least until the confirmation of the Great Charter, which was about the latter end of the reign of John, as will appear from the authorities cited in the account of that court. These shew that the chief justice of England, and other persons learned in the laws of the realm, did anciently sit there and hear complaints in civil cases, as well as that fines were there levied before them : it is likewise equally evident from the direct words of the statute of 28 E. I. before quoted, called *Articuli super cartas*, cap. 4. viz. that " no common plea shall be henceforth held in the exchequer contrary to the form of the Great Charter."

The severing of this court from the exchequer was at first, no doubt, occasioned by the great increase of suiters and causes, and a wish to moderate the expense and trouble to which the subject was liable by

⁷ Coke's Reports, part 8. in proëm, ex 26. lib. assis, pl. 24.

repairing to the king's supreme court wherever he moved ; as well as to take off the charge and hazard in carrying the records upon all occasions of the king's removal : so that this law fixing the common pleas in a certain place, viz. at Westminster, the people knew where to resort for trial of their rights : after this time the writ ran thus⁸, *quod sit coram justiciariis meis apud Westmonasterium* : whereas before⁹, *quod sit coram me vel justiciis meis*.

The first who appears to have had the appellation of *capitalis justiciarius* in this court was Gilbert de Preston, who by that title¹ had his livery of robes in 1 Edw. I.

It seems, that the certain fixing of this court at Westminster occasioned much more resort thereto than before ; for about the beginning of the reign of Edward II. there were so many suits there, that the king was necessitated to increase the number of his justices from three to six, and so to divide them that they might sit in two places,—*Et covient*, says the record², *que taunx ysoient, pur ceo q'il covent aver deus places pour le multitude des plex, que plus est ore que unques ne fust en nuly temps* :—the names of these six justices were, sir William de Bereford chief justice, sir Lambert de Trikingham, sir Hervy de Staunton, sir Henry Le Scrope, sir John de Benstede, and sir William de Bourne.

⁸ Bracton, lib. ii. cap. 32. n. 5.

⁹ Glanvil, lib. i. cap. 6.

¹ Liberatz, 1 Edw. 1. m. 4.

² Claus. 3 Edw. 2. in dorso, m. 21.

How long they thus sat in two places does not appear ; but it is certain that the number of them was afterwards increased ; for within three years after this period, viz. in 6 Edw. II. there were seven, though not more than six in any year afterwards of that king's reign ; nor till 7 Edw. III. when there was again the same number : and in 11 and 12 of the same king, eight, viz. John de Stonore, Will. de Sharesull, John Inge, John de Shardelow, Ric. de Aldeburgh, Roger Hillary, Will. Scot, and Will. Basset ; and in Trinity term, 14 Edw. III. there were no less than nine, viz. John de Stonore, Will. de Sharesull, John Inge, Will. de Shardelow, Ric. de Aldeburgh, Roger Hillary, Will. Basset, James de Wodestoke, and Robert Parnyng ; as appears by the fines levied before them.

Some time afterwards they were again reduced, there being, for the greater part of the same king's and king Richard II.'s reign, but five : and so till 1 Henry VI. when they were again increased to seven : but that number held not long ; for afterwards there were seldom more than five till 27 Hen. VI. then six, and so the two ensuing years : in the 29th of the same king's reign, and after till the 32d, seven ; and then eight : in the 33d and after, seven ; and so also for a good part of king Edward IV.'s time ; but towards the end of his reign, no more than four, nor in all king Henry VII.'s time.

Of this court it is farther observable, that some of the justices were also chief barons of the exchequer at the same time, viz. John Ivyn in 5 Hen. VI. ; in

consideration whereof, by reason that the terms in the exchequer were longer than in this court of common pleas, he had a grant ¹ of one tun of wine, yearly to be received out of the king's own wines, at the hands of his chief butler, in the port of London, at the said king's price, and sir Humphrey Starkey ² in 1 Hen. VII. and John Fitz-James ³ in 13 Hen. VIII.

EXCHEQUER.

Gervasius Tilburiensis, in a manuscript as old as the time of Henry II. ⁴, thus describes the nature and origin of this court : *Scaccarium*, says he, *tabula est quadrangula*, &c. "The exchequer is a four-cornered board, about ten feet long, and five feet broad, fitted in manner of a table for men to sit about; on every side whereof is a standing ledge, or border, four fingers broad. Upon this board is laid a cloth, brought in Easter term, which is of black colour, rowed with streaks, distant about a foot, or a span." He adds, "This court, by report, began from the very conquest of this realm, and was erected by king William; but the reason and proportion thereof is taken from the exchequer beyond sea." The party-coloured cloth here mentioned, and called by the French *chequy*, resembles a chess-board, and on it, when the king's accounts are made up, the sums are marked and scored with counters.

¹ Pat. 5 Hen. 6. p. 1. m. 13.

² Pat. 1 Hen. 7. p. 1. m. 25.

³ Pat. 13 Hen. 8. p. 2. m. 1.

⁴ Penès thesaur. et camerar. scacc.

This very ancient court of record was a part of the *aula regia*⁵, though regulated and reduced to its present form by king Edward I. and was intended principally to order the revenues of the crown, and to recover the king's debts and duties. The jurisdiction of the courts of common pleas, king's bench, and exchequer, was thus by their constitution entirely separate and distinct; the common pleas being intended to decide all differences between subject and subject; the king's bench to correct all crimes and misdemeanors that amount to a breach of the peace, the king being then plaintiff, as such offences are in open derogation of the *jura regalia* of his crown; and the exchequer to adjust and recover his revenue, wherein the king also is plaintiff, as the withholding and nonpayment thereof is an injury to his *jura fiscalia*⁶.

With respect to the dignity and authority of this court, Bracton tells us⁷, that it is a part of that court of our lord the king, in which he himself judges in proper person, and that its determinations may not, except by that court, be infringed or contradicted: by which it evidently appears that the court of exchequer was then a distinct court from the one wherein the king himself customarily sat, and from whence there was no appeal.

Here originally sat, by the institution of its

⁵ Madox Hist. Exch. 109.

⁶ Comment. vol. iii. p. 44.

⁷ Ex cod. nigro penès thesaur. et camerarios scacc. per Gerv. Tilbur. (ut fertur) composito temp. regis H. 2. cap. 1.

founder William⁸, not only the great barons of the realm, ecclesiastical and secular, but also the justice of England, as president of the same by his office, and so continued to do for a considerable time afterwards: for in the reign of Henry II. the abbot of Abingdon⁹ being dead, and an officer sent by the king's justices to seize the possessions of that monastery into the king's hands, *de communi consilio*, says the register of the house, *misimus dominum Nicholaum priorem nostrum, &c.* "by common consent we dispatched Nicholas our prior, and certain of the monks, unto Ranulph de Glanvill, who then executed the power of justiciar under the king throughout his whole realm, to the end that he might, by word of mouth, represent to him our customs, and to entreat him that they might not be altered by reason of this seizure: and when they were come to the said Ranulph, then sitting in the exchequer at Westminster, and had manifested to him what our liberties and customs were, he, advising with the bishops and other justices, who also sat there, published the judgment of the court, viz. that whether our church were destitute of a pastor or not, our customs should not be infringed."

In the time of Henry III. upon the seizure of certain lands which belonged to one Rose de Chesterton, she was then commanded to appear *coram Huberto de Burgo, justiciario et baronibus de scaccario*¹.

⁸ Dialog. Scacc. per Gerv. Tilbur. cap. 4.

⁹ Regist. de Abbendon in bibl. Cotton.

¹ Rot. fin. 8 Hen. 3. m. 5.

And about ten years after, *Stephan de Seagrave, capitalis Angliæ justiciarius* (says Math. Paris) *rem scaccarii tractavit; scil. thesaurum, custodias puerorum, et eschetas, usq. annum Domini 1234.* (18 Henry III.)

In this court, anciently, fines were sometimes levied and recorded, as upon an agreement² made betwixt Roger de Brai, and Mabel the daughter of William de Orgr, concerning lands in Maldone, sold by the said Mabel to the same Roger — *coram justiciariis regis; scil. Richardo Pictaviensi archidiacono et Reginaldo de Warennâ apud Dunstaplam:* which agreement concludes thus; *Hanc cartam, quam sigillo meo confirmavi, concessi et confirmavi apud scaccarium, coram domino Ricardo de Luci, et aliis baronibus de scaccario.* This, though not dated, was in Henry II.'s reign; when Richard de Lucy was justice of England, and sate in this court, with others already mentioned. The same happened upon the grant made by Hawise de Iselham, &c. (before mentioned), unto William Briwere (chief lord of the fee), of all their lands in Iselham³, where it is observable, that three of the spiritual barons then sate in this court, with Ranulph de Glanvill (who was

¹ Ex ipso autogr. penès prænob. Thomam dominum Bruse, comitem Elginæ, an. 1660.

² Hæc venditio facta fuit in pleno comitatu de Devenescire et postea retracta et recordata apud Westmonasterium ad scaccarium die Jovis proximâ post festum S. Lucæ Evangelistæ an. xxvi. regis Henrici secundi coram Ricardo Winton. Gaufrido Elien. et Johanne Norwic. episcopis, et Ranulpho de Glanvilla, et Ricardo thesaurario, et Will. Basset, et Alano de Furnellis, et Roberto Mantell, et aliis baronibus qui tunc ibi aderant.

at that time justice of England), and three temporal barons. This appears likewise to have been the case both in the time of Richard and John, as may be seen by the record of the former⁴, and the clause roll⁵ in the reign of the latter. And after the confirmation of the Great Charter, for the greater part of the reign of Edward I. the common pleas, as we have before observed, were usually held in this court; the statute of the 28th of that monarch being expressly made to prohibit their being henceforth held there, contrary to the form of *Magna Charta*.

Instead of ecclesiastical and secular barons, here sat canonists and other temporal persons learned in the laws, who had thereupon the name of barons, because they sat in the same place as the real barons did; the lord high treasurer also supplying the room of the chief justice of England, as we learn both by the testimony of Fleta and the record of 18 Henry III. when William de Beauchamp was appointed a baron of this court, together with Alexander de Swereford, treasurer of the cathedral of St. Paul in London, and Richard de Montfichet; each of whom had a

⁴ Hæc est finalis concordia facta in curiâ domini regis apud Westm. ad scaccarium, die dominicâ proximâ post festum S. Marci Evangelistæ anno regni regis Ricardi nono coram H. Cantuariensi archiepiscopo, &c. justiciariis domini regis, &c.

⁵ Rex, &c. J. eadem gratiâ Norwicensi episcopo, &c. Nuncios vestros ad nos destinatos suscepimus; et, audito eorum nuncio, eos misimus ad fideles nostros G. filium Petri justiciarium nostrum, Saherum comitem Wintoniæ, W. Briwar, magistrum Ricardum de Mariscis, tunc ad scaccarium nostrum residentes, et ad cæteros barones de scaccario nostro; ut de singulis, per eorum consilium vobis responderemus, &c.

pension of eleven marks per annum, payable out of the king's exchequer, for their support. And others in the same manner were constituted in succeeding times, among which Roger de la Ley, in 48 Henry III. who, being the king's remembrancer in this court, was assigned *ad officium baronis in scaccario prædicto explendum*, there being no other baron there at that time but himself.

CHAP. IV.

OF THE CREATION, DRESS, SALARIES, &c. OF THE JUSTICES OF THE KING'S COURTS IN WESTMINSTER HALL.

How created..]—THE lord chancellor having taken his seat in the court where the vacancy is to be filled, bringing with him the king's letters patent, shall cause the serjeant elect to be brought in, to whom, in open court, he notifies the king's pleasure, causing the letters to be publicly read; which done, the master of the rolls shall read to him the oath he is to take, "that he shall indifferently minister justice to all men, as well foes as friends, that shall have any suit or plea before him; and this he shall not forbear to do, *though the king by his letters, or by express word of mouth, would command the contrary*; and that from time to time he shall not receive any fee or pension, or livery of any man, but of the king only, nor any gift, reward, or bribe, of any man, having suit or plea before him, saving meat and drink, which shall

be of no great value." And on this oath being administered, the chancellor shall deliver to him the king's letters aforesaid, and the lord chief justice of the court shall assign him a place in the same, where he shall then place him, and which place he shall afterwards keep.

The justice thus made shall not be at the charges of any dinner, solemnity, or other costs, "because there is no degree in the faculty of the law, but an office only, and a room of authority to continue during the king's pleasure."

The judges anciently rode to Westminster Hall in great state after they were so made. Mr. Justice Coventrie, a bencher of the Inner Temple, being chosen a judge of the common pleas, proceeded from his chambers in Serjeants' Inn to Westminster, accompanied by the gentlemen of the Temple and the students of the inns of chancery. The judge went foremost; after him the bench, and then the bar; then the gentlemen of the house, and then the students of the various inns. But the order of this procession being found to be erroneous; for the inns of chancery should go first, then the young gentlemen of the house in which the judge has studied, then the bar, then the bench, after that the ancients, and last of all the judge: the error was corrected on the following day in accompanying judge Tanfield of the Temple.

In the same manner was conducted the procession of sir Henry Montague, who succeeded sir Edward Coke in the chief justiceship of the king's bench, Michaelmas

term 1616. First went on foot the young gentlemen of the Inner Temple (of which house he was) ; after them the barristers according to their seniority ; next the officers of the king's bench ; then the said chief justice himself on horseback in his robes, the earl of Huntington on his right hand, and the lord Willoughby of Eresby on his left, with about fifty knights and gentlemen of quality following.

Dresses.—The importance of appropriate vestments and other ensigns of dignity, which might render the ministers of the law, as well as of religion, more venerable, was duly understood by the most enlightened nations of antiquity : and for the same reason the wisdom of our ancestors assigned such grave and becoming garments to the civil magistrate in all courts of justice in the realm as were judged most likely to excite awe and reverence. The materials and form of these in ancient times may be known by various precepts, as well as other authorities. Edward III. in the 20th of his reign, by precept ' to the keeper of his great wardrobe, commands him to deliver to William Scot, and the rest of his fellow-justices of his bench, there named ; as also to John de Stonore and those with him, justices of the common pleas ; and likewise to Robert de Sadyngtone and other the barons of his exchequer, viz. to each of them for their summer vestments, or robes, for that present year, half a short cloth, and one piece of fine linen silk ; and for the winter season

¹ Claus. 20 Edw. 3. p. 1. m. 15.

another half of a cloth-colour curt, with a hood, and three pieces of fur of white budg : and for the feast of the Nativity of our Lord, half a cloth-colour curt, with a hood of two-and-thirty bellies of minever, another fur with seven tires of minever, and two furs of silk.

In the 21st of the same prince, sir William de Thorpe, then chief justice of the king's bench, with sir William Basset, and sir Roger de Baukewell, his fellow-justices of that court, were allowed² out of the same wardrobe, at the feast of All Saints, for their winter robes, each of them half a cloth-colour curt ; three furs of white budg, and one hood of the same budg : and for their liveries at Christmas, each of them half a cloth likewise colour curt, one hood containing thirty-two bellies of minever half pure, one fur of minever containing seven tires, and two furs of silk, each of seven tires.

And for their summer robes, each of them half a cloth-colour curt, with one piece and an half of thin silk.

The like liveries at the same time were granted to sir John de Stonore, sir Richard de Wylughby, sir Roger Hillary, sir William de Shareshall, sir Richard de Kelleshull, and sir John de Stonford, justices of the court of common pleas : and the like also to sir Robert de Sadyngton, sir Gervaise de Wilford, sir William de Brokerby, sir Alan de Asshe, and sir John de Houton, then barons of the exchequer.

In 11 R. II. sir Walter de Clopton, knight, then

² Ex rot. compt. custodis magnæ garderobæ de an. 21 E. 3.

chief justice of the king's bench, and John Hall, his fellow-justice in that court; sir Robert Charleton, chief justice of the common pleas; and William Thyrning, William Kykill, John Wadham, and Richard Sydenham, justices also of the same court, had for their summer robes the following liveries, viz. each of the chief justices ten ells of green cloth long, and twenty-four ells of green taffeta; and each of the rest ten ells of green cloth long. Ten ells of the like cloth was also at the same time given to John Cassy, chief baron of the exchequer.

In 22 Hen. VI. John Fray, then chief baron of the exchequer, had for his winter robe against Christmas allowed to him ten ells of violet in grain; one fur of thirty-two bellies of minever pure for his hood; another fur of one hundred and twenty bellies of minever gross, and two furs each of seven tires of silk; and for his summer robe against Whitsuntide, ten ells of green cloth long, and half a piece of green tartarin. At the same time Roger Hunt, Robert Frampton, and William Fallan (the other barons of the same court), had for their like summer robes, each of them ten ells of violet in grain; with one fur of one hundred and twenty bellies of minever gross; and another fur of thirty-two bellies of minever pure for the hood; as likewise two furs of silk, each of seven tires. From these examples it appears that the colour of the judges robes was not constantly the same: *green*, however, seems for a considerable time to have prevailed. In fashion, we may presume, there was not much variation.

Sir John Fortescue, in his *De Laudibus Angliæ*, written about this time, speaking of the formality of making a judge, says, "he shall thenceforward from time to time change his habit in some points; for being a serjeant at the law, he is clothed in a long priestlike robe, with a furred cape about his shoulders; and thereupon a hood with two labels (such as doctors of the law wear in certain universities), with their coif: but being made a justice, instead of his hood he must wear a cloak, closed upon his right shoulder, all the other ornaments of a serjeant still remaining, saving that his vesture shall not be party-coloured as a serjeant's may, and his cape furred with minever, whereas the serjeant's cape is ever furred with white lamb." Specimens of judges robes, &c. of this and the preceding periods may be seen in a plate given in the "*Origines Juridiciales*," which represents five several examples. The first is taken from a very old seal affixed to an original grant of land³ to the canons of Osulveston, in the county of Leicester, by Robert Grimbold, a judge in the time of Hen. II.: on which seal he is represented in his habit holding a naked sword at length in his right hand (the emblem of justice), and in his left one broken in the midst (the emblem of mercy). The second is from a monument of John Cokaine, one of the justices of the court of common pleas in the reign of Henry IV. still existing at Ashburn in Derbyshire. The last figures are painted on glass in the church of

³ Autogr. penès Sam. Roper de Henoure in com. Derb. arm.

Long Melford in Suffolk, where they were set up in the time of Edward IV. ; in whose reign two of them flourished, and the third, sir William Howard, knight, in the reign of Edward I.

By a solemn decree, bearing date the 24th of June 1635, made by all the judges at the courts of Westminster, a strict uniformity of habit was thenceforth directed to be observed by all his majesty's justices, and the particular kind to be worn at different times pointed out¹.

¹ The judges in term-time are to sit at Westminster in the courts, in their black or violet gowns, whether they will ; and a hood of the same colour put over their heads, and their mantles above all, the end of the hood hanging over behind, wearing their velvet caps and coifs of lawn and cornered caps.

The facing of their gowns, hoods, and mantles, is with changeable taffeta, which they must begin to wear upon Ascension-day, being the last Thursday in Easter term, and continue those robes until the feast of Simon and Jude ; and upon Simon and Jude's day the judges begin to wear their robes faced with white furs of minever, and so continue that facing till Ascension-day again.

Upon all holydays which fall in the term, and are hall-days, the judges sit in scarlet faced with taffeta, when taffeta facing is to be worn ; and with furs or minever, when furs or minever are to be worn.

Upon the day when the lord mayor of London comes to Westminster to take his oath, that day the judges come in scarlet ; and upon the fifth day of November, being gunpowder-day, unless it be Sunday, the judges go to Westminster abbey in scarlet to hear the sermon, and after go to sit in court ; and the two lords chief justices and the lord chief baron have their collars of SS above their mantles for those two days.

When the judges go to St. Paul's to the sermon, upon any Sunday in the term-time, or to any public church, they ought to go in scarlet gowns, the two lords chief justices and the lord chief baron in their velvet and satin tippets, and the other judges in taffeta tippets ; and

Dignified with Knighthood.]—The honour of knighthood, anciently conferred by bathing and various sacred ceremonies, appears from the public records to have been customarily granted to the

then the scarlet casting-hood is worn on the right side above the tippet, and the hood is to be pinned abroad towards the left shoulder; and if it be upon any grand days, as upon the Ascension-day, Midsummer-day, All Hallow day, or Candlemas-day, then the two lords chief justices and the lord chief baron wear their collars of SS with long scarlet casting-hoods, and velvet and satin tippets.

At all times, when the judges go to the council-table, or to any assembly of the lords, in the afternoons in term-time, they ought to go in their robes of violet, or black faced with taffeta, according as the time of wearing them doth require; and with tippets and scarlet casting-hoods pinned near the left shoulder, unless it be Sunday or holyday, and then in scarlet.

In the circuit the judges go to the church upon Sundays in the forenoon in scarlet gowns, hoods, and mantles, and sit in their caps; and in the afternoons to the church in scarlet gowns, tippet, and scarlet hood, and sit in their cornered caps.

And the first morning at the reading of the commissions they sit in scarlet gowns, with hoods and mantles, and in their coifs and cornered caps; and he that gives the charge and delivers the gaol doth, or ought for the most part, to continue all that assizes the same robes, scarlet gown, hood, and mantle: but the other judge, who sits upon the *nisi prius*, doth commonly (if he will) sit only in his scarlet robe, with tippet and casting-hood: or if it be cold, he may sit in gown, and hood, and mantle.

And where the judges in circuit go to dine with the shireeve, or to a public feast, then in scarlet gowns, tippets, and scarlet hoods; or, casting off their mantle, they keep on their other hood.

The scarlet casting-hood is to be put above the tippet on the right side; for justice Walmesley and justice Warburton, and all the judges before, did wear them in that manner; and did declare, that by wearing the hood on the right side, and above the tippet, was signified more temporal dignity; and by the tippet on the left side only, the judges did resemble priests.

Whosoever the judges or any of them are appointed to attend the

king's justices at Westminster on their creation, as may be seen from the allowance for robes and other things out of the king's wardrobe¹ upon their reception of the same.

The first mentioned are Thomas Bacon, John de Shardlow, Richard de Aldeburgh, and William de Shareshull, justices of the common pleas; William de Denum, one of the barons of the exchequer; and Robert de Scorburch, who had been a justice itinerant in Derbyshire, in 4 Edw. III.

These, in order to their knighthood, as bannerets, had for their hoods and coats to perform their vigils, first, thirty-six ells of red cloth mixed with

Secondly, For six mantles and five coats of cloth of tartarin streaked with gold, thirty-six ells, and six furrures of minever, each consisting of eight tires.

Thirdly, For six robes, each with four garnish-

king's majesty, they go in scarlet gowns, tippets, and scarlet casting-hoods, either to his own presence, or at the council-table.

The judges and serjeants, when they ride circuits, are to wear a serjeant's coat of good broad-cloth with sleeves, and faced with velvet: they have used of late to lace the sleeves of the serjeant's coat thick with lace; and they are to have a sumpter, and ought to ride with six men at the least.

Also the first Sunday of every term, and when the judges and serjeants dine at my lord mayor's or the shireeves, they are to wear their scarlets, and to sit at Paul's with their caps at the sermon.

When the judges go to any reader's feast, they go upon the Sunday or holyday in scarlet; upon other days in violet, with scarlet casting-hoods, and the serjeants go in violet, with scarlet hoods.

When the judges sit upon *nisi prius* in Westminster or in London, they go in violet gowns and scarlet casting-hoods and tippets, upon holydays in scarlet.

¹ Ex rot. compoti de an. 6 E. 3. penès remem. reg. in scacc.

ments of cloth in grain long, two cloths four ells, with twenty-four furrures of minever, each containing eight tires, and twelve furs of gray vary.

Fourthly, For six other robes with four garnishments for the same of green cloth short, twelve hoods of minever, half . . . each containing thirty-two bellies.

Fifthly, For six beds, six coverlets of cloth of gold diasper, two cloths, as also two pieces of fine linen.

Sixthly, For six pair of sheets for the said beds, of cloth of Paris, each pair twenty-four ells—one hundred and forty-four ells.

Seventhly, For six canvasses for the same beds of card. Inde of Lumbard, two cloths for each canvass, twelve pieces.

After this, viz. in 34 Edw. III. John Moubray and William Skipwith, then newly constituted justices of the common pleas, had these parcels delivered³ to them for their robes and other accoutrements, in order to their reception of this degree of knighthood as bannerets at the feast of the Nativity.

1. Viz. each of them ten ells of cloth marbrune, mixed, long in grain. 2. Ten ells of green cloth, mixed, long of Brussels. 3. A cloak of one hundred and twenty bellies of minever pure. 4. Two furs, each of seven tires of minever pure. 5. Two furs of silk, each of them seven tires. 6. Two furs of popre, two hoods each of thirty-two bellies of minever, half

³ Ex rot. de an. 34 E. 3. m. 5.

pur. 7. Six ells of russet cloth, long, for the making of one coat and hood for the vigils. 8. Six ells of green tartarin, streaked. 9. Two cloths of gold sigastons. 10. One piece of fine linen ynde beaten. 11. Two pieces of Lumbardy cardie. 12. And twenty-four pieces of Paris linen cloth.

In 7 Rich. II. John Holt and William Burgh, being likewise to receive the same order at Eltham upon Christmas day, and as bannerets, had ⁴ each of them, 1. Ten ells of blue cloth long. 2. Ten ells of green cloth long. 3. Two furs, each containing one hundred and twenty bellies of minever gray. 4. Two furs of silk, each of seven tires. 5. Two furs of pople, each of six tires. 6. Two hoods, each of thirty-two bellies of minever pure. 7. And the making for each of them two other robes, and furring them; as also to each a furred mantle, six ells of green streaked tartarin, and a cloak of an hundred and twenty bellies of minever pure. 8. To each of them for an hood, wherein to perform their vigils, six ells of russet long. 9. To each of them for his bed two cloths of gold sigaston, one piece of green sarsnet, twenty-four ells of linen cloth of Brabant, and two pieces of Lumbardy cardie.

In 11 Rich. II. Walter de Clopton, then newly made chief justice of the king's bench, and Robert de Cherleton, chief justice of the common pleas, being also to receive the order of knighthood as bannerets at Wyndsore on the feast of St. George, had ⁵ each of

⁴ Ex rot. de an. 7 R. 2. m. 10.

⁵ Ex cod. MS. penes custodem magnæ garderobæ, r. f. 168. a.

them for a winter robe, 1. Ten ells of blue cloth long. 2. One fur of one hundred and twenty bellies of minever gross. 3. One fur of silk of seven tires. 4. One fur of popl. of six tires. 5. One hood of thirty-two bellies of minever pure. And for a summer robe, 6. Ten ells of green cloth long. 7. One piece and a half of green sarsnet. 8. And for a coat and mantle of green tartarin streaked with gold, and furring the mantle with a cloak of one hundred and twenty bellies of minever pure. 9. And for a hood wherein to keep their vigils six ells of russet cloth long. 10. As also to each of them for the making and lining of their bed. 11. And for their bath two cloths of gold sigaston, and one piece of green silk. 12. And twenty-four ells of cloth of Braband, and six pieces of Coloign cardie.

Fees or Salaries.—The first yearly salaries paid to the king's justices of his respective courts at Westminster, for their support in his service, are in the eleventh year of king Henry III. the *Liberatæ* rolls before that time being all perished; but then⁶ Will. de Insula and R. Duket had each of them ten marks per annum out of the exchequer. Not long afterwards these fees were increased; for in 23 Hen. III. William de Culeworth, one of the justices of the common pleas, had 20*l.* per ann. fee. In 27 Hen. III. Alexander de Swereford, a baron of the exchequer, and it seems chief, had forty marks per annum; and in 38 Hen. III. John de Wyville, one of the barons

⁶ *Liberatæ*, 11 H. 3. m. 5.

of that court, twenty marks. In 43 Hen. III. Gilbert de Preston, then one of the justices of the king's bench, had 40*l.* per annum; and in 44 Hen. III. Roger de Thurkilby, one of the justices of the court of common pleas, one hundred marks per annum; but he was, as it appears, then chief justice in that court, though there was a *justiciarius Anglie* at the same time; for Robert de Briwes, then also a justice in the court of common pleas, had no more than 40*l.* per annum.

To Roger de Thurkilby (for he died in 44 Hen. III.) succeeded Will. de Wilton in the chief justiceship of the court of common pleas, whose fee was advanced to 100*l.* per annum, the fee of the other judges in that court being but 40*l.* apiece. And as the salaries in this court were thus enlarged, so were those in the exchequer: for in 49 Hen. III. Roger de la Laye, one of the barons there, had 40*l.* per annum: but this held not long, for Gilbert de Preston, chief justice of the king's bench in 53 Hen. III. received but one hundred marks per annum; nor had he more in the beginning of the reign of king Edward, when he was chief justice of the court of common pleas; and after this they sunk more, for Thomas de Weyland, chief justice of the common pleas in 7 Edward I. had but 40*l.* per annum as long as he lived; and Walter de Wymburne, another justice of the same court, forty marks; which proportion, viz. 40*l.* per annum to the chief justices of both benches, and forty marks apiece to the justices and barons of the exchequer, continued till the 25th of Edward III. as ap-

pears by the *Liberatæ* rolls of those times : and then the salary of the chief justice of the king's bench fell still lower, viz. to fifty marks per annum (which is no more than 33*l.* 6*s.* 8*d.*), the yearly fee of the chief justice of the common pleas being augmented to one hundred marks per annum, the chief baron of the exchequer having no more than 40*l.* per annum, and the other justices of both benches and barons of the exchequer being then reduced to 20*l.* per annum.

Nor does there appear in these their annual salaries any direct certainty for a long time afterwards ; for in 28 Edw. III. ⁶ Thomas de Seton, then one of the justices of the king's bench, had eighty marks per annum.

In 36 Edw. III. the chief baron and other barons of the exchequer had ⁷ all alike, viz. 40*l.* per annum ; and in the 39 Edw. III. the justices of the common pleas, 40*l.* per annum ; and chief justice of the king's bench, one hundred marks ; the other justices of that court, 40*l.* per annum.

In ⁸ 5 Rich. II. the justices of the common pleas no more than forty marks per annum : so also in 8 and 14 Rich. II.

In 1 Hen. IV. the chief baron and other the barons of the exchequer but ⁹ forty marks per annum ; the chief justice of the common pleas 40*l.* ; the other justices of that court forty marks.

⁶ Lib. de an. 28 E. 3. m. 1.

⁷ Lib. 36 E. 3. m. 2.

⁸ Lib. 5 R. 2. m. 13.

⁹ Lib. 1 H. 4. m. 7.

In 3 Hen. IV. the chief justice of the king's bench 40*l.* per annum ; and in 9 Hen. IV. John Colepeper, one of the justices of the common pleas, fifty-five marks per annum.

This disagreeable uncertainty in the yearly salaries and allowances for robes of the judges appears to have continued till the 18th of Henry VI., when a formal complaint in parliament¹ being exhibited by

¹ Please au roy nostre sovereign signieur de considerer, coment les justices de banke le roy, et del commun bank ; les justices as assizes prendre, assignez ; les sergeants et attorney le roy pur le temps esteantz ; devant sez heures, feurent toutz temps paies en mains, de leur fees et regardez de roy, per les tresorers d'Engleterre, pur le temps esteantz, annuellement en lez termes del Pasche et St. Michell per owelx porcions, tanq; jetarde en temps de William Kenwoldmershe alors tresorer d'Engleterre : et qe ore, mesmez lez justicez, sergeantz et attourne, de leur ditz fees et regardez, ne de leur vesture, pellure, ne linure, ne sount mye paiez ; eins sount ascuns de eux arere dez leur ditz fees et regardez nient paies per ii ans et pluis. Et qe a quelle temps del an, que ascun dez ditz justicez, sergeantz, ou attourne devie, ou soit discharge, soit le jour prochain devant le fest de Pascq, ou Seint Michell ; luy, ou sez executorz jammes n'ount paiement del rien del rate de leur ditz fees et regardes, pur le rate del temps encurrez parentre le jour de sa mort, ou discharge ; et le proschen precedent feste dez festes suisditz ; issent, qe per cas lez justicez, sergeantz, ou attourne ensi mort, ou discharge, ferra son dit office, per dimy an, forsq; un jour, a cez graundez costagez, labour et expenses, saunz riens unques avoir pur ycell, a sa tresgraund enpoverishment per cas en temps de sa plus graund necessite. Et que il y ad null dez ditz justices, forspris les chief, que ne ad damage et perde de C*l.* per annum ; pur ceo, q'il est en office del justice, coment il soit paiez de sez ditz fees et regardez ; issint, que per les ditz damage et perde, et le noun paiement dez ditz fees et regardez, et autres causez de perte, covyendra a mesmez lez justicez encountre leur gree de necessite eux retraher de leur dit officez, faire, a dishonour de vous et de vostre royaulme, et avyntisement dez mesmez lez justicez, si en ne soit remede purveue.

the justices of all the king's courts at Westminster, as well as the king's serjeants and attorney (the prayer of which petition was agreed to), they were increased, and for the future rendered more permanent, changing only with the value of money.

Et sur ceo, per auctorite de cest present parliament d'ordeigner, que le gardein, ou le clerke de la hanaper del chauncellarie nostre seigneur le roy, pur le temps esteant, dez premiers deniers provenantz du dit hanaper, et queux de droit et loialment, solonc la course de la ley deivent apperteigner, destre paieez en mesme le hanaper ; et les collectours et receivours dez graundez et petitiz custumez de roy en les portes de London, Bristowe, et le ville de Kingeston super Hull, pur le temps esteantz, dez premiers deniers, issuez, et profitz severalment provenantz dez custumez suisditz, outre lez chargez et repri-
sez ent a present dewez ; payent, et ayent power, et soient tenuz de paier en money nombrez, severalment, et per severallez parcellez, come lour officez requergent, as chescun dez ditz justicez, sergeantz et attorney, pur le tempz esteantz, et sez executourz, sez ditz fees et regardez annuellement as festes de Pascq; et seint Michell per owelx porcions ; et le dit rate de sez ditz fees et regardez a celle feste, dez festes suisditz qe a proschein ensuit le jour de sa mort, ou sa discharge : et annuellement dez festes de Nowel et Pentecost, as chescun dez ditz justices, pur sa vesture, pellure, et linure, tauntz et tielxs sommes de monoy, come ount este, ou serrount allowez al gardeyn de le graunde garderobe nostre seigneur le roy, en sez accomptez de son dit office, pur la vesture, pellure, et linure de tiel justice, annuellement, per le greindre part de dix ans darren passez : et annuellement al feste de Nowell, as chescuns des ditz sergeantz et attourne, tauntz et tielxs sommes de money come ount este, ou serrount allowes al dit gardeyn de le dit garderobe en sez ditz accomptez, pur le vesture de tiel sergeant, ou attourne, annuellement, per le greindre partie des x. anz suisditz : et as oeptas de seinte Trinite proschein ensuant, as chescun dez ditz justicez, sergeantz, et attourne, sibien autiels sommes de moneye, pur lez arrerages de sa dit vesture, pellure, et linure ore encurrez, et a luy dewes, come touz lez arreragez de sez ditz fees et regardez, auxi ore encurrez et a luy dewes, sibien lez arreragez dez sommes de money, per taillez levez, et resceitz del eschequer nostre

The king having accordingly issued out writs to the treasurer and chamberlains of his exchequer requiring to be certified what salaries had been paid to the justices of the king's bench, common pleas, jus-

seigneur le roy a luy assignez, nient paicz toft aprez mesmez lez taillez, al resceit de dedit eschequer restitutz, come autrez arreragez.

Et que le dit gardein ou le clerke de la hanaper, et lez ditz collectourz et receivours dez ditz custumez, ne null de eux, null allowance, discharge, ne respite per paiement de money, ne autrement en leur accomptz de leur ditz officez, joyntement, ne severalment, de null parcell de leur resceitz, forspriez allowance dez ditz chargez et reprisez ne aient, devant dewe paiement per eux faitz as chescun dez ditz justicez, sergantz, et attourne, de sez fees, regardez, et rate suisditz; et de lez sommes de money pur sa vesture, pellure, et linure. Et si ascun allowance, discharge, ou respite, soit fait a contrari de ceste ordenaunce, que ceo soit voide et tenuz per nul: et que les ditz justicez, sergantz, et attourne, et sez executours, et chescun de eux quytement ayt et ayent leur ditz fees, regardez, et rate, et lez ditz sommes de money, pur leur vesture, pellure, et linure, pur le temps q'ils estoient en leurs ditz officez; et a tauntz et tielz briefs sous le grand seale nostre seigneur le roy et sez heires, pur l'exploit et execution de lez premisses, come a eux serront besoignables en ceste partie, ascun estatute, ou ordenaunce a contrarie nient obstant: savunt toutz temps, que le chancelier d'Engleterre, le clerke de parlement du roy; le dit clerk du dit hanaper; lez clerks de crown du roy en sa chauncellerie, et autres officers du nostre dit seigneur le roy en mesme le chauncellerie, en paiemantz de eux, ou ascun de eux afairez, de leur fees a eux appartenantz, per cause de leur ditz officez, ou autrement, a eux, ou ascun de eux, per lettres patentz du roy grauntez, et dez issuez de mesme le hanaper apaierz, et autre, ore ciantz estat de frank tenement en ascuns annutees, a paiers dez issuez de dit hanaper, ou dez custumez suisditz; et autre persons ore enheritez en ascuns annutees, apaierz dez issues de dit hanaper, ou dez custumez suisditz, et autre persons ciantz ascuns assignementz faitz a eux devaunt le premier jour de Fevrier prochain ensuant le commencement de ceste present parlement, dez paiementz a eux afairez dez issues du dit hanaper, ou de les custumez suisditz, soient en chescun maner preferrez: purveu toutz foitz, que nul dez ditz

tices of assize, serjeants at law, &c.; as likewise what money had been paid them for their winter and summer robes for the greater part of ten years then next preceding, and having received answers to the same, both the salaries and allowances of money for robes were increased. And in the first of the next reign we find John Markham, then chief justice of the king's bench, had a yearly pension of one hundred and seventy marks granted him, and payable by the clerk of the hanaper; as also 106s. 11d. qu. and sixth part of an halfpenny, for his Christmas robe; and 66s. 6d. for his robe at Whitsuntide, *juxta formam cujusdam actus in parlamento*, an. 18 Hen. VI.

In 1 Hen. VII. sir William Huse, knight, constituted chief justice of the same court, had the yearly fee of one hundred and forty marks, and 106s. 11d. farthing, and the sixth part of a halfpenny, granted him for his winter robe; as also 66s. 6d. for his robe at Whitsuntide.

In 37 Hen. VIII. there was a still farther increase of their fees, viz. to the chief justice of the king's

justices, serjeantz, ou attourne soit paie des dit custumez en ascun dez ditz portes, de sez ditz fees, regardez, et rate; ne pur sa dit vesture, pellure, et linure, tanq; le chauncelleir d'Angleterre, pur le temps esteant, soit apais per examination del clerk de hanaper ne suffisent a mesme le paiement as termes suisditz, affaire, outre lez autres paiementz et chargez suisditz.

Quâ quidem petitione, in parlamento prædicto, lectâ, auditâ & plenius intellectâ; eidem petitioni, de avisamento & assensu prædictis, respondetur sub hiis verbis:

Le roy, del advys et assent des seigneurs S. et T. et lez commens en ceste parlement esteantz, ad graunte tout ceo q'est contenuz en iceste petition.

bench, and his successors for the time being, of 30*l.* per annum; and to every justice of the common pleas, and their successors, 20*l.* per annum.

CHAP. V.

OF TRIAL IN CASES CIVIL AND CRIMINAL, VIZ. BY JURY, COMBAT, FIRE AND WATER ORDEAL, AND WAGER OF LAW.

Juries.]*—*TRIAL by jury, called also trial *per pais*, or by the country, the boast of English jurisprudence, is undoubtedly the most ancient form of decision known in the kingdom, and was in use among the earliest Saxon colonies who settled here, though some trace its origin to the Britons themselves. We find actual mention of it so early as the time of Etheldred, in a law passed at Wanting: "Let there (says he) be in each hundred a court; and therein twelve of the chief men, together with the provost (bailiff of the hundred), sworn according to their evidence, to condemn the guilty, and to acquit the innocent." And another law of the same period ordains six English and six Welch to be joined together for the determination of such controversies as happened in the marches of Wales.

The nature of this principal criterion of truth in the laws of England being now so well understood as scarcely to need a description, we shall, as matter of

greater curiosity, rather direct the reader's attention to those species of trials which were had recourse to in certain special and eccentric cases, and which, from their present disuse, have become more subjects of antiquarian inquiry. These are the several methods of trial by *combat*, *fire and water ordeal*, and *wager of law*.

Combat.]—Trial by combat, or, as it is called, *wager of battle*, was first introduced into England, among other Norman customs, by William the Conqueror, in imitation of the practice of those northern nations whence it sprung, who entertained a strong belief, "that a certain divine justice did attend those sharp encounters," as, says Selden, "the northern inhabitants have especially of old time made use of this form of searching out hidden truth,—the Russians, Hungarians, Almaines, Normans, English, and others."

The decision of suits by this appeal to the God of Battles, is by some said to have been invented by the Burgundi, one of the northern or German clans that planted themselves in Gaul: and it is true that the first written injunction of judiciary combats that we meet with is in the laws of Gundibald, A.D. 501, which are preserved in the Burgundian code: yet it does not seem to have been merely a local custom of this or that particular tribe, but to have been the common usage of all those warlike people from the earliest times, being mentioned by Quintilian and other Roman writers as customary with the Germans from their first acquaintance with them. It seems to have owed its origin in this country to the military

spirit of our ancestors, joined to a superstitious frame of mind,—it being in the nature of an appeal to Providence, under an apprehension and hope (however presumptuous and unwarrantable) that Heaven would give the victory to him who had the right.

This mode of trial was only allowed in three cases, one civil, one criminal, and the third military.

Civil combat was upon issue joined in a writ of right; the last and most solemn decision of real property. This, although the writ of right itself, and of course this trial thereof, be now disused, “yet as it is law at this day, it may be matter of curiosity at least, to inquire into the forms of this proceeding, as we may gather them from ancient authors.”

“Both parties (says Glanville) being present in court, and the demandant claiming the land in question, the tenant may require the view thereof: but as to this, there is respite to be made, to the end it may be known, whether the defendant have not more land in that town than what is in question; and if he have not, then he shall not be allowed any respite; but if he have more, he shall; and likewise have assignation of another day: and when he shall be so departed out of the court, at three reasonable essoins the defendant may recover anew; and the shireeve of the county wherein the land lieth shall have a writ directed to him to send freeholders of his county to view the land; the tenour of which writ is as followeth:

“ ‘*Rex vicecomiti N. salutem, &c.* The king to the shireeve of N. sendeth greeting. We command

‘you, that, without delay, you send free and lawful
‘men of the neighbourhood of D. to take view of one
‘hide of land lying in that town, which A. B. claimeth
‘against C. D. and whereupon there is a suit depend-
‘ing betwixt them in our court; and that you cause
‘four of those men to attend me, or my justices, upon
‘..... day, to testify their view thereof. In wit-
‘ness, &c.’

“Then, after three reasonable essoins concomi-
tating the view of the said land, and both demandant
and tenant appearing again in court, the demandant
setteth forth his claim in this manner: ‘I do chal-
‘lenge against T. H. half a knight’s fee, or two caru-
‘cates of land in that town, as my right and inherit-
‘ance; and whereof my father, or grandfather, was
‘seised in his demesne as of fee, in the time of king
‘Henry I. or after the first coronation of the king that
‘now is, and whereof he hath taken the profits, to the
‘value of 10s. at the least, viz. in corn sowed, and
‘other commodities; and this I am ready to try by this
‘my freeman N.; and if any mischance shall befall
‘him, then by that other person who hath seen and
‘heard this.’ Or thus,—‘And this I am ready to try
‘by this my freeman S. unto whom his father on his
‘death-bed enjoined, upon the duty wherein a son is
‘obliged to a father, that if at any time he should
‘hear of a suit for that land, he should adventure him-
‘self by combat for it, as that which his father had seen
‘and heard.’

“The claim and demand of the demandant being
thus made, it shall be in the choice of the tenant,

either to put himself upon trial for the same by *combat*, or to put himself upon the *great assize* of our lord the king, and to require a recognition which of them hath most right in that land.

“ And if he will defend it by *combat*, he is then obliged to defend the right of the demandant from word to word as he sheweth it against him, either by himself or some other fitting person : but note, that after the *combats* shall be thereupon waged, it becometh him who holdeth the land to defend it by *combate*, and thenceforth not to put himself into the *great assize* : and after the *combat* waged, he may again reasonably essoin himself thrice as for his own person, and thrice for the person of his champion. All which essoins being made, as they rightly ought to be, it is necessary that, before the *combat* be begun, the plaintiff do appear in court, and have his champion there in readiness to fight ; nor may he bring any other champion than one of those upon whom he did put the trial of his cause ; neither may he change another for him after the first waging of the battle.

“ But if he who did wage the battle shall die during that time that the controversy dependeth, if by natural death, and that declared by the neighbourhood, as it always ought to be, in case there be doubt thereof, the demandant may have recourse to one of those upon whom he first put the trial ; or on some other fit person, though he named no other, so that there be alway a fit witness ; and so the plea shall

begin anew ; but if he shall die by his own fault, the lord shall then lose his suit.

“ Also see whether the champion of the demandant may substitute another in the court to make the dispute which he undertook in his stead ; for, according to right, and the ancient custom of the kingdom, he may not make use of any but his legitimate son.

“ And note, that the champion of the demandant ought to be such a one, who may thereupon be a fit witness ; nor may the demandant prosecute his appeal in his own person, because that may not be, except by a fitting ear and eye witness : but the tenant may defend himself, either in his own person, if he so please, or another fit man, if he shall so choose to do. Howbeit, if he shall produce his champion, and he (the said champion) do die in the interim, it is a question in law, whether the tenant may defend himself by another, or lose his suit, or his seisin only ; therefore here we are to distinguish as before.

“ Note also, that the champion defendant cannot in court produce in his place any other to undertake the combat than his own legitimate son.

“ But it often happeneth, that a champion hired for reward is produced in court to undergo the trial ; and if the adverse party shall except against his person, alleging him to be less fit, by reason that he hath been so hired, and be ready to prove the same against him, in case he deny it, by himself or by some person who saw the reward taken ; upon this they shall be heard, and the principal duel shall remain.

“ And if he shall be thereupon convict, and the

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champion of the demandant vanquished in the combat, then shall his lord lose his suit, and the said champion, as a vanquished person, shall have no benefit of the law of the land; that is to say, that thenceforth he shall never be admitted in court as a witness upon trial for any by combat; but for himself, he may, either in his own person, or prosecuting other wrong done to himself, as a breach of the king's peace: he may also defend his own right against another by combat for his fee and inheritance; and the combat finished, the vanquished person shall undergo the penalty of 60s. in the name of a coward, and moreover lose the benefit of the law of the land.

“ And if the defender (*i. e.* the champion) shall happen to be vanquished, his lord shall lose the land by him claimed, with the profits and commodities thereof, at the time of the seisin found in that fee, and shall never after be heard in court again for the same: but whatsoever things shall be determined by combat in the court of our lord the king, are to remain firm for ever; and thereupon there shall be a precept directed to the shireeve, that the victor shall have the land which was in dispute, and to give him seisin thereof by this writ:

“ ‘ The king to the shireeve of N. sends greeting.
‘ We command you, that without delay you give possession unto A. B. of one hide of land lying in the
‘ town of R.; concerning which there hath been a suit
‘ betwixt him and G. H. in our court, because the said
‘ hide of land is adjudged unto him in our court by
‘ the determination of combat. Witness, &c.’

“ This, if the demandant shall prevail in the combat; but if he be overthrown by the vanquishing of his champion, then the tenant shall be acquitted from his claim without recovery by the demandant.”

Thus far Glanville. Selden¹, however, observes, that he was not able to find an instance of such particular combats in civil causes before the time of Richard I. which was for a knight's fee in Corseton in Wiltshire, demanded by one Emme de P. from Will. Basset, where the record² says, *Emma de Peripetit versus Willielmum Basset, feodum unius militis in Corston, & feodum unius militis in Acleid, quæ ei descendere debent ex parte Larvet de Bray, avi sui, tempore regis, &c. Et post eum Fulco filius Larvet pater suus eam habuit. Willielmus Basset dicit, quod dictus Henricus avus, &c. dedit avo suo Osmundo Basset, dicta feoda: & post illum Johannes de Basset illa tenuit, &c. Emma offert probare per corpus Radulfi, &c. Willielmus dicit, quod sunt de uno stipite, & ideo non debet inde probari per corpus, &c.*

The ceremonies usually observed were as follows: “ A piece of ground is in due time set out of sixty feet square, enclosed with lists; and on one side a court erected for the judges of the court of common pleas, who attend there in their scarlet robes: and also a bar is prepared for the learned serjeants at law. When the court sits, which ought to be by sunrise, proclamation is made for the parties and their

¹ Duello, impr. Lond. 1610. Mich. 6 R. 1. rot. 3.

² Esson. de an. 10. regis Ric. primi, rot. 3. Wiltes.

champions, who are introduced by two knights, and are in a coat of armour, with red sandals, bare-legged from the knee downwards, bare-headed, and with bare arms to the elbows. The weapons allowed them are only *batons*, or staves of an ell long, and a four-cornered leather target, so that death very seldom ensued this civil combat. In the court military indeed they fought with swords and lance, according to Spelman and Rushworth ; as likewise in France only *vilains* fought with the buckler and *baton*, and gentlemen armed at all points. And upon this and other circumstances, the president Montesquieu³ hath with great ingenuity not only deduced the impious custom of private duels upon imaginary points of honour, but hath also traced the heroic madness of knight errantry from the same original of judicial combats. But to proceed :

“ When the champions, thus armed with batons, arrive within the lists or place of combat, the champion of the tenant then takes his adversary by the hand, and makes oath, that the tenements in dispute are not the right of the demandant; and the champion of the demandant then taking the other by the hand swears in the same manner that they are; so that each champion is or ought to be thoroughly persuaded of the truth of the cause he fights for. Next an oath against sorcery and enchantment is to be taken by both the champions in this or a similar form: ‘ Hear this, ye justices, that I have this day neither eat, drank, nor have upon me neither bone, stone, ne

³ Sp. L. b. 28. c. 20. 22.

‘ grass, nor any enchantment, sorcery, or witchcraft,
‘ whereby the law of God may be abased, or the law of
‘ the devil exalted. So help me God and his saints.’

“ The battle is thus begun, and the combatants are bound to fight till the stars appear in the evening; and if the champion of the tenant can defend himself till the stars appear, the tenant shall prevail in his cause; for it is sufficient for him to maintain his ground, and make it a drawn battle, he being already in possession; but if victory declares itself for either party, for him is judgment finally given. This victory may arise from the death of either of the champions, which, indeed, hath rarely happened, the whole ceremony, to say the truth, bearing a near resemblance to certain rural athletic diversions, which are probably derived from this original; or victory is obtained, if either champion proves *recreant*; that is, yields, and pronounces the horrible word of *craven*, a word of disgrace and obloquy rather than of any determinate meaning: but a horrible word it indeed is to the vanquished champion, since, as a punishment to him for forfeiting the land of his principal by pronouncing that shameful word, he is condemned as a recreant *amittere liberam legem*; that is, to become infamous, and not be accounted *liber et legalis homo*, being supposed by the event to be proved forsworn, and therefore never to be put upon a jury, or admitted as a witness in any cause.”

This is the form of a trial by battle, a trial which the tenant or defendant in a writ of right has it in his election at this day to demand, and which was the

only decision of such writ of right after the conquest, till Henry II. by consent of parliament, introduced the grand assize,—a peculiar species of trial by jury in concurrence therewith, giving the tenant his choice of either the one or the other : which example of discountenancing these judicial combats was imitated about a century afterwards in France by an edict of Louis the Pious, A. D. 1260, and soon after by the rest of Europe. The establishment of this alternative, Glanville, chief justice to Henry II., and probably his adviser herein, considers as a most noble improvement, as in fact it was, of the law.

The last trial by battle that was waged in the court of common pleas at Westminster (though there was afterwards ² one in the court of chivalry in 1631, and another in the county palatine of Durham ³ in 1638) was in the thirteenth year of queen Elizabeth, A. D. 1571, as reported by sir James Dyer ⁴, and was held in Tothill-fields, Westminster, “*non sine magna juris-consultorum perturbatione*,” saith sir Henry Spelman ⁵, who was himself a witness of the ceremony ⁶.

¹ Rush. Coll. vol. ii. p. ii. fol. 112.

² Cro. Car. 512.

³ Dyer, 301.

⁴ Gloss. 103.

⁵ The formalities in arming the combatants and other particular circumstances preparatory to this kind of trial are very minutely described in an ancient MS. now preserved in the library of Lincoln's Inn, written in Norman French : it concerns a question which occurred in the third of Edward III. betwixt Thomas Fitz-Hugh de Staunton and the prior of Lenton, for the advowson of the church of Harlaston in Northamptonshire.

Combat in criminal Cases.—Judicial combat in criminal cases is allowed, says Selden, “ for the trial of a particular objected misdeed, cognizable by the ordinary course of common law ; and of these the jus-

Thomas le Fitz-Hugh de Staunton porta une breif de droit d'avowson de une eglise, vers le priour de Lentone ; et counta, que a tort ly, deforce la voweson del eglise de Herleston, ove les apurtenaunces ; et pur ceo atort que cest son droit et son heritage, et dont son aunccestor William per nom, fut seisie, come de fee et de droit, en temps le roy Henri, besaiel nostre seigneur le roy q'ore est, que a mesme le temps presenta un son clerke, William de Orendon per noum, que a son presentement fut resceu et institut de evesq ; en temps de pees, en temps de mesme le roy : le quel clerk lez espleez prist, come en grosses dismes, et meni dismes, oblacions, obventions, et altre manere issue de eglise mountaunt a demy mark, et plus, com du droit del eglise avaunt dite. De William descenda le droit a Will. son futz et heir : de William, pur ceo q'il morust sanz heir, &c. descenda le droit, &c. a Richard come a frere et heir : de Richard a Clement, come a futz et heir : de Clement descenda la droit a Thomas, come a futz et heir, que ore demande ; et que tiel soit son droit il condy suite et d'reigne bone.

Godele pur le priour defend tort et force, &c. et demanda ay du breif, et defendant derchief, &c. et issit d'enparler, et revynt et defend tort et force, &c. et rehercea tut le counte ; et sur ceo defend tort et force, et le droit Thomas tut atrenche, et la seisine William son aunccestor, de qui seisine il ad countee tut, outre come de fee et de droyt ; nomement del avoweson del eglise de Herleston, qui de ceo fut seisie come de fee et de droyt, a ceo q'l ad dit, et prist est a defendre per le corps une son frank home William le futz John per noum, que cy est prist a defendre per son corps, ou per quant que cest court agarde, que defendre le deyne ; et si mes avegne a mesme cely William, que Dieu defende, prist est a defendre per altre, qui doyt et put.

Et le serjaunt que dit les paroles, prist le bras de champioun en sa mayn, quant il engaga la batail : et le champion fut vestu, de sa cote desoynte, et deschevele, et deschaunce des soulers, et ses maunches reverses, issint que ces bras furent nudz ; et tynt sa mayne destre leve, et en ceo un gaunt plie, et en chescun dey del gaunt un denier.

Et sur ceo Thomas pria conge d'enparler, et issint et revynt, et dit

tices of the king's bench have the disposition : it is likewise permitted for the purgation of an offence against military honour, which the high court of chivalry is to marshal by the law of arms."

per Shard, "Sire! vous avez bien entendu, coment Thomas le futz Hugh de Staunton demande vers le priour de Lenton la voweson del eglise de Herleston; et counte, que cest son droyt et son heritage;" reherceant le counte, de parole en parole, tanq; a le fyn, et ad tendu sute et d'reygne.

A qui le priour ad defendu le droit Thomas tut attrenche, et la seisine William son auncester; de qui seisine il ad counte tut outre come de fee et de droit, reherceant toutes les paroles en la manere come le priour engaga la batail; et puis dit: "Sire! vous avez cy Thomas le futz Hugh de Staunton; qui vous dit, que atort defend il son droit tut attrenche, et la seisine William son auncester; de qui seisine il count tut, outre, come de fee et de droyt; nomement de la voweson del eglise de Herleston; & pur ceo a tort que cest son droyt & son heritage; & per la reson que William son auncestor, per noum de cel avoweson fut seisi, &c." reherceant tut let counte, sanz nule parole entrelessier, tantq; celi clause, "et que tiel soyt son droit, &c." Et dit, et tiel soit son droyt cest il prist a derener per le corps un son frank home, William le Fitz-Thomas per nom, qui cy est, qui prist est a d'reygner le per son corps, ou per quant que ceste court agarde; qui d'reigner le deyne; et si mes avegne a mesme cely William le futz Thomas, que Dieu defend, prist est a d'reigner per un autre, que deyne et puisse, et entedaunt le d'reigner, le serjeant tynte le champion le demandant per le bras; & mesme cesty champion estut en mesme le manere a la barre, com fit l'autre devaunt. Puis fut commande per les justices que ambedeus les champions venissent outre la barre tauntq; en bank, et il se firent; et commande fut, que l'un estut al un bout de la table, et l'autre a l'autre bout.

Les justices regarderent lour pes, s'il furent deschaunces des soulers, et sic fuerunt.

Scrope demanda de les parties, s'il savoynt rien dire, que ascun de eux avoyt rien mespris en termes de ley; ou s'il savoyent rien dire a les persones des champions; et il dysoyent, que non. Pur quoi Scrope dit al champion le tenant, q'il rendist sus son gaunt a luy;

The modes of trial in these two cases materially differed;—the military form was as follows :

A cartel or challenge containing the accusation is exhibited to the judges of the court-marshal, or court

le champion se genula donant, et fist. Et puis dit al champion le demandant en mesme la manere, et il fist.

Et puis Scrope saca hors du gaunt le champion le tenant v^e. et les remyst en mesme le gaunt ; et en mesme la manere fit al gaunt le champion le demandant, et puis dona al champion le demandant son gaunt ; et puis al champion le tenant, en mesme la manere.

Et puis demanda des champions, s'il fuissent de perfourmir la bataill selon ceo, que les parties avoyent tonduz ; et yl desoyent que ayl ; pur quoi commanda al champion le tenaunt de profrer son gaunt al champion le demandant ; *et sic fecit*. Es se champion le demandant le restut. Et puis commanda al champion le demandant en mesme le manere ; et il le fist. Et puis il commanda a l'un et l'autre, q'il rendissens sus les gauntz a ly ; et sic fecerunt.

Et puis Scrope rebaila a chescun des champions son gaunt deyne.

Et puis Scrope demanda des parties, s'il savoyent rien dire, pur quoi le court ne dut agard la bataill. Il dyoyent que noun. Pur quoy Scrope dit a les parties, q'il dussent trover pleges de perfourmir la bataill ; *et sic fecerunt*, chescun deux pleges.

Scrope. " Nous avouns entendu, coment vous avez gage la bataill d'une parte et d'autre ; pur quoi depuis que vous ne savez rien dire pur quoi le bataill ne doyt estre agard, si agarde cest court que la bataill se face ; et vous donons jour le lundy en la secunde semaine de Karresme, d'aver cy a mesme le jour, vos champions correes de bataill, prist a perfourmir la bataill som ceo que vous l'aves tendu ; " et puis commaunda as champions, que nul aprochast a altre en le meen temps de nule part.

Et puis dit as parties, que chescun d'eux deveroyt garder son champion, issint que nul aprochat as autre, sur peril que appent. Et puis dit al tenant, q'il prist son champion, et q'il le amenast a une eglise ; et al demandant, q'il prist son champion, et le menast a une autre eglise, et offer a les eglises l'un et l'autre les v^e. que furent en lour gauntz, en le honcur des v. playes Dieu ; que Dieu dorreyt la victorie a cely que droit en ad.

Puis Scrope dit a les parties, q'il venissent a lour jour, ove lour

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of chivalry and honour (if the appellant chooses a martial trial), the demand being comprehended in the conclusion, "That he is ready to maintain the same by his body." The truth of the challenge and free-

champions, et eux ferront une serement a la barre, et un altre en le champ.

Et en le samady prochein devant le lundy avantdit, Scrope fist les parties menir lour champions en une chambre privement, chescun per eux mesmes de veer lour apparalle. Et Scrope a la en la chaumbre, et fist le priour venir devant ly, ove son champion, de veere le apparalle de champion; et en le regardant le quyr, et il le trova double ove une altre quyr; pur quoy Scrope commaunda del ouster; et puis mesura la longure del bastone, et furent trovez de la longure de v. quarters d'une aune; et ceo fut ajuge de bone assise. Et puis l'escu fut trove de longure d'une aune, et la le our quarters d'une aune; et fut ajuge assie de certeyne, outre quel assise home ne deyt passer; mes il dona conge de user les de meyndre assise, selon la volunte de champion. Et puis il commanda d'aver son champion prist al jour assigne; et en mesme le manere fist al demandant.

Al quel jour le tenant vynt, et dit per Sharshull, "Sires! vous ave cy le priour de Lentone, ove son serjaunt, William le futz John par nom, qui cy est correye, de bataill prist affere et perfourmir, per la grace de Dieu, ceo que la court nostre seigneur le roy ad agarde et agardera. Et ceo profre vers Thomas le futz Hugh de Staunton, et prie q'il soyt eyde et fut demande qui vint." Et dit par Shard: "Sire! vous aves cy Thomas le futz Hugh de Staunton, ove son serjaunt William le futz Thomas per nom, que cy est corree, de bataill prist a faire et perfourmir, ceo, que la court nostre seigneur le roy ad agarde et agardera et ceo profre vers le priour, &c."

Puis Scrope fist le champion le tenant estere vers le north, et le champion le demandant vers le south; et commanda le champion le priour q'il prist le champion Thomas per la mayn destre, ove sa mayn senestre, et q'il tensist swefe, sanz de streindre ou grever luy; et qu'il meyst sa mayn destre al livre; et q'il deyt chescun parole solonc ceo q'il serroyt charge, sanz dire plus ou meyns; et fut charge en cest manere:

"Ceo oyez vous home, que ieo per la mayn tiegne, que nous de baptisme vous futez appelle William, que Thomas de Staunton n'ad

dom of the appellant from all purpose of malicious wrong, is by his oath confirmed; the combat, upon due consideration of circumstances, granted, and notice by officers of arms sent to the accused. If

nul droyt en l'a voweson de l'eglise de Herleston, &c. Et que William son auncester, de qui seisine il ad counte, unques de cel avoweson fut seisi, &c. Et dedit tut le count enterement; mes que ceo fut le droyt le priour, et ceo jura, si Dieu ly eyde et ses seynts."

Après ceo fut dit a le champion la demandant; q'il prist le champion le priour per la mayn, en la fourme q'il ly avoyt pris; et q'il meyst sa mayn devre al livre, et fut charge en ceste manere :

" Ceo oyes vousz home, queo ieo per la mayn tiegne, que per nom de baptesme vousz feistes appeller William, que vousz estes perjures, et pur ceo perjurie, que l'avoweson, &c. est le droyt Thomas le Fitz-Hugh de Staunton; et per le reson que son auncester William; et *recapitula tut le counte, et ceo jura, si Dieu ly eyde et ses seynts.*"

Et nota, que quant les champions vindrent a la barre, leur escuz furent partez ovesq; eux, et tenuz entre leur testes, tant come il esturent a la barre, et ove l'une et l'autre furent partez deus bastons, et livre a la court; et la justices elust de ii lun, et le bailla al champion le tenaunt, et auxi al champion le demandant.

Et nota, que cest a la volunte des champions d'aver leur escuz greyndres ou meyndres a leur peril demene, issynt q'il ne passerunt poynt l'assie limite.

Puis Scrope demanda del priour, q'il voloyt qui portast l'escu son champion en la place, &c. Et le priour respoundy, que mesme cely qui le tynt.

Puis demanda q'il voloyt que portast son baston. Et le priour responde et noma Richard de Maundevill chivalier, que l'enprist, et a ly fut le baston livre. Et puis demanda en qui garde il voleyt que son champion seut, tanq; il vousist a la place; et le priour respondy, et noma un chivalier qui l'en prist, et a luy fut le champion livre en mesme la forme del demandant; et en mesme la fourme fut fet.

Et puis Scrope commanda a les champions, que quant il furent a la bataill, que mes que l'un abbatu l'autre, et il luy purreyt tuer d'un coup; et l'un partie vousist parler de pees, que mes que le baston fust leve et luy fut commaunde per la court, q'il se tensist, q'il ne ferist poynt, et ceo sur forfeiture de vie et de membre, tanq; il eust

upon the process he is returned "*not found*," then the challenge is published by an herald. Hereof at his peril he takes notice ; and upon default, after six months, which is the time of instance for the appellant's proceeding, is adjudged guilty ; but if upon receipt of the cartel of challenge he should not appear, the judge may brand him for his contempt as a dishonourable person ; from which (but only by undergoing a new challenge as actor) he can never be cleansed ; or may, under pain of taking it for a confession, denounce a new time of defence ; or further, upon loss of his coat-armour compel him.

If he does not appear and make his defence till the day of battle (his adversary being there present till sunset, and proclamation of demand made at noon and night, which is peremptory and final), without

conge de court : sur quoy fut commande a les chivaliers, que avoyent les corps des champions en garde ; q'il les amenassent salvement en la place : et quant il vyendrent a la place, les parties accorderent, et vyndrent devant les justices, et prierent conge d'acorder ; et le priour dona deners au roy, et habuit.

Hillarye. Treyt la pees en ceste forme ; que Thomas le Futz-Hugh de Staunton conust l'avoweson l'eglise de Herleston estre le droyt le priour, et le droyt de sa eglise de nostre dame de Lenton ; et ceo relessa et quit clama, quites de ly, et de ses heires, al priour et a ses successors a touz jours, sanz garrantie.

Scrope. " Thomas ! vous avez moult ey travaille la court nostre seigneur le roy, pur quoy le court veut avoir son droyt ; cestasavoir, que les champions facent lour avenues, ove lour escues et bastons, sans crok, en entreferrent les coups le roy, et puis q'il entre ludent : " Et le champion le tenant fut mys vers le north, et le champion le demandant vers le south, et fyrene des avenues ove bastons et ove escues ; et les fut dit per la court q'assez ; et donques entre luterent per deuz tournes, et sen departirent, et le court se leva, et les champions avoyent bastons de livre de court.

assigning just cause, it is sufficient conviction, and his honour, without hope of restitution, is attained : after which, says Alciat, " some appellants carry the pictures of such dastards about them with exprobration, or their coat-armour reversed, or ignominiously fastened under their horses tail, or with such-like disgrace."

If he stands on his defence at the appointed time and place (which by an old constitution of Frederick are at the defendant's election, but rather, indeed, at the court's appointment), to be prefixed within forty days, both parties ought to appear in the field within the lists, which are quadrangular, with gates at each end, chosen in some spacious plain, adjoining to which is pitched " a seemly pavilion (says Ferne) of *gules* as a judgment-seat of the constable and marshal; at their feet a competent number of experienced knights, with a king of arms, and a doctor or two of the civil laws, all for assistance in advice to the court."

The appellant and his procurator first come to the gate on the right end of the lists, banded with his esquires clothed in his colours, and arrayed with his arms, waiting on him. The constable and marshal demand by voice of herald " what he is, and why he comes so arrayed ? " Upon his answer and discovery of his face, by removing the vizor of his head-piece, he is admitted, and by a knight with an herald of the province conducted into the lists, and placed before the judgment-seat on the right hand. The defendant is brought and placed with the same solemnity, with his face opposite to his adversary, on

the left ; *que le cause est pour ce que le dextre partie est plus digne et le sinistre meins digne*. Search is made by the knights respecting the equality of their weapons, which are also at the defendant's election, so that he confine his choice within ancient, usual, and military custom ; and also, whether they are possessed of any enchantments or magical assistance.

Upon the sound of a trumpet the appellant and defendant are severally called, who in person present the register to the procurators, after recital of the process, *Vous parains sachez rien dire en empeachment del combat ?* The procurators affirming that they admit all, it is demanded of the appellant if he persist in his first purpose, and likewise of the defendant. Both affirming, the appellant kneeling lays his right hand on the Evangelists, and with his left takes the defendant by the right.

Then the register interrogates each :—" J. R. appellant, what sayst thou to S. T. defendant ?" Hereupon the appellant repeats his challenge, vouching the truth of the charge with an oath, which the defendant with the like solemnity denies. " Hear you this, my lords, all true knights and gentlemen, bearers of arms, and thou S. T. defendant," &c. ; concluding, " and that my quarrel (or defence) is true : neither have I done any thing whereby the law of God and of knighthood might be depressed, and the law of Satan enhanced ; so help me God."

This finished, the parties are set apart, and prepare themselves for battle, an herald pronouncing, *Soit la bataille grantus et victorie a eux que droit*, with

proclamation, "that none be so hardy as by motion, speech, or crying out, to discomfit the combatants, or disturb the combat." Then immediately an officer at arms proclaims, *Approver gardes vostre challenge et vous defendour gardes nostre deffence*. On sounding the alarm, the battle begins.

The time, or instance (as the Justinianists call it) of the combat is an artificial day from sunrising (when the lists are to be entered) until sunset, or, as we have before observed, until the stars appear; and if the appellant overcome not the defendant within that time, he is deemed guiltless of the imputation.

He to whom either upon default (which prejudices the approver also), or performed combat, the victory is adjudged, shall, after request of his procurator to the constable and marshal, be publicly declared victor. But it is not sufficient that a superiority is attained in arms merely; for either death, or *disdict*, as it is called, which is yielding, or confession of the defendant's guilt, must be the final issue before the victory can be allowed as complete: "Then shall the victor, with an honourable attendance of knights and men of arms mounted, enter the field, and thrice march round the lists; and shall take with him the whole process of the cartel, defence, issue, and judgment, sealed with the court-seal, in perpetual testimony of his performance and maintained honour."

Thus far the learned antiquary Selden. The following is taken from a MS. book, formerly belonging to sir Edward Windham, knight¹:

¹ Marshal of the camp to king Henry VIII.

“ First a bill of challenge is, together with a gauntlet, delivered unto the court by the appellant.

“ The defendant denieth the point of the bill, and accepteth the gauntlet.

“ Then if the appellant have no witnesses to prove the matter of his appeal, the marshal prefixeth a day within forty for deraigning the combat, taking pledges on both parties to appear at the day, and to do battle between sunrising and sunset.

“ The place appointed for the combat is a hard and even ground, railed within certain lists sixty feet in length and forty feet in breadth; and without the lists are certain counter-lists, within which the marshal's men come, as well to attend any extraordinary accident within the lists, as to keep off the press of the people without.

“ Their weapons are appointed, a glaive, a long sword, a short sword, and a dagger. At the day the appellant doth appear and come to the east gate of the lists, where he is admitted to enter by the marshal himself, together with his arms, weapons, victual, and also his council with him; and then is brought to a certain place within the lists, where he attends the coming of the defendant.

“ The defendant, if he appear not, is called by three proclamations, made by the marshal of the king of heralds of that province wherein the battle is deraigned.

“ The marshal's clerk doth enter into his register their coming, the time of their coming, and the manner, whether on horseback or on foot; the

fashion of their arms and their weapons ; the colour of their horses, and the like.

“ The marshal doth measure their weapons ; and then the marshal hath a clerk ready, who brings forth a crucifix and a mass-book, whereupon both the appellant and defendant do take their oaths.

“ The bill of challenge of the appellant, and the answer of the defendant, is read unto them by the marshal's clerk ; and then they take their oaths ;

“ 1. That their appeal and defence is true.

“ 2. That neither hath advantage of other by weapon.

“ 3. That either would do his best endeavour to vanquish his enemy.

“ Then proclamation is made at every corner of the lists, for the clearing and voidance of the lists.

“ Then the combatants being ready, the constable and marshal, sitting at the king's feet, pronounce these words with a high voice : *Lesses les aller, lesses les aller ; lesses les aller et faire leur devoir.*

“ In the fight, if either of the parties do give any sign of yielding ; or if the king, being present, do cry ‘ *Hoe,* ’ the constable and the marshal do part them, and observe precisely who hath advantage or disadvantage either of other at that instant ; for if they should be awarded to fight again, they are to be put in the same posture as they were before.

“ If the king take up the matter, they are brought honourably out of the lists, neither having precedency before the other.

“ If the battle be performed, and one party be vanquished, then in case of treason the rails of the lists

are broken down, and the party vanquished is drawn out at a horse-tail, and carried presently to execution by the marshal.

“ Clergymen¹ were excused from the trial by battle; and therefore 41 Edw. III. tit. Coron. 99. an appellant when he came into the field avoided fighting, by praying his clergy, as well as the following citizens of London, by the charter of the city: *sexagenarii*, men of threescore; *cæcus*, blind by accident after issue joined.

“ And this difference was to be observed between an appellant and an approver in an appeal, viz. If the appellant vanquish, he shall be quit; but if an approver vanquish, he may notwithstanding be executed. An. 17 Edw. II. T. Hill. Rot. 24. Glouc. Rex. where the approver, though he vanquished, was hanged.

“ If an approver appeal twenty, he must fight with them all, one after another; but if divers approvers appeal one, if he vanquish one, he is quit against all the rest.

“ The appellant and the defendant, both of them, before the day of battle, sue to the king by petition, for as many privy-seals as may be needful for the providing of armour, weapons, armourer, proctor, and certain persons as their counsel, at the king's charge, which is granted accordingly.”

¹ Vide Plac. coram reg. apud Ebor. T. Pasch. 12 E. 2. rot. 118. where two avoided combat by feigning they were *clerici*; but notwithstanding they were committed to the marshal.

“ *The Maner of Ordenaunce withinne Lists*².]—First the quarels and billes of the appelaunt and defendaunt shull be pleded in the court before constable and mareschall, and whan they may not make prefe by witness, nor by none othir maner, but determine their quarels by strength; that one to prove his entent upon that othir; and that othir in the same wise to defende him, the constable hath power to joyn the bataill, as viker general under God and the king: and the bataill joyned by the constable, he shall assigne theym day and place, so that the day be nat within xl. dayes after the seid bataill so joyned, but onely by assent of the seid appelaunt and defendaunt, awardyng them than, howe many maner wepenes euerych of theym shall have; that is to wite gleyve, long swerd, short swerd, and dagger. Also that th'appelaunt and defendaunt fynd sufficient plegges, that everych of theym shall come to his journey, the appelaunt to make his profe upon the defendaunt, and the defendaunt in his defence on the appelaunt, and there to be there youyn hour and terme and some to make his profe, and to be at the farrest within the lists to acquite his plegge, and in like wise of the defendaunt; and that none of hem doe none harme, damage, awayte assault, ne none othir damage, nor envye by theym, nor by none of their frendes, wellwillers, nor none othir person.

“ *The making of the Lists*.]—The kynge shall fynde the feld to fyght on; and the lystes shall be

² Ex vetusto codice MS. in bibl. Seldeniana.

made at the mareschalls devise. And it is to be considered bitwene the constable and mareschall, that the lists be lx. pace of length, and xl. pace of widness, and that the ground be hard, stable, and stedfast, and evynly made, and without grete stones; and the ground plat, and that the gates of the lystes be shette with gode barrers, and wele kept with sergeants of armes; and that the lists be wele and strongly barred all about: and that they suffre not the folk without to nigh the lists by iiii. fote: and a gate in the est, and anothir in the west, with gode and stronge barres of vii. fote high or more, that an hors may nat lepe over.

“*Apperaunce of the Pleggs.*”—The day of the bataile the kyng shall sitte in a stage, in a scaffold an high, and a place shall be made for the constable and mareschall at the fote of the steyre of the said scaffold, where they shall sitte; and then the pleggs of th'appelaunt and defendaunt shull be called to come into the lystes before the kynge, and to be present in the court as prisoners till th'appelaunt and defendaunt be come into the lists, and have made her othes.

“*Receyvyng of the Appelaunt.*”—Whan the appelaunt cometh to the journey, he shall come to the gate of the lists in the est, in such wise as he will fight with his wepens assigned by the court. And there he shall abide til he be brought in by the constable; so that when he is come to the seid gate, the constable and mareschall shull go togidir; and the constable shall axe hym what man he is that is come

armed to the gate of the lists ; and what is his name, and whye he cometh : and the appelaunt shall sey, ' I am such a man A. B. appelaunt that am armed ' and horsed, and am come to the gate of thise ' lists to aske entre to do my devoir, and prove myn ' entent ayenst C. de D. and to acqyte my pleggs.' And then the constable shall opyn the vyser of his basnet, so that he see opynly his visage, and that it be the same man that is th'appelaunt. And after that he shall do opyn the gate of the lists, and do him come in, with his seid armers, wepyns, and vitales, and othir leefull necessaryes upon hym : and also his counsaill with him, and bryng hym before the kyng ; and than to his place, where he shall abide til the defendaunt be come.

" *Dischargyng of the Pleggs.*]—Also the appelaunt shall require the constable and mareschall to deliver his pleggs, and to discharge theym of their pleggerie ; and the constable and mareschall shull aske leve of the kyng to acqyte his pleggs after that the appelaunt is come into the lystes to doe his devoir.

" *The first callyng of the Defendaunt.*]—And if the defendaunt come not betimes to his journey, the kyng shall commaund the counstable to do call him by the mareschall, and the mareschall shall commaund his lieutenaunt, and the lieutenaunt shall commaund the mareschall of the herauldes of the south, yf it be in the marche of the king of Clarenceux : and if the bataile be beyond Trent in the marche of the kyng Noreys, the mareschall of the kynge of the north shall make the crye ; and in defaute of hym an

herauld of the marche of the kyng Noreys shall crye in this wise, 'Oiez, Oiez, Oiez. C. de D. defende, daunt, cometh to your journey that ye have entir-
'prised att this day, to acquite your pleggs before
'the kyng, constable, and mareschall, to defende you
'ayenst A. B. appelaunt of that he hath putte upon
'you.' And yf he come not betimes, he shall be called thrys at the iiii. corners of the lists; and att the second tyme the herauld shall sey att the end of the crye, 'for the day passeth fast.' And yf he come nat by tymes at the second crye, the heraulds shall crye by comaundment of the constable and mareschall the third tyme ayen, bitwene the hour of tierce and midday at the ferrest; and he shall say att the begynyng, 'C. de D. defendaunt, saveth your worship,
'and cometh to your journey, that ye have entir-
'prised at this day.' And att the ende of the crye,
'the day passeth fast, and the hour of midday is nygh,
'and that he come by that hour at the ferrest on perill
'that longeth thereto.'

"*How the Time of their Entree and Array shall be registred by the Constables Clerk.*"]—Also the constables clerk shall entre in his regestre her comyng and the tyme of theire comyng, and how they entre the lyst, on fote, or on horsbak: and how they ben armed, and the colour of the horses; and how the horses ben armed, for thyng that myght fall of enbeselyng of theire horses and harneyses.

"Also that the constable take hede to the kyng if the kyng wole assigne eny of his knyghtes of worship to counsaill theym.

“ *The Examynacion of their Wepenes.*]—Also the constable and mareschall shull send after their speres, and do cutte them of even mesure.

“ *The keping of the Appelaunts Place.*]—Also the constable shall send ii. knights, or ii. squires to the appelaunt to kepe his place, that he use, ne hide no charme, ne carecte within the ground in his owne persone, nor by none othir till he have made his othe. And in likewise shall be done to the defendaunt.

“ *To enquire and knowe the Kyng's Will for makynge of their Othes.*]—Also the constable shall wite the kyngs wille, whethir hir othe shall be made before the kyng ; or that the kyng wole, that it be made in the lystes before constable and mareschall.

“ *How the Appelaunt shall be sent fore.*]—Also the constable shall send by the mareschall, first aftir the appelaunt to make his oath, with his counseill: and first before the making of his othe, the constable shall aske of his counseill, yf they will make eny moo protestacions, that they put forth all her protestacions ; for after that they shall make noe moo protestacions.

“ *How the Constable's Clerk shall ley forth a Crosse, and a Masseboke for the Othes.*]—Also the constable shall have a clerk that shall ley forth a crosse with a crucifix and an opyn masseboke writyn with the holy gospels. And the clerke shall turne the boke to the canon of the masse and turne up the crucifix of the boke.

“ *The redyng of the Bille of the Appelaunt and the first Othe.*]—The constable shall do his clerke rede

his bill thurgh ; and than the constable shall sey to the appelaunt, and nempne his name : ‘ Ye know
‘ this bille and this glove, that ye gave up in our
‘ court before us ; ye shull ley your right hand upon
‘ the crosse, and on the gospels, that your bille is
‘ trewe in all poynts, from the begynyng of the quarell
‘ conteyned in this bille to the end : and that is your
‘ entent to prove upon the seid C. de D. defendaunt
‘ so God you helpe and the holy gospels.’ And then he shall be brought to his place eyen ; and the constable shall do calle by the mareschall the defendaunt ; and there shall be done to hym in like maner as to the appelaunt : but that they both two att her first othe shall sette him on her knees, or by favour of the constable and mareschall, they shull stand on her fete.

“ *The second Othe.*]—After that the constable shall do brynge by the mareschall the appelaunt before theym : and the constable, yf he wole, may licence hym to sitte before theym at this othe : and the constable shall sey, ‘ A. de B. ye shull ley your hand
‘ ayen on the holy gospels, and swere, that ye shull
‘ have no moo wepnes or poynts, but tho that ben
‘ assigned you by the constable and mareschall, that
‘ is to wite gleyve, long swerd, short swerd, and
‘ dagger : nor no knyfe, small ne grete ; ne none engine, ne none othir instrument with poynt : nor
‘ stone of vertue, nor hearb of virtue ; nor charme,
‘ nor experement, nor none othir enchauntment by
‘ you, nor for you, whereby ye trust the better to
‘ overcome the said C. de D. your adversarie, that

‘ shall come ayens you within thisse lystes in his defence : nor that ye trust in none othir thynges properly, but in God and your body, and your trewe quarell, so God you help, and all halowes, and the holy gospels.’ And after that he shall be brought to his place, ayen, and the keepers of the place voided. And the same ordenaunce shall be done on the defendaunt of this othe.

“ *The thirde Othe.*]—Afterward the constable and mareschall shull send after bothe to come before theym ; and the constable shall name the appellaunt and afterward the defendaunt ; and the constable shall sey, Tak everych of you othir by the right hand ; and I defend you that none of you be so hardy to handill other in evill manner by your handes, on parell, that wole falle, and by your feithes. And ye shull ley your left hands on the boks, and the constable shall sey, ‘ I chardg you A. B. appellaunt, by your feith, that ye take in the handes of your adversarie C. de D. and by all hallowes, and the holy gospels, and ye shull doe your power and entent, by all the weyes that ye may, to prove your entent, and appele upon C. de D. your adversary, and defendaunt ; and to make him yeild him into your hands ; and to crye and sey, “ *Creant* ;” or to do hym dey by your hand, before that ye depart out of thisse lists by the time of the sonne, that is assigned you by us constable and mareschall, by your faith ; and so God you helpe and his hallowes, and the holy gospels.’ And in the same manner shall be done in all points to the defendaunt ; and than every ych of

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theym shall be brought to his place, and her counseill voided everych from the cleaunt, and her servaunts.

“ *The first Proclamation after the Entre and Othes of the Partyes.*]—That no man approch to the lystys by iiij. fote, on peyn, &c.

“ After thise othes made, an heraulde, by assignement of the constable and mareschall, shall crye at the four corners of the lists in manner that followeth, ‘ Oiez, Oiez, Oiez. We charge and commaund you, ‘ on the behalfe of the kyng, and of constable and ‘ mareschall; that noe person of grete value, nor of ‘ small estate, of what condicion soever he be, be so ‘ hardy to approche the lystys by iiij. fote; nor to ‘ speake worde, nor to make crye, countenaunce, ‘ semblaunt, nor noyse, whereby any of thise two parties A. B. and C. D. appelaunt, and defendaunt ‘ may take advantage one of anothir, by your tokyn,’ on perell to lese life and lyme, and his godes at the kyng’s will.

“ *The Assignement of the Place for the Kyngs at Armes, and Herauldes.*]—Afterward the constable and mareschall shall assigne a place for the kyngs at armes, and the herauldes togidir, where they may see all her fetes within lystys; and to be nere if they be called; for after that tyme the mynistracion of the appelaunt and defendaunt is theirs; that is to wite, yf the appelaunt or defendaunt have forgotyn any thyng in her confession, than the herauldes shull be called to do a confessour come secretly, for disclaundry of the people; and yf they will eate or drynke of their vitales that they have brought with theym with-

in the lists, the herauldes shull serve theym and none othir persone: and yf the appelaunt wole ete or drynke, he shall aske leve first of his adversarie; and the appelaunt and defendaunt shall be of one accorde. And afterward the kyng's herauld shall goe to the constable and mareschall, and lete theym know their will. And afterward the constable and mareschall and the herauld shull goe to the kyng to aske leve to ete or drynke; or in caas yf the appelaunt or defendaunt wole do othir pryvy necessaryes, the mynistracion shall be done by the heraulds and the purcyvaunts.

“*Voidaunce of the Lystes.*”—Afterward the constable and mareschall shull voide the lists of al manere people, except a knyght and two squyers for the constable; and one knyght and two squyers for the mareschall, that shull be armed on their bodyes; but everych of theym shall have in his hand one spere without iryn, to depart theym whan the kyng cryeth ‘Hoe,’ in a maner as was used in old tyme. The constable shall not have within the lystes but a knyght and two squiers; and the mareschall, a knyght, his lieutenaunt, and ii. squiers, which shall be armed on their bodyes; but they shall nethir bere swerds, baselards, knyfes, ne daggers in the lists. And they that longen to the constable shull keep one corner, and sitt alowe on the ground; and they that longen to the mareschall shall kepe anothir corner, alowe in like maner. And there shull be no mor rulers within the lists, but the constable and mareschall. And yf the kyng be nat present, than the constable and mares-

chall shull kepe the kyng's place, and their lieutenantes shall be in the felde.

“*The sitting of the Constable.*”—Afterward the constable alone shall sitte hym alowe in a seige before the kyng, in the lyst, as his viker generall, and the constable shall send his lieutenaunt to the appelaunt to accompanye hym and the mareschall, or his lieutenaunt shull accompanye the defendaunt. And the constable sitting shall sey this sentence, with high vois : *Lessez lez alier ; Lessez lez alier ; Lessez lez alier et faire leur devoir.* And after that, in the kyngs presence, the appelaunt shall goe to the defendaunt, and assaile hym vigerously ; and that othir shall defend hym wysely ; and the constable and mareschall shall alwey be nigh, or her lieutenaunt to here or wite yf eny of them speke or crye or make eny signe to yeld hym or his quarell ; and to take hede if the kyng crye ‘Hoe,’ than they that ben in the lists with the constable and mareschall, shall cast her speres bitwene the appelaunt and defendaunt, and suffre nat that one come nere that othir, til the kyng have seide his wille, or do crye eftsones, by the constable, *Arer lessez lez alier, et faire leur devoir.*

“*For the Defendaunt, yf he come not before the Hour of Midday.*”—But howbeit that the constable have yeven houre and terme to the defendaunt, to come to his journey ; neverthesse though he tarry to the hour of midday, the jugement shall nat of right go ayenst him, be it in cause of treason or othir cause ; but not so of the appelaunt ; for he must kepe his hour and terme lymtyed by the court, without any

withdrawyng, or excuse, be it in cause of treason, or othir cause.

“ *The serchyng of the Wepyns.*]—And the ap-
pelaunt and defendaunt shall be serched by the con-
stable and mareschall of her wepenes, that they be
avowable, without any maner engine disavowable :
and if they be othir than reson wole, they shall
thurghly be voided ; for reson nor gode feithe, nor
lawe of armes shall suffre no mal-engine, nor treche-
rye in so great a fete. And it is to wite, that the ap-
pelaunt and defendaunt may arme hem as surely on
their bodyes, as they seme gode, and to have targe
and pavys in the listys ; bicause it is but armury ; but
it moste be without any engine therein disavowable ;
howbeit that that one have it, and that othir have
none ; and if it happe that one of hem wold make
his gleyve shorter than the mesure of the standard,
nathellesse that othir may have of the length of the
standard, if he wole aske it of the court. But if the
gleyves passe the said mesure of the standard, that
one shall be made of evyn mesure after that othir.

“ *Yf the Parties be dissevered or departed, what
shall be done.*]—Furthermore, it is diligently to be
considered by the constable and mareschall ; that if
the kyng wole do the parties fightyng, to depart, rest,
or abide for any cause, what so it be ; that they take
gode kepe how they ben departed, so that they be in
the same estate and degree in all things, yf the kynge
wole suffer or do them go ayen to gidir : and also
that they have gode wacche, and kepe to theym yf
eny of theym speke to othir, be it to yeld him, or any

thinge els; for to theym perteyneth the witnesse and the recorde of their wordes, and to none othir.

“*The Payne of hym that is discumfite.*”—And if the said bataill be in cause of treson, he that is convyct and discumfite, shall be unarmed in the lists by the commaundment of the constable and mareschall; and a corner of the lystys brokyn up in reproche of hym, whereby he shall be drawen out with horses from the place where he is so unarmed, thurgh the lists unto the place of juyse, where he shall be hedged or hanged after the usage of the countree: which thyng perteyneth to the mareschall to oversee, and do by his office; and to putt it in execution; and to goe or ride alweyes on that one side of hym, til it be all done and performed; and that as wele of th'appelaunt, as of the defendaunt; for gode feith and right of armes wole that the appelaunt ronne in the same payn that the defendaunt shold, yf he were convict and discomfite.

“*If the Quarell be taken into the Kyng's Hand.*”—And if it happed so, that the kyng wold take the quarell in his hand, and make theym accorded, and lete them fight no more, than the constable takyng that one partie, and the mareschall that othir, shall bring them before the kyng; and he shewyng them his wille, the constable and mareschall shull bring them to one of the gates of the lists, with her wepyns, horses, and armuryes, like as they have and been found, whan the king taketh the quarrell into his hand; and so shull they evynly be brought out att the porte of the lystys, so that that one go nat before

that othir by no wey in no thinge : for after that the kynge have take the quarell in his hand it were nat honest, that eny of the partyes shuld have more dishonour one more than an othir ; for it hath ben seide by many auncyen people, that he that goeth first out of the lists hath the dishonour, and that aswele in cause of treson as in any othir cause.

“ *For the faux Lystes.*]—And it is to wite, that there most be faux lists without the principal lists ; bitwene the which the people of the constable and mareschall, and the kyngs sergeauntz of armes shull stond to kepe and defende, yf eny persone wole make any offence or affraye ayenst the cryes made in the court ; or any thing that might be ayenst the kyngs magestee, or law of armes ; and thise people shull be armed at all poyntes.

“ *What People the Constable and Mareschall shull have.*]—The constable shall have there as many men of armes as hym semeth gode, and the mareschall also ; which people shull have the kepyng as it is aforeseid.

“ *The kepyng of the Ports of the Lists.*]—The kyng’s sergeauntz of armes shull kepe the ports of the lists, and make arrestes yf any shall be made by commaundment of constable and mareschall.

“ *The Feez perteynyng to my Lord.*]—The mareschalls fee is all the wepyns, horses, and armures, aswele of the appelaunt as of the defendaunt, whereof they have dismyssed theym, or letyn from theym, after that they ben entred into the lists : and all the wepyns, horses, and armures of him that is discum-

fite ; be it the appelaunt or the defendaunt : and the lists, barrers, and scaffolds of the same.

“ *For Cryme that is othir than Treson.*]—And yf the cryme be othir than treson, he that is convict shall be unarmed, and amesne out of the lists to his juyce, aswele of the appelaunt as of the defendaunt ; but he shall nat be drawen, but yf it be in cause of treason.

“ *For hym that is convict, yf it be in Accion of Armes.*]—And if the cryme be in accion of armes, he that is convict and discumfited shall be unarmed, and boutz horse out of the lystes, without other juyse.

“ *This shall be the first Crye that shall be made sone after the Kyng’s comyng, at his owne Lust and Commaundment.*]—‘ We charge and commaund you in
 ‘ the name of the most high and excelent prynce or
 ‘ soveraygn lord the kyng of England, and of France,
 ‘ and lord of Ireland ; and on the behalfe of constable
 ‘ and mareschall, that no maner of man of what degree, estate, or condicion that ever he be of, be so
 ‘ hardy to approche, ne entre within the barrers, ne
 ‘ the lists of this place ; nor no party thereof, except
 ‘ such persones as are assigned thereto, and appointed
 ‘ by the kyng and his counseill, or els by the constable
 ‘ and mareschall ; upon peyn of enprisonment, and
 ‘ his body and goodes att the kyng’s wille.’

“ *This shall be the second Crye, what Time the Parties are cum into the Place.*]—‘ We charge and
 ‘ commaund you in the name of the most high and
 ‘ excelent prynce, our soverain lord the kyng of England, and of Fraunce, and lord of Ireland ; and on

' the behalve of the constable and mareschall, that no
 ' maner man, of what degree, estate, or condicion
 ' that ever he be of, be so hardy to make any manner,
 ' noyse or crye, whatsoever they see or here in this
 ' same felde done bitwene thise two partyes that are
 ' comen to do and perfourme certeyne fetes of armes
 ' at this time : and also, that no maner man be so
 ' hardy to make no maner semblaunce, tokyn, nor
 ' countenaunce, in no maner wise, to no partie
 ' whereby that any of hem may take any manner
 ' comforte, warnyng, or advantage by, on peyn of
 ' emprisonement, and his body and godes at the
 ' kyngs wille' : "

' The remarkable quarrel between Henry earl of Hereford (after-
 wards king Henry IV.), and the duke of Norfolk, in the latter part of
 the reign of Richard II., affords a fine specimen of the ceremonies
 used in the trial by combat as it was practised on great and solemn
 occasions. The circumstance is thus narrated by an elegant modern
 writer :—

" Hereford the challenger first appeared on a white charger gaily
 caparisoned, armed at all points, and holding his drawn sword. When
 he approached the lists the marshal demanded his name and business ;
 to which he replied : ' I am Henry of Lancaster earl of Hereford,
 ' come hither according to my duty against Thomas Mowbray duke
 ' of Norfolk, a false traitor to God and the king, the realm and me.'
 Then taking the oath that his quarrel was just and true, he desired to
 enter the lists ; which being granted, he sheathed his sword, pulled
 down his beaver, crossed himself on the forehead, seized his lance,
 passed the barrier, alighted, and sat down in a chair of green velvet
 placed at one end of the lists. He had scarce taken his seat when the
 king came into the field with great pomp, attended by the lords, the
 count de St. Pol, who came from France on purpose to see that famous
 trial, and ten thousand men at arms to prevent tumults and dis-
 turbances. His majesty being seated in his chair of state, the king at
 arms proclaimed, that none but such as were appointed to marshal the
 field should presume to touch the lists upon pain of death. Then

U

Fire and Water Ordeal.]—This kind of trial is of Saxon origin, *ordale* signifying *judicium æquum*, *justum*, *indifferens*; “an upright, just, and indifferent judgment.”

That our Saxon ancestors, when Pagans, were much addicted to divination, we have the testimony of Tacitus², who says, that they made particular observations on the flying of birds, on their notes, and likewise on the neighing of horses; and that in war, if they happened to intercept one of the enemy's party, they would cause a duel to be fought betwixt one of their own soldiers and him, and divine

another herald proclaimed aloud, ‘Behold here Henry of Lancaster earl of Hereford, who has entered the lists to perform his devoir against Thomas Mowbray duke of Norfolk, on pain of being counted false and recreant.’ Just then the duke of Norfolk appeared in arms, mounted upon a barbed horse, with a coat of crimson velvet, embroidered with lions of silver and mulberry-trees; and, having taken his oath before the constable and mareschal, entered the field, exclaiming aloud, ‘God defend the right.’ Then alighting from his horse, he placed himself in a chair of crimson velvet opposite to his antagonist at the other end of the lists. After which, the mareschal having measured their lances, delivered one to the challenger, and sent a knight with the other to the duke of Norfolk, and proclamation was made that they should prepare for the combat. Accordingly, mounting their horses and closing their beavers, they fixed their lances in rest, and the trumpets sounded the charge. The earl of Hereford began his career with great violence; but before he could join his antagonist, the king threw down his warder, and the heralds interposed, and, by the advice and authority of his parliamentary commissioners, he stopped the combat, and ordered both the combatants to leave the kingdom.” The consequences of this ill-timed interference, it is well known, cost Richard his crown and life.

² De Moribus Germanorum, cap. x.

the success of the whole army, by taking notice which of the two obtained the victory.

From these circumstances it is probable that they then, in certain cases, both civil and criminal, used the *ordeal*, or some similar kind of judgment, which they continued after they became Christians. These trials, at least, were at the latter period practised by them, as we learn from the testimony of the laws of Ina, who began his reign in the year 710.

The usual manner of proceeding in the *ordeal* trial was either by *fire* or *water*, and is thus noticed in the constitutions of king Athelstan³: *De ordalio præcipimus in nomine Dei, &c.* "Concerning ordeal, we command, in the name of God, and by the precept of our archbishops and bishops, that no man enter into the church after the fire is brought in, wherewith the *judgment* is to be made hot, except the priest, and he who is to undergo the trial: and let there be measured nine feet from the stake unto the mark, according to the measure of his foot, who is to come thus to judgment.

"And if the trial be by water, let it be made hot till it boil, in a vessel of iron, brass, lead, or clay; and if it be single, let his hand be put therein after a stone or stock up to his wrist; but if the accusation be threefold, then to his elbow: and when the judgment shall be prepared, let two men be brought in on each side, to make experiment; that it be as hot as is afore expressed.

³ *Analecta Anglo-Brit. lib. ii. cap. 8. inter Leges Athelstani, cap. xxx.*

“Let as many also come in on each side the judgment along the church ; and let them be fasting, and abstain from their wives that night ; and the priest shall sprinkle holy water on them, and give them the text of the holy gospel to kiss, as also the sign of the cross : and no man shall make the fire any longer than whilst the benediction beginneth, but shall cast the iron upon the coals until the last collect ; afterward it shall be put upon the without any more words, then that they pray earnestly to God that he will vouchsafe to manifest the truth therein : then shall the person accused drink holy water, and his hand wherewith he shall carry the judgment shall be sprinkled therewith ; and so let him go, the nine feet measured being distinguished by three and three.

“At the first mark next to the stake he shall set his right foot, and at the second his left foot ; and thence he shall remove his right foot unto the third mark, where he shall throw down the iron, and hasten to the holy altar ; which done, his hand shall be sealed up, and the third day after viewed whether it be clean or unclean, where it was so sealed. And he who shall transgress these laws, let the *ordeal* judgment or trial be done upon him, that he pay 120s. for a fine or mulct.”

Besides the above there was another mode of trial by *cold water*, which is mentioned by ancient authors :

“*Peractis, ut ante, trium dierum jejuniis, &c.*”

The three days fast and other holy duties performed, as in the former trial by *fire*, holy water is given to the party accused, which he is to drink with

the following execration: "Let this water be to thee now for a trial." And this conjuration is to be used to the cold water, wherein the person supposed guilty is to be put, viz.

"I adjure thee, O thou water, in the name of the Father Almighty, who created thee in the beginning, commanding thy use for human necessities, and that thou shouldest be separated from the waters above: I adjure thee, by the unspeakable name of the Lord Jesus Christ, son of the living God, under whose feet, the sea and element being severed, was trode upon, and who was pleased to be baptized in the watry element: I also adjure thee by the Holy Ghost, which descended upon the Lord when he was baptized: I adjure thee likewise by the name of the holy and individual Trinity, by whose will the element of waters was divided, and the people of Israel forthwith passed thorough dry foot; at whose invocation the prophet Helisæas caused the axe which fell out of the helve to swim upon the water; that thou do not in any manner receive this man N. if he be guilty of what he is accused, by his act, consent, or knowledge, or any other device, but make him swim upon thee, to the end there may be no counterfeiting with thee, or any exploit of the enemy, that may disguise it. And by the name of Christ, we command thee, that for his sake thou obey us, unto whom every creature doth service; whom Cherubim and Seraphim do praise, saying, Holy, Holy, Holy, Lord God of Hosts, who ruleth and reigneth world without end." After this and other exorcisms being recited, the person sup-

posed guilty, putting off his garments, is to be cast (his thumbs and toes tied together with cords) into the water : into which if he sink, he is freed ; but in case he swim, then to be condemned.

Several instances occur in history of persons who underwent this kind of trial by ordeal ; the most remarkable of whom is Emma, mother to Edward the Confessor, though she is usually stated to have walked barefooted over nine burning ploughshares.

Ogerus Dapifer, shireeve of Norfolk and Suffolk, in 12 Hen. II. in his account for that year, upon record in the exchequer—*reddit compotum de catallis fugitivorum, & eorum qui perierunt in judicio aquæ*, viz. de Ricardo Haiward, 4s. 7d. &c.

This law was totally abolished by Henry III. in the third year of his reign, as appears from his special precept³ for that purpose still preserved.

Wager of Law.]—*Vadatio legis*, as the foregoing is called wager of battle, *vadatio duelli* ; because as in the former case the defendant gave a pledge, *gage* or *vadium*, to try the cause by battle ; so here he was to put in sureties or *vadios*, that at such a day he will make his law, that is, take the benefit which the law has allowed him : which benefit is, that where apparent proof is not made on the plaintiff's part, the defendant is admitted to *wage his law* ; that is, to take his own oath, that he owes nothing at all to the plaintiff ; and to bring as many credible persons as the court shall assign, to make oath, that they believe he swears true.

³ Pat. 3 H. 3. p. 1. m. 5.

This method of trial, which still continues in force in certain cases⁴, was a part of the Mosaical law : " If a man deliver unto his neighbour an ass or an ox, or a sheep, or any beast, to keep, and it die, or be hurt, or driven away, no man seeing it ; then shall an oath of the Lord be between them both, that he hath not put his hand unto his neighbour's goods ; and the owner of it shall accept thereof, and he shall not make it good." It is to be found in the codes of almost all the northern nations, and bears a manifest resemblance to the canonical purgation of the Romish clergy, when accused of any capital crime. The defendant, or person accused, was, in both cases, to make oath of his own innocence, and to produce a certain number of compurgators, who swore they believed his oath.

⁴ " In England wager of law is never *required*, and is then only admitted where an action is brought upon such matters as may be supposed to be privately transacted between the parties, and wherein the defendant may be presumed to have made satisfaction without being able to prove it : therefore it is only in actions of debt upon simple contract, or for amercement in actions of detinue and of account, where the debt may have been paid, the goods restored, or the account balanced, without any evidence of either ; it is only in these actions, I say, that the defendant is admitted to wage his law ; so that wager of law lieth not when there is any specialty as a bond or deed to charge the defendant, for that would be cancelled, if satisfied ; but when the debt groweth by word only : nor doth it lie in an action of debt for arrears of an account settled by auditors in a former action. And by such wager of law, when admitted, the plaintiff is perpetually barred ; for the law, in the simplicity of the ancient times, presumed that no one should forswear himself for any worldly thing. Wager of law, however, lieth in a real action where the tenant alleges he was not legally summoned to appear, as well as in mere personal contracts."

The manner of waging and making law is this: He that has waged or given security to make his law brings with him into court eleven of his neighbours: a custom which we find particularly described so early as in the league between Alfred and Guthrun the Dane⁵; for, by the old Saxon constitution, every man's credit in courts of law depended upon the opinion which his neighbours had of his veracity. The defendant then standing at the end of the bar is admonished of the nature and danger of a false oath⁶; and if he still persists, he is to repeat this or the like oath: "Hear this, ye justices, that I do not owe unto Richard Jones the sum of ten pounds, nor any penny thereof, in manner and form as the said Richard hath declared against me; so help me God." And thereupon his eleven neighbours, or compurgators, shall avow upon their oaths, that they believe in their consciences that he saith the truth, so that himself must be sworn *de fidelitate*, and the eleven *de credulitate*⁷. It is held, indeed, by later authorities⁸, that fewer than eleven compurgators will do; but sir Edward Coke is positive that there must be this number; and his opinion not only seems founded upon better authority, but also upon better reason; for as wager of law is equivalent to a verdict in the defendant's favour, it ought to be established by the same or equal testimony, namely, by the oath of *twelve* men.

⁵ Cap. 3. Wilk. LL. Ang. Sax.

⁶ Salk. 682.

⁷ Co. Litt. 295.

⁸ 2 Ventr. 171.

A man outlawed, attainted for false verdict, or for conspiracy, or perjury, or otherwise become infamous, as by pronouncing the horrible word in a trial of battle, shall not be permitted to wage his law. Neither shall an infant, under the age of twenty-one, for he cannot be admitted to his oath; and therefore, on the other hand, the course of justice shall flow equally, and the defendant, where an infant is plaintiff, shall not wage his law: but a feme-covert, when joined with her husband, may be admitted to wage her law; and an alien shall do it in his own language⁹.

CHAP. VI.

MISCELLANEOUS.

Of Punishment in criminal Cases.

THE punishment of *felons* by death, with *hanging upon gallows*, is very ancient, being ordained by the laws of Ina nearly 1100 years since. This was abolished by the Conqueror, who appointed instead of it the punishment should be, pulling out eyes, gelding, or cutting off hands or foot, according to the greatness of the offence, to the end they might live and be a terror to others; as were those Welchmen, of whom Flor. Wigorn. in his Annals, viz. an. 1098, makes mention, who for treason had all those several kinds of punishment inflicted on them.

⁹ Co. Litt. 295.

Rapinas curialium, says Will. of Malmesb. *furta, stupra, edicto compescuit, deprehensis oculos, cum testiculis evelli præcipiens*. For the better verifying of which testimony, there is a miracle reported by Fox in his Martyrology¹ of one Elivard of Weston Regis in Bedfordshire, who, being convicted in the time of king Henry II. for stealing a pair of hedging gloves and a whetstone, and for the same offence lost his eyes and genitals, was, through his devout prayers made at the shrine of St. Thomas of Canterbury, restored to them again.

This kind of punishment for felons continued but a short time; for Henry I. in the year 1108, the ninth of his reign, decreed, that for theft and robbery they should be hanged. But Brompton places this constitution in the year 1103, 3 Hen. I.

The first nobleman on record that was *beheaded* was Waltheof earl of Northumberland, who suffered in 1075, 8 William the Conqueror.

Felons were also put to death by drowning, as appears² by an instance in 6 Edw. II. where the jury for the hundred of Cornylo in Kent exhibited a presentment to Hervi de Stanton and his fellow-justices itinerant sitting at Canterbury, in the octaves of St. John the Baptist, importing, that the prior of Christchurch in Canterbury did, about ten years then past, divert the course of a certain water called Cestling, in which such felons as were condemned to

¹ Lib. 4. fol. 229.

² Ex vet. cod. MS. penes Rog. Twysden bar. p. 108.

death within the before-specified hundred, ought to suffer judgment by drowning.

The decree of king Henry I. for putting to death such as should be convicted of theft and robbery, by hanging, was not used in the county palatine of Chester; for by an account of Will. de Melton, chamberlain of Chester in 29 Edw. I. it appears² that they were beheaded, and that the justices of peace in that shire received twelve-pence apiece from the king for the head of every one which was cut off by their officers. And Bromley, in the argument of Pledall's case, to shew what effects considerations of blood and kindred have in our laws, amongst other things affirms, that when upon an appeal of murder the appellant was found guilty, the ancient usage was, that all the blood of the party murdered did draw the murderer by a long rope to his execution; which custom he says was grounded upon the loss which the whole blood had by the murder of one of them, and for their common revenge and the affection which they all were supposed to bear to the party slain.

Of the four Terms.]—The origin of those portions of the year assigned for the king's justices of the courts at Westminster to hold pleas, &c. commonly called *Terms*, is, by Polidore Virgil, Holingshed, and others, ascribed to the Conqueror, though William of Malmsbury, and most old historians of credit, mention nothing of the kind. Sir Henry Spelman is of opinion, that our Saxon and Norman ancestors divided

² In quadam bagâ tit. Cestria, penès thes. et camerar. scacc.

the year between God and the king (as he expresses it), calling those days and parts which were assigned to God, *dies pacis ecclesiæ*, and the residue *dies* or *tempus pacis regis*, as the Romans had their *dies fasti* and *nefasti*, and did make choice of these special seasons of the year for their determining and judging in civil affairs, as exempt portions of time from that which was by them assigned and devoted to the service of God and his church. This is further demonstrated by a league³ made between king Edward the Elder and Guthrun the Dane, in which they forbid *ordeal* and *oaths* (the name law trials at that time were called) to be used upon festival or right fasting days; and the same is observable in the constitution made in the synod held at Eanham, under king Ethelred.

With this agree the laws of Canute and Edward the Confessor :

— 7 þe ƿonbeaðap onbal, &c.

“ We forbid ordeal and oaths on feast days and ember days, and from the Advent of our Lord till the eighth day after twelfth be past : and from Septuagesima till fifteen nights after Easter. And the sages have ordained, that St. Edward's day shall be festival over all England on the fifteenth cal. of April, and St. Dunstan's on the fourteenth cal. of June; and that all Christians, as right it is, should keep them hallowed and in peace.”

Henry II. ratified the laws of Edward the Confessor and William the Conqueror, with the advice of

³ Lamb. de priscis Angl. Leg. cap. 39.

his chief justice Glanville; and the latter accordingly made some of his writs returnable in *octabis*, or *clauso Paschæ*: for though the laws of the Confessor appoint the end of Lent vacation, and Gervase of Tilbury also mentions the same return, yet the MS. laws of Henry II. in the red book of the exchequer, cap. 62. following the synod of Grantham, extend Lent vacation à *Septuagesima*, usq. xv. *dies post Pascham*, and lay out the whole year, under the rubric *de Observatione Temporis Legis faciendi*;—according to this,

1. Hilary term began at *octabas Epiphaniæ*, viz. the 13th of January, which is seven days before the first return at present, and nine days before our term begins, and ended at the Saturday next before *Septuagesima*; which being moveable, made this term longer in some years than others.

2. Easter term, which now begins two days after *quindena Paschæ*, began then, as the law of king Edward Confessor appointed it, at *octabis Paschæ*, as is also verified by Glanville, who makes one of his writs returnable thus: *Rex, &c. Summone per bonos summonitiones quatuor legales milites de viceneto de Stoke, quod sint ad clausum Paschæ coram me, vel justiciis meis apud Westmonasterium, ad eligendum supra sacramentum suum xii. legales milites, &c.*; “but as it then began nine days earlier than it doth now, so it ended six or seven days sooner, viz. the day before the vigil of the Ascension, which is according to the direction of Edward the Confessor’s law, appointing the time from the Ascension inclu-

sive, to the octaves of Pentecost with Ascension eve, to be *dies pacis ecclesiæ*, and therefore vacation."

3. Trinity term in those days began as at present (in respect of the returns) at *octabis Pentecostes*; which being always the day after Trinity Sunday, is now by the statute of 32 Henry VIII. appointed to be called *crastino Trinitatis*. But it seems that the statute of 51 Hen. III. changed the beginning of this term from *crastino Trinitatis* to *octabis Trinitatis*; and therefore the statute of king Hen. VIII. did no more herein than reduce it to its original: and as to the end of that term, the same statute of 51 Hen. III. assigned it to be within two or three days after *quindena S. Johannis Baptistæ*, which is about the 12th of July.

4. Michaelmas term, as regulated by the Confessor, was more uncertain as to its beginning than end: but Gervasius Tilburiensis, in his dialogue *de Scaccario*, cap. 2. has a writ in these words:—*Rex, &c. vicecomiti N. salutem. Vide, sicut teipsum & omnia tua diligis, quod sis ad scaccarium in crastino S. Mich. vel in crastino claus. Pasch. & habeas ibi tecum quicquid debes de veteri firmâ & novâ, & nominatim, &c.*; whereby it appears that the term in the exchequer, as it respected sheriffs and accomptants, and consequently in the other parts, began then as at present.

Selden concludes, that by the stat. of 51 Hen. III. called *dies communes in banco*, the terms then either began and ended as they did in 1614, when he wrote his discourse, or that those statutes did assign the

times for them ; and also, that the statute of 36 Edw. III. cap. 15. confirmed that use, the returns there mentioned being in no respect different, or either more or fewer than they then were, except that Trinity term is altered and shortened by the stat. of 32 Hen. VIII. cap. 21. which ordained it, *quoad sessionem*, to begin for ever the Friday after *Corpus Christi* day, and to continue nineteen days ; whereas in elder times it began two or three days sooner.

By an act of parliament made 17 Car. 1. Michaelmas term was shortened, and thenceforth appointed to begin upon *tres septimanas S. Mich.*

Of Fines.]—It often happens, says Glanville, that disputes moved in the king's court are terminated by final concord ; but it is then by consent either of the king, or his justiciar, whatever be the cause of dispute, whether for land, or any other thing ; which agreement is reduced into public writing, by the mutual consent of both parties ; and this writing is to be recited before the king's justices sitting in the bench (court of common pleas), and before them the said writing, in all points alike, is there to be delivered.

Fines are said by Plowden to have been levied before the conquest ; and another author makes mention of one taken at Norwich in the time of Henry I. instancing for testimony of the same an exemplification of it under that king's seal. Many were levied in the reign of Henry II. and more in the time of Richard his son, as well as afterwards : most of which are now remaining in the exchequer.

Anciently fines were levied before various persons, and frequently before the king himself; others before the chief justice, with other of the king's justices *et aliis fidelibus domini regis*. Nor were they limited merely to the courts at Westminster in those times, as a copy is still remaining ¹ of one levied in the county court of Nottingham, in the first of king John, in the presence of the sheriff and the chief gentlemen of that shire, and another at Pontefract in the court of Roger de Lacie, then constable of Chester ². Several instances likewise occur of fines levied where the king himself was a party ³.

These agreements have ever been held inviolable; and the strictness, not only of questioning the cognizors, but the care which the cognizors themselves on their own parts had by a serious deliberating what they did in these great and solemn conclusions, will appear by the following ancient testimonial ⁴:

¹ Ex cartulario abb. de Derley in bibl. Cotton. f. 74. b.

² Ex regist. abb. de Kirkstall in officio ducatus Lanc. f. 29. b.

³ Finis levatus apud Westm. in octabis Purif. beatæ Mariæ an. 53 Hen. 3. inter ipsum dominum regem, & consortem suam Alianoram reginam quærentes, & Edwardum filium ipsius domini regis primogenitum, deforciantem, de honore Aquilæ, cum pertinentiis, &c. esse jus ipsius Edwardi, de dono ipsorum regis & reginæ. Et idem Edwardus, ad instantiam regis, concessit dictæ dominæ reginæ prædictum honorem, totâ vitâ ipsius reginæ; revertere ad prædictum Edwardum & hæredes suos.

Finis levatus in curiâ domini regis apud Westmonasterium, in crastino S. Martini, anno regni regis Edwardi filii regis Henrici quarto; inter ipsum dominum regem quærentem, & Adam quæ fuit uxor Simonis de Vere deforciantem, de decem libratis terræ, cum pertinentiis, in Sprotele, &c. esse jus ipsius domini regis, &c.

⁴ Claus. 8 Edw. 4. in dorso, m. 14.

“ To all cristen men, to whom this present wryt-
ing shal come, Rose, that was the wyff of sir John
Merston knight, sendeth greting in God everlasting:
Know ye me the saide Rose to sey and affirme, that
Thomas Littelton, oon of the king's justices of the
common place, bargayned, bought, and purchased for
a certeine summe of money, which he hath truly
payd, the reversion of the maner of Tixhale in Staf-
fordshire, and of certein tenements and rents in other
townes in the same shire, of the said John Marston,
sumtyme my husband, and of me ; to have after the
decece of my said husband and me : by force of which
a fyne was rered at Westmynster ; by which fyne a
state was made of the said maner to my husband and
to me, terme of our lives ; the remaynder thereof
unto the said Thomas Littilton and Jane his wife, and
to the heires of the said Thomas Littilton for ever-
more, as in the sayd fine more plainly appeareth.
Afore which fyne rered, I did aske of sir John Prisot
the chefe justice of the common place, and divers
others to whom I had special confidence and trust ;
and also of other divers apprentices lerned in the
lawe, or my counsell, wheder that my seid husband
and I might sille the reversion of the said maner with-
out perell of our soules : and they desired me to en-
fourme and shew them how the seid maner afore that
tyme was entayled : and I shewed them the part of
an hole fyne ¹.

¹ “ Hæc est finalis concordia facta in curiâ domini regis apud West-
monasterium, à die S. Trinitatis in xv. dies, anno regni regis Edwardi,
filii regis Edwardi, decimo nono, coram Willielmo de Bereford, Jo-

“ And they asked me of whom and how that I came of any such persons named in the seyde fine : and I seyde, that I came of Makelyn Wastneys and Margaret his wiff named in the seyde fyne ; that is to sey, that I am daughter to Roger, sonne to William, son to the seyde Maculine and Margaret. They examined me, wheder eny of the brethren of the seide Maculine ; that is to sey, John, Herry, or William, had any issue on lyve : and I seyde to them Nay, but all ben ded without issu, which is very trouthe. They asked me whider I was heire to Geffrey Wastneys named in the seyde fyne ; and I seyde I am heire to the seyde Geffrey ; for he was my graunsire's graunsire.

hanne de Mutford, Willielmo de Herle, Johanne de Stonore, & Johanne de Busse justiciariis, & aliis domini regis fidelibus, tunc ibi presentibus ; inter Galfridum de Wasteneys de Tyxhale quarentem, & Rogerum de Aston personam ecclesie de Weston, deforciantem, de manerio de Tyxhale, cum pertinentiis, & advocacione ecclesie ejusdem manerii, unde placitum conventionis summonitum fuit inter eos in eadem curia ; scil. quod predictus Galfridus recognovit predicta maneria, cum pertinentiis, & advocacionem predictam esse jus ipsius Rogeri ; ut illa que idem Rogerus habet de dono predicti Galfridi : et pro hac recognitione fine & concordia idem Rogerus concessit predicto Galfrido predictum manerium cum pertinentiis & advocacionem predictam, & illa ei reddidit in eadem curia, habenda & tenenda eidem Galfrido de capitalibus dominis feodi illius per servicia que ad predictum manerium & advocacionem pertinent, tota vita ipsius Galfridi ; et post decessum ipsius Galfridi (&c.) remanere Maculino filio ejusdem Galfridi, & Margaretæ uxori ejus, & hæredibus de corporibus ipsorum Maculini & Margaretæ exeuntibus ; tenenda (&c.) remanere Johanni fratri ejusdem Maculini & hæredibus de corpore suo procreatis ; tenenda (&c.) remanere Henrico fratri ejusdem Johannis, & hæredibus de corpore suo procreatis (&c.) remanere Willielmo fratri ejusdem Henrici, & hæredibus de corpore (&c.) remanere rectis hæredibus ipsius Galfridi ; tenenda (&c.) imperpetuum.”

They asked me whether there was eny more issue now on lyve, that come of the said Maculine and Margaret : and I said Nay ; for I seyde, if Alianoure Harecourt, which was myn aunte, that is to sey my fadurs suster, had bin on lyve, and overleved me, she shuld enherite the seid livelode by force of the seid taill made to Makelyn and Margaret after me : but now she is ded without issue, there is no more issue now on lyve that come of the seid Makelyn and Margaret sauf only I, in asmuch as I was the last of the entail, and the fee simple thereof was in me : whereupon my husband and I rered a fyne in the fourme as I have seyde. And whereas sir John Gresley knight seyth, as I am enfourmed, that he shuld be my next kyn to enherite after me the seid livelode ; betwene God and me I sey, as I shall answere afore the day of dome, I canne not, nor never cowde wete or knowe, nor never herde by my fader, nor other in noe maner wyse, how or in what wyse he shulde be kyn to me, to enherite in eny wyse the seid livelode ; save that it was seid, that he come of oon sir Thomas Wastnesse, which Wastnesse was longe tyme afore the seyde old fyne arered : but how, or in what wyse I was kyn to that Wastnesse I coud never here tell. And ferthermore I sey and affirme, that there is none on lyve, that I know or can here of, that ys or may be enheritable by eny maner of fee tayle specified or comprised in the seyde old fyne reryd in the time of the seyde king Edward the Second : In witnesse whereof to this present writinge I have put my seall."

Antiquities
OF THE
INNS OF COURT AND CHANCERY.

CHAP. I.

It has been before observed, that previous to, and immediately succeeding the Norman conquest, the knowledge of the laws of England, as well as the administration of them, were chiefly confined to ecclesiastical persons, the unsettled state of the kingdom obliging the nobility and gentry at those periods rather to addict themselves to the practice of arms than the attainment of literature ; and in consequence it most probably happened, that the decision of controversies in *civil* cases was then so frequently by combat, and in *criminal* ones by fire and water ordeal.

On this account likewise we find, that most of the justices of the king's court, as well as those called itinerant, before the time of Henry III. were bishops, abbots, deans, canons in cathedral churches, archdeacons, &c. ; and the chancellorship was exercised by clergymen even so late as the reign of Henry VII. But when by Magna Charta it was appointed that " Common pleas should not thenceforth follow the

court, but be held in some certain place," and that certain place was established in Westminster Hall, such establishment of this principal court of common law at that particular juncture, by affording a greater certainty as well to students as the peculiar ministers of each court where to exercise themselves, gave rise to the inns of court in its neighbourhood, collecting thereby the whole body of common lawyers, who would most likely then begin to fix and settle in certain places and stations most proper for their studies, conference, and practice.

And that this was the fact, and that these places were near the courts, we have the evidence of a precept of that age, which prohibited that the study of the law should be in any other places but at these inns of court. For there were before that time, it seems, some schools set up in the city for reading and teaching the laws; but the king (Henry III.) thought fit to have them restrained by proclamation, as appears by this record about the 28th of this reign:

Mandatum est maiori et vicecomiti London. &c.

"Commandment is given to the mayor and sheriffs of London, that they cause proclamation to be made through the whole city, and firmly to forbid, that no one should set up schools in the said city, and teach the laws there for the time to come; and if any shall set up such schools there, they cause them to cease without delay. Witness the king at Basing, December 2^d."

And that these studies might be there prosecuted

* Strype's Stowe.

the more regularly, Edward I. in the 20th of his reign, "did especially appoint John de Mettingham (then lord chief justice of the court of common pleas), and the rest of his fellow-justices (of that court), that they, according to their discretions, should provide and ordain, from every county, certain attornies and lawyers of the best and most apt for their learning and skill, who might do service to his court and people; and that those so chosen *only*, and no other, should follow his court, and transact the affairs therein, the said king and his council then deeming the number of seven score to be sufficient for that employment²; but it was left to the discretion of the said justices to add to that number, or diminish, as they should see fit."

We may thus conclude, though, the registers being lost, we have no memorial of the direct time, nor absolute certainty of the places, that the establishment of inns of court was soon after this time completely effected.

In the reign of Edward III. there is express mention of these legal seminaries (and it is the first which occurs) in a demise from the lady Clifford of the house near Fleet Street, called *Clifford's Inn*, ap-

² In 1454 an act of parliament notices, "that there had used formerly six or eight attornies only, for Suffolk, Norfolk, and Norwich, together; that this number was now increased to more than eighty, most of whom being not of sufficient knowledge, came to fairs, &c. &c. inciting the people to suits for small trespasses, &c. &c.; wherefore there shall be hereafter but six for Suffolk, six for Norfolk, and two for the city of Norwich."—*Andrews's Chron. Hist. of Great Britain*, book ii. p. 148.

apprenticiis de banco; by which is meant, to the lawyers belonging to the court of common pleas. In the same reign mention is again made of such inns or hostels in a *quod ei deforciat* to an exception taken. It was answered by sir Ric. de Willoughby (then a learned justice of the common pleas), and William Skipwith (afterwards also one of the justices of that court), "that the same was no exception in that court, although they had often heard the same for an exception, amongst the *apprentices in hostells or inns*."

These inns, or *hostels* ³ as they were anciently called, were from their first institution divided into two sorts, denominated inns of court, and inns of chancery. The former were so named from the students in them being to serve the courts of judicature, or because these houses anciently received the sons of noblemen and the better sort of gentlemen, "who (says Fortescue) did there not only study the laws to serve the courts of justice and profit their country, but did further learn to *dance*, to *sing*, to *play on instruments*, on the *ferial* days, and to study divinity on the *festival*, using such exercises as they did who were brought up in the king's court:" so that these hostels being nurseries or seminaries of the court, taking their denomination of the end wherefore they were instituted, were called *inns of court* ⁴.

³ *Inn*, being the old English word for the house or residence of a nobleman, and of the same signification with the French *hostel*, or *botel*.

⁴ Dugdale. This seems a strained interpretation. Inns of court,

The latter were called inns of *chancery*, probably because they were appropriated to such clerks as chiefly studied the forming of writs, which was the province of the cursitors, who are officers of chancery, and such as belong to the courts of common pleas and king's bench⁵. These formerly were a sort of preparatory houses for younger students, as well as for such forming of writs above mentioned, and many were entered here before they were admitted to the inns of court. "*Quia studentes, &c.*" says Fortescue, "because the students in them are for the greater part

we may suppose, rather derived their name from being places of study preparatory to practising in the courts of law; which courts of law or justice were themselves, as we have seen, anciently held in the *aula regia*, or court of the king's palace.

⁵ An additional evidence is afforded, says Dugdale, that the inns of chancery were so called, because they were anciently *hospicia* for the clerks of chancery, if we allow that inn of chancery, situate near St. Andrew's church in Holborn, now denominated *Davies*, or *Thayves* Inn, to be the same which is mentioned in the fine-roll of 11 Ed. III.; which is extremely probable, considering the little difference in pronunciation betwixt *Travers* and *Thayves*.

"Rex omnibus ad quos, &c. Sciatis, quod de gratiâ nostrâ speciali commisimus dilectis clericis nostris de cancellariâ, Thomæ de Elingham, et Roberto de Kettleseye, illas domos, cum pertinentiis, in parochiâ S. Andreæ in Holburne, in suburbiis London, quæ fuerunt Johannis Travers defuncti; et quæ, pro debitis et compotis, in quibus idem Johannes nobis tenebatur die qui obiit, tam de tempore quo fuit constabularius noster, et dilecti Edwardi nuper regis Angliæ patris nostri Burdegaliæ, quàm aliunde, in manu nostrâ existunt: habendos et tenendos eisdem Thomæ et Roberto, et eorum alteri, quamdiu illas in manu nostrâ, vel hæredum nostrorum, occasione debitorum et computorum prædictorum, nobis vel hæredibus nostris prædictis non redditorem contingerit remanere. Reddendo, &c. duas marcas per annum, &c. In cujus, &c. Teste custode Angliæ apud Windesore 8°. die Septembris."—*Origines Juridicales*.

young men learning the first elements of the law ; and becoming good proficient therein, as they grow up, are taken into the greater hostels, which are called inns of court."

The study of the law being anciently held in high estimation, the inns of court, as the chief schools for that study, were then only accessible to men of rank and fortune. " In these greater hostells," says the above author, " no student can be maintained at less charge yearly than lxxx scutes (twenty marks, a great sum in those days) ; and if he had a servant with him, as many of them have, then is his charge the greater : so that by reason of this great expense, the sons of gentlemen do only study the law in these hostells, the vulgar sort of people being not able to undergo so great a charge; and merchants are seldom willing to lessen their traffic thereby."

Ferne, formerly a student in the Inner Temple, in his treatise, entitled, "The Glory of Generosity," expresses himself to the same purpose : " Nobleness of blood, joined with virtue, counteth the person as most meet to the enterprising of any public service ; and for that cause it was, not for nought, that our ancient governors in this land did, with a special foresight and wisdom, provide, that none should be admitted into the houses of court, being seminaries sending forth men apt to the government of justice, except he were a gentleman of blood. And that this may seem a truth, I myself have seen a calendar of all those which were together, in the society of one of the same houses, about the last year of king Henry V.

with the arms of their house and family, marshalled by their names: and I assure you the self-same monument doth both approve them all to be gentlemen of perfect descents, and also the number of them much less than now it is, being at that time in one house scarcely threescore⁶."

In the time of Fortescue above quoted, who was chief justice of the king's bench in the reign of Henry VI., the inns of court or hostels flourished

⁶ The students in the inns of court were anciently called *apprenticii nobiliores*, as appears from the Annals of Thomas of Walsingham, who, mentioning the plundering of the lawyers of the Temple, has these words: "*etiam locum qui vocatur Temple Bar, in quo apprenticii juris morabantur nobiliores, irruerunt.*"

This name, derived from the French verb *apprendre*, to learn, was then attributed to students of the law, but is now taken for a double reader. The term apprentice is likewise mentioned in the year-books of Edward III. where it is said, *et puis une apprentise demand, &c.* In the same year-books, reg. 29. f. 47. b. upon an exception taken at the bar by Ingelby, Wilby and Skypwith answered, that it was never an exception taken in that place; but they had heard it often times, *entre les apprentises en hostells*. By this it rather seems that *apprentise* merely signifies a pleader; so also in 2 Hen. VI. where it is said, "*Une apprentise vien en le commen banke,*" which is somewhat observable, because now none but serjeants at law do come to that bar; unless the expression was then synonymous with serjeant, which some circumstances render probable: for Walter Askham, who was made a serjeant at law, 12 Hen. IV. had the title of apprentice attributed to him, 4 Hen. V. upon the demise of Serjeants' Inn in Chancery Lane at that time: the words are these, "*An. 1416, pro Faryndon's Inn in Chancelars Lane, dimissio Rogero Horton et Will. Cheney justiciariis, &c. Waltero Askham, aprentisio legis, ad vi. xiiis. iiiid.*"

But if the word *aprentise* had that acceptation then, it had not some time before: for in an. 1363, 37 Edw. III. it is said by one of our historians, "About this time was an ordinance and statute made, that the serjeants and prentyses at law should plead their pleas in their mother tongue," &c.

much ; for there were then belonging to the lawyers' university, he tells us, *four inns of court* (the same now in being), each containing two hundred persons ; and *ten inns of chancery*, and in each of them one hundred persons." This was two more than at present, there being now but eight, and of those only one of the same which were then, viz. Clifford's Inn.

There is a tradition, says Dugdale, that in times past there was one inn of court at Dowgate called Johnson's Inn ; another in Fewter Lane, and another in Pater-noster Row ; which last is endeavoured to be proved, because it was next to St. Paul's church, where each lawyer and serjeant at his pillar heard his client's cause, and took notes thereof upon his knee, as they do in Guildhall to this day : and that after the serjeants feast ended, they do still go to Paul's in their habits, and there choose their pillar whereat to hear their client's cause (if any come), in memory of that old custom. But if we may rely upon the testimony of sir John Fortescue, this tradition will prove but a mere conceit ; for he tells us, that the inns of court and chancery were then (as they are now) placed out of the city and noise thereof in the suburbs of London : "*Situatur etiam studium illud locum curiarum illarum et civitatem Londini,*" &c.. But the number of these inns, as well as their ancient state and ceremonies, is more circumstantially detailed by Stowe ; with whose observations, as generally applicable, we shall close the chapter.

" There is in and about this citie a whole university as it were of students, practisers or pleaders, and

judges of the lawes of this realme, not living of common stipends as in other universities it is for the most part done, but of their owne private maintenance, as being altogether fed either by their places or practice, or otherwise by their proper revenues, or exhibition of parents and friends; for that the younger sort are either gentlemen, or sons of gentlemen, or of other most wealthy persons. Of these houses there be at this day fourteen in all, whereof nine doe stand within the liberties of this citie, and five in the suburbs thereof.

“ There was sometime an inne of sarjeants in Oldborne, as ye may read of Scroop’s Inne, over against Saint Andrew’s church.

“ There was also one other inne of chancery, called Chester’s Inne, for the neereness to the bishop of Chester’s house, but more commonly termed Strand Inne, for that it stood in Strand Street, and neere unto Strand Bridge without Temple Barre, in the liberty of the dutchie of Lancaster. This inne of chancery, with other houses neere adjoyning, were pulled downe in the reign of Edward the Sixt, by Edward duke of Sommerset, who, in place thereof, raised that large and beautifull house, but yet unfinished, called Sommerset-house.

“ There was moreover, in the reign of king Henrie the Sixt, a tenth house of chancery, mentioned by justice Fortescue in his booke of the lawes of England; but where it stood, or when it was abandoned, I cannot finde, and therefore I shall leave and returne to the rest.

“ The houses of court be replenished, partly with young students, and partly with graduates and practisers of the law ; but the innes of chancery, being (as it were) provinces severally subjected to the innes of court, be chiefly filled with officers, attorneys, solliciters, and clarkes, that follow the courts of the king's bench and common pleas : and yet there want not some other, beeing young students, and that came thither sometimes from one of the universities, and sometimes immediately from grammar schools ; and these having spent some time in studying upon the first elements and grounds of the law, and having performed the exercises of their own houses (called *baltas*, *mootes*, and putting of cases), they proceed to be admitted, and become students in some of these foure houses or innes of court, where continuing by the space of seven years, or thereabouts, they frequent readings, meetings, boltings, and other learned exercises, whereby growing ripe in the knowledge of the lawes, and approved withall to be of honest conversation, they are either by the general consent of the benchers or readers (being of the most ancient, grave, and judiciall men of every inne of the court, or by the speciall privilege of the present reader there), selected and called to the degree of utter barresters, and so enabled to be common councellors, and to practice the law both in their chambers and at the barres.

“ Of these, after they be called to a further step of preferment, called the bench, there are twaine (every year) chosen among the benchers of every inne of

court to be readers there, who do make their readings at two times in the year also ; that is, one in Lent, and the other at the beginning of August.

“ And for the help of young students in every of the innes of chancery, they do likewise chuse out of every inne of court a reader, being no bencher, but an utter barrester there of ten or twelve yeers continuence, and of good profite in studie. Now from these of the same degree of counsellors or utter barristers having continued therein the space of fourteen or fifteen yeeres at the least, the chiefest and best learned are (by the benchers) elected to increase the number, as I sayd, of the bench amongst them, and so in their time doe become first single, and then double readers to the students of those houses of court. After which last reading they bee named apprentices at the lawe, and in default of a sufficient number of serjeants at law, these are at the pleasure of the prince to be advanced to the places of serjeants : but of which number of sergeants, also the void place of judges are likewise ordinarily filled, albeit (now and then) some bee advanced by the special favour of the prince to the estate, dignitie, and place both of serjeant and judge, as it were in one instant. But from thenceforth they hold not any roome in those innes of court, by being translated to one of the sayd two innes, called Serjeants' Inn, where none but the sergeants and judges doe converse.

“ These societies are no corporation, nor have any judicial power over the members, but have certain orders among themselves, which by consent have the

force of laws. For slight offences they are only *ex-commund*; that is, put out of commons, which is not to eat with the rest in their halls: and for greater, they lose their chambers, and are expelled the house; and being once expelled, they are not to be admitted by any of the other three societies.

“ The members when they meet at chapel and at their hall, or go to any of the courts of judicature, wear a grave black robe or gown and a cap, but at other times the habit of the gentry.

“ These societies have no lands or revenues, except their house; nor have they any thing to defray the charges of the house but what is paid at admittances, and quit-rents for their chambers when any fall to the house.

“ The gentlemen in these societies may be divided into four ranks: I. Benchers; II. Utter Barristers; III. Inner Barristers; IV. Students.

“ Benchers are the seniors to whom the government of the house, and ordering of matters thereof, is committed: and out of these a treasurer is yearly chosen, who receiveth, disburseth, and accounteth for all monies belonging to the house.

“ Utter barresters are such as from their learning and standing are called by the benchers to implead and argue in the society doubtful cases and questions, which are called *moots*; and whilst they argue the said cases they sit uttermost on the forms of the benchers, which they call the *bar*. Out of these mootmen are chosen readers for the inns of *chancery*, which belong to the inns of court, of which they are

members ; where, in term-time and grand vacations, they argue cases in the presence of attorneys and clerks.

“ And the rest of the society are accounted inner barristers, who, for want of learning or time, are not to argue in these moots ; yet, in a moot before the benchers, two of these sitting upon the same form with the utter barristers, do for their exercises recite by heart the pleadings of the same moot-case in law *French* ; which pleading is the declaration of the said moot-case at large ; the one taking the part of the plaintiff, and the other of the defendant. For the times of these mootings, they divide the year into three parts, *viz.* 1. The learning vacation ; 2. the term-times ; and, 3. the dead or mean vacation.

“ They have two learning vacations, *viz.* *Lent* vacation, which begins the first *Monday* in *Lent*, and continues three weeks and three days ; and summer vacation, which begins the *Monday* after *Lammas* day, and continues also three weeks and three days : and in these vacations are the greatest conferences and exercises of study.

“ *The Manner of the Readings.*]—The benchers appoint the utter barristers to read among them openly in the hall ; of which he has notice half a year before. The first day he makes choice of some act or statute, whereupon he grounds his whole reading for that vacation. He reciteth certain doubts and questions which he hath devised upon the said statute, and declares his judgment thereon : after which one of the utter barristers repeateth one question propounded.

A A

by the reader who did put the case, and endeavours to confute the objections laid against him; the senior barristers and reader one after another do declare their opinions and judgments in the same; and then the reader who did put the case endeavours to confute the objections laid against him, and to confirm his own opinion: after which the judges and serjeants, if any be there, declare their opinions. Then the youngest utter barrister again rehearseth another case, which is prosecuted as the former was. And this exercise continueth daily three or four hours.

“ The manner of reading, both in *Lent* and summer vacations, is performed after the same manner: and usually out of these readers the serjeants are chosen.

“ *The Manner of Mooting in the Inns of Court.*]— In these vacations, after supper in the hall, the reader, with one or two of the benchers, comes in, to whom one of the utter barristers propounds some doubtful case; which being argued by the benchers, and lastly by him that moved the case, the benchers sit down on the bench at the upper end of the hall; and upon the form in the middle of the hall sit two utter barristers; and on both sides of them, on the same form, sits one inner barrister, who in law *French* doth declare to the benchers some kind of action; the one being, as it were, retained for the plaintiff, and the other for the defendant: which ended, the two utter barristers argue such questions as are disputable within the said case. After which the

benchers do likewise declare their opinions as how they take the law to be in these questions.

“ *The Manner of Mooting in the Inns of Chancery.*]

—In the learning vacations each utter barrister, that is a reader in the inns of *chancery*, goes with two students of the same inn of court to the inn of *chancery*, where he is appointed to read ; and there meet him commonly two of each of the inns of court, who sitting as the benchers do in the inns of court at their moots, they argue and hear the case.

“ In the term-time the only exercises of learning are arguing and debating cases after dinner, and mooting after supper, in the same manner as in the vacations.

“ The time between the learning vacations and terms is called the mean vacation ; during which time, every day after dinner, cases are argued as at other times ; and after supper moots are brought in, and pleaded by the inner barristers, in the presence of the utter barristers, which sit there in the room of the benchers, and argued by them as the benchers do in term-time and learning vacations.

“ *Note*, That in the four inns of court before mentioned, there are reckoned to be about 300 students, besides the utter barristers and inner barristers.

“ During the time of reading, which heretofore continued three weeks and three days, the reader keeps a constant and splendid table ; feasting the nobility, judges, bishops, principal officers of state, the chief gentry, and sometimes the king himself ; inso-
much that it hath cost a reader above 1000*l*.

“ Afterwards, he that hath been reader wears a long robe, differing from other barristers, and is then in a capacity to be made a serjeant at law.

“ Now all these inns of *court* and *chancery* are not far distant from one another, and do make the most famous profession of the law that is in the world : there being so many eminent persons of such sound judgment in the knowledge of the law, and a considerable number of them the sons of gentlemen and persons of quality.”

These mootings or disputations in the inns of court and chancery have been long since disused. Danby Pickering, esq. of Gray's Inn, was the last who voluntarily resumed them ; but they were of no continuance, and, at the present day, so much has the course of legal education changed, that scarcely any of the ancient customs mentioned by Stowe and the preceding authors, are known, except as matters of curiosity, in which light they will be treated of in the following pages. It may be worth a question, however, before we close this chapter (though the grand Christmassings and other romantic festivals might be dispensed with), whether the total rejection of every restraint in professed seminaries of instruction is an improvement or a disadvantage ? There are certainly many objections to the mode of education now in use for attaining the knowledge of a science so difficult and complicate as the law, the abstruser parts of which are rarely to be acquired in an attorney's office, in copying precedents and at-

tending the common routine of business'. The subject is of importance, and merits consideration.

* Some of the following hints, on legal education, which appeared in a letter addressed to the editor of the Gentleman's Magazine, strike us as judicious and pertinent.

"The first point I shall take into consideration is the utility of attending a special pleader's office, and with what previous preparation such an attendance might be with advantage to the pupil. He must be a person of extraordinary industry and application who can derive much information in such an office, with the total legal ignorance with which nine out of ten of those that enter one are generally possessed. And it is a matter of astonishment how so many have made it a step to profit and honours, when we consider the situation of a young man who is placed there. A raw youth, from school or college, is sent to a special pleader's for three or four years, where, for a premium of one hundred guineas *per annum*, he is allowed a seat at a desk, with the privilege of copying special pleadings, or leaving them alone: the latter he is naturally enough inclined to do; and when we add to this propensity the dryness of the employment, a want of all previous knowledge of the subject, and of a person to instruct him in the nature and grounds of this extremely difficult science (for a special pleader of eminence, and consequently in great business, cannot be supposed to have sufficient leisure to direct the studies and pursuits of his pupils), and a total want of all control or authority, can we be surprised at seeing the box lobby, the opera, Bond Street, and every place of public entertainment continually haunted with law students, there wasting in idle, if not pernicious pleasures, those precious hours, which devoted to study and the pursuits of their profession, intermixed with instruction and wholesome recreation, might gain them the well-earned approbation of their own consciences, and the esteem and confidence of their fellow-citizens? Should there happen to be several pupils in the same office, as is frequently the case, even the labour of copying (uninstructive and barren as it is) is at a stand, and the comparative merits of a Parisot and a Hilligsberg, a Banti and a Mara, Covent Garden and Drury Lane, and the *dashing* operations of the approaching Sunday, supersede all employment, as well as every topic of rational conversation.

CHAP. II.

THE INNER TEMPLE.

THE Temple is well known to have taken its name from that gallant religious military order, the knights templars, who came into England in the reign of

"The course of study, therefore, that strikes me as the most eligible to attain the qualifications necessary for the profession of a barrister, and the most likely to render the path of legal knowledge less thorny and laborious; nay, even strew some flowers in that barren and inauspicious road; but which I with diffidence submit to the consideration of wiser men than myself in the science of education; and which, as in almost direct opposition to the *dictum* of the immortal Blackstone (whom no student but must revere, and who is above all gratitude, as he is above all praise), cannot but be advanced with all that hesitation and embarrassment which a scholar must feel in combatting his master's favourite proposition: this course then would be, after having given my pupil the usual education that a good grammar-school affords, and made him complete master of the French and Latin languages, in the intervals of which study, and as an assistance to it, an arrangement of such law maxims * as have any pretence to purity of diction, and other books of that nature, might be put into his hands, to bring him acquainted with some of the leading features of the law, and enable him to read with greater pleasure and improvement Blackstone's Commentaries, which is one of the very first books that should be put into his hands. Having thus given him some insight into the nature of the law, I must confess I do not think any step more proper to be taken, either with a view of increasing his stock of knowledge, or as calculated to give him a proper idea, accompanied with habits of business, than to place him at sixteen years of age in the office of an attorney of general

* For instance, a very useful little book of the kind, called *Principia Legis et Equitatis*, by Thomas Branch, esq. 12mo. 1753.



THE TEMPLE CHURCH.
(from the cloisters.)

Engraved by W. B. Wood, from a drawing by J. G. Smith, Esq. London: J. G. Smith, Esq. 1810.

Stephen. Their first house was in Holborn, near the site of the present Southampton Street, and was called the *Old Temple*; but in the succeeding reign they begun the foundation of a nobler structure, opposite the end of Chancery Lane, then called New

practice for three years, not to copy the trash that abounds there (among which may be reckoned a great deal of special pleading), but to see the mode in which business is carried on, the different offices through which a cause passes, and to trace it practically from the writ to the verdict. He may there likewise, at his leisure hours, take precedents and notes in the particular line for which he is intended, and read the best elementary and theoretical treatises of the law, such as Woodson's *Vinerean Lectures*, Fonblanque's *Treatise of Equity*, and Reeves's *History of the English Laws* (which last, dry and repulsive as it certainly is, may be considered as an indispensable preparative to the well understanding of Coke), till he finds himself competent to the perusal of the *Commentary on Littleton*, and the other works of that great ornament of English jurisprudence, lord chief justice Coke. These latter I would not have him hastily attempt; for should he then find himself unequal to the task, he might relinquish it with disgust, that might deter him from the attempt another time, when he would find himself better able to understand them. He should therefore wait with patience till he finds himself capable of bestowing all that attention on them which they fully require. In fine, when he should have acquired habits of steadiness and application, which would render him superior to the dissipations and frivolities of that sink of iniquity the metropolis, which draws so many young men, formed for a higher sphere of action, into its destructive vortex, to the complete disappointment of their friends, and to their own ultimate regret and vexation; and not till then would I place him with a special pleader, for three years more, to copy precedents and draw pleadings, the reason and grounds of which he would now understand, to read all the modern and a few ancient reporters, and such other books as his own judgment will now point out to him; and if at the end he does not find himself equal to the duties of a counsellor, he must, by persevering industry and assiduity, gain what has been denied him by nature, either in quickness of perception or retention of memory."

Street, which, to distinguish it from the former, was called the *New Temple*. This occupied all that space of ground from the monastery of the Carmelites, or White Friars, in Fleet Street, westward to Essex House, without Temple Bar, where Essex Street now stands, and some part of that too, as appears by the first grant of it to sir William Paget, by Henry VIII ².

The knights templars were originally *crusaders*, who happening to be quartered in places adjacent to the Holy Temple at Jerusalem, in 1118, consecrated themselves to the service of religion by deeds of arms; Hugh Paganus, or Pain, Geoffery de St. Audomare, or St. Omer's, and seven others, begun the order, by binding themselves to live in chastity and obedience after the manner of the regular canons of St. Augustine, "and to renounce their own proper wills for ever." Their first profession was to protect such pilgrims as should come to visit the *sepulchre* from all wrong and violence on the road.

At first they had no settled habitation, subsisted on alms, and had only *one* horse between *two* of them; which latter circumstance they commemorated on their *seal*, till at length Baldwin king of Jerusalem granted them a residence near his palace. This gift the canons of the Holy Temple augmented, by assigning them a street to build their offices on; and the patriarch, king, and nobles, gave them certain revenues out of their lordships. Ten years afterwards they had a rule appointed them, by pope Honorius II.

² Pat. 2 Ed. 6.

and wore a white habit, to which, as their numbers increased, was added by Eugenius, as a distinction, a cross of red cloth on the left shoulder ; and on account of the vicinity of their original mansion to the Temple at Jerusalem, they were called knights of the Temple.

These knights, by their devotion and the fame of their gallant actions, soon became popular in all parts of Europe ; noblemen of the first rank joined the order ; they built numerous monasteries or temples, and were so enriched by the favour of princes and other great men, that at the time of their dissolution they were found to be possessed of sixteen thousand manors, besides other property. They entertained, in the most magnificent manner, the nobility, foreign ambassadors, and frequently the prince himself ; and at last became so infected with pride and luxury, as to excite a general hatred. Matthew Paris severely satirizes them on this account, as well as for their inordinate accumulation of wealth and honours ; who being so poor at first, says he, that they had but one horse to serve two of them, in token of which, they gave in their seal two men riding on one horse, yet suddenly are grown so insolent as to despise other orders, and rank themselves with noblemen.

Their riches, which was their chief crime, occasioned their ruin. A persecution, founded on most unjust and fictitious accusations, was formed against them in France by Philip *le Bel*, which example was soon followed in other countries. In 1310, a

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provincial council was held against them, at their house in London, upon articles of heresy and other crimes, most of which they denied; but confessing they could not purge themselves fully, as *faultless*, they were condemned to perpetual penance in several monasteries, and their possessions seized to the crown. In France their treatment was still more cruel: no less than fifty-four, or, according to Fabian, sixty, were burnt alive, by order of Philip. Numbers of these innocent and heroic knights suffered in the flames with the piety and constancy of martyrs: some of them at the stake summoned their chief enemies, Clement V. and Philip, to appear in a certain time at the divine tribunal; both of those princes died about the time prescribed, which, in an age of superstition, proved their validity. But to return.

The templars seated themselves at the New Temple, before mentioned, as is evident from the dedication of their church, in the year 1185; where they continued till the suppression of their order, in 1310. Between these two periods it was again dedicated, viz. in 1240, probably on account of the greater part being re-edified. On the dissolution, the estates, together with the house in London, devolving upon the crown, Edward II. in 1313, bestowed the latter on Thomas earl of Lancaster. After that nobleman's attainder, a grant was made to Adomar, or Aimer de Valence earl of Pembroke, by the same monarch, of "the whole place and houses called the New Temple, at London, with the ground called Fiquet's Croft,

and all the tenements and rents with the appurtenances that belong to the templars in the city of London and suburbs thereof, with the land called Flete Croft, part of the possessions of the said New Temple."

From Aimer de Valence this structure came into the possession of Hugh le Despencer the younger ; and on his execution, in the first year of Edward III. the right once more reverted to the crown. Here it would probably have continued ; but by a decree, which bestowed generally the lands of the templars upon the hospitals of St. John of Jerusalem, the above monarch granted this mansion to the knights of that order in England. These possessed it in the 18th year of his reign, when they were forced to repair the Temple bridge ; but they soon after demised it for the rent of ten pounds per annum, to certain students of the common law, who are supposed to have removed from Thaive's Inn, in Holborn.

Before we finish the history of the Temple, as a monastic institution, it may be necessary to remark, that such was its rank and importance, that not only parliaments and general councils frequently assembled there, but it was a sort of general depositary or treasury for the greatest persons in the nation, as well as the place where many of the crown jewels were kept. Matthew Paris informs us, that, in the year 1232, Hubert de Burgh earl of Kent, being prisoner in the Tower of London, the king (Henry III.) was informed that he had considerable wealth laid up in the New Temple, under the custody

of the templars, which being desirous to appropriate to his own use, he sent for the master of the Temple, and questioned him respecting it, who confessed that money had been delivered into the custody of himself and brethren, but he was unacquainted with the extent of the sum, and could by no means deliver it into the king's hands, without the especial license of him who committed it to ecclesiastical protection. On this the king's treasurer and justiciar of the exchequer was sent to require a resignation from Hubert, who complying with the unjust demand, the keys were presented by the knights; and Henry, after commanding an exact inventory to be taken of the treasure, seized on the whole, consisting, besides ready money, of vessels of gold and silver, and many precious stones of considerable value.

In 1245, pope Innocent's nuncio resided in the New Temple, where was commanded to be brought him the sum of six thousand marks, to be raised from the English bishoprics, but which king Henry forbade.

In 1283, Edward I. taking with him Robert Waleran and others, came to the Temple, where calling for the keeper of the treasure-house, as if he intended to see his mother's jewels, which were there kept, he gained admittance to the house, broke open the coffers of different persons who had placed their money there for safety, and illegally took away one thousand pounds.

In the rebellion of Wat Tyler the Temple suffered much, the property of the students being plundered,

and almost every book and record destroyed and burnt³. This makes much of the history of the Temple, after it became appropriated to the study of the law, rest on tradition: the general truth of the foregoing statement, however, as far as it respects that period, may be ascertained from various circumstances; particularly from a passage in the Prologue of the old poet, Chaucer, who was himself a student in this house.

A manciple there was of the Temple,
Of which all catours might taken ensample,
For to been wise in buying of witaile;
For whether he payd or tooke by taile,
Algate he wayted so in his ashate,
That he was aye before in good estate.
Now is not that of God a full faire grace,
That such a leude man's wil shall pace
The wisdom of an heape of learned men,
Of masters had he more than thrice ten,
That were of law expert and curious,
Of which there was a dosen *in that house*

³ The rebels went to the Temple, says an ancient manuscript, "et jetteront les measons a le terre et avegheront tighles issint que ils fairont couverture en mal array et alleront en l'esglise, et pristeront tous les liveres et rolls de remembrances que furent ou lour huches deins le Temple de apprentices de la ley, et porteront en le haut chimene et les arderont." Thomas of Walsingham, speaking of the mischief these miscreants did in plundering and burning of the Savoy, then the noble palace of John of Gaunt duke of Lancaster, says, *quibus perpetratis satis malitiose etiam locum qui vocatur Temple Barr, in quo apprenticii juris morabantur nobiliores, diruerunt ob iram quam conceperant contra Robertum de Hales, magistrum hospitalis Sancti Johannis (de quo præfati sumus), ubi plura munimenta que juridici in custodiâ habuerunt igne consumpta sunt.*

Worthy to been stewards of rent and land
Of any lord that is in England,
To maken him live by his proper good,
In honour debtless ; but if he were wood,
Or live as scarcely as him list desire,
And able to helpen all a shire ;
In any case that might fatten or hap,
And yet the manciple sett all her capp.

Soon after the damage committed by Wat Tyler, but at what particular period is not known, the students in this seminary so far increased in number as to occasion their division into two separate bodies, called the society of the *Inner Temple*, and the society of the *Middle Temple*, who had two halls, &c. ; but continued to hold their houses as tenants to the knights hospitalers, till the general suppression, in the reign of Henry VIII. and, after this event, for some time, of the crown, by lease.

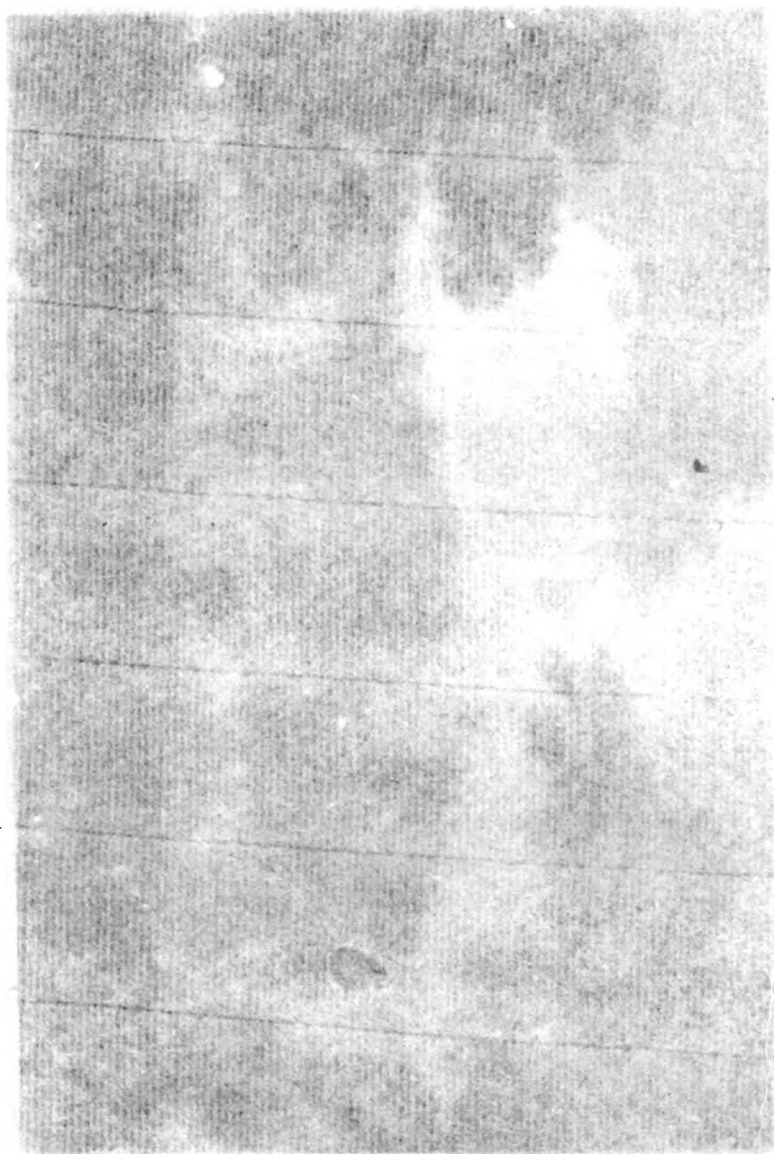
In the 6th year of the reign of James I. the whole of the buildings of the two Temples were granted by letters patent, bearing date at Westminster, 13th August, by the name of *Hospicia et capitalia messuagia cognita per nomen de le Inner Temple et le Middle Temple sive Novi Temple*, London, to sir Julius Cæsar, knight, then chancellor and under-treasurer of the exchequer, sir Henry Montague, knight, recorder of London, William Towse and Richard Daston, esqrs. treasurers of the said inns of court, and sir John Boyse, knight, Andrew Grey, Thomas Farmer, Ralph Radcliff, and others, esqrs. then benchers of these houses ; to have and to hold the said mansions, with the gar-

dens, &c. and appurtenances, unto the said sir Julius Cæsar, sir Henry Montague, and the rest above mentioned, their heirs and assigns, for ever, for lodgings, reception and education of the professors and students of the laws of this realm; yielding and paying to the said king, his heirs and successors, at the receipt of his exchequer, viz. for the mansion called the Inner Temple the sum of ten pounds yearly, and for the Middle Temple ten pounds yearly also, at the feast of St. Michael the archangel, and the Annunciation of our Lady, by equal portions, &c.

Buildings.]—Of the ancient buildings, the only part at present remaining is the church. This was founded by the templars in the reign of Henry II. upon the model of that of the holy sepulchre at Jerusalem (the general plan of all their churches), and was consecrated in 1185, by Heraclius patriarch of Jerusalem. The latter circumstance was formerly commemorated by an inscription over the little door next the cloister, which was removed on the church being repaired some years since; but is accurately copied in Strype's edition of Stowe's Survey of London. It is in old Saxon capitals, engraved within a half circle, and not only denotes the year when the church was dedicated, &c. as above, but to whom, viz. the blessed Virgin, and finishes with the indulgence of sixty days pardon to such, who, according to the penance enjoined them, resorted there annually. The old hall, which was a later structure, and supposed by Dugdale, from the form of the

windows, to be about the age of Edward III. was pulled down to make room for the present substantial fabric. This, though a fine room, is comparatively small: it is ornamented with emblematical paintings by sir James Thornhill, and full length portraits of the celebrated Littleton, who died in 1481, and his commentator Coke, a distinguished lawyer and judge in the reigns of James I. and Charles I. Besides these, there are portraits of other particular judges deserving of remembrance.

Besides the hall and church, the Inner Temple contains a good library, open to students and others on application to the librarian from ten in the morning till one; and in the afternoon, from two till six. The other buildings consist of several extensive courts or squares, some of larger, some of lesser dimensions, and all surrounded by houses or chambers well inhabited. A beautiful garden on the Thames side, chiefly covered with greensward, and having a spacious gravel walk or terrace on the water's edge, fronts the hall. This is laid out with great taste, and kept in perfect order, and in summer-time forms a crowded promenade; from whence the view up and down the water is extremely rich. Blackfriars bridge, part of Westminster bridge, and the elegant back front of Somerset house, with the winding Thames, the opposite busy shore, and the beautiful swell of the distant Surry hills; all together form an assemblage of objects unrivalled in variety and magnificence. Before the hall itself is a broad paved terrace, excellently adapted for the purposes of walking



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and conversation when the gardens are not sufficiently dry.

Though the greater part of the buildings in the Temple, both Inner and Middle, that is to say, the chambers, are handsome and convenient, and excellently adapted to the purposes for which they are destined; yet being of brick, and chiefly of modern date, they have nothing in their appearance to interest but their neatness and uniformity. Each house, consisting of several sets of chambers, is ascended by a common staircase in the manner of the houses at Paris and Edinburgh; and each set of chambers usually occupies a floor, the rents of which differ in proportion to their situation, size, elegance, &c.

The various divisions of the buildings in the Temple for the most part retain the names of their founders, though others are denominated from their vicinity to the principal offices, and other circumstances; as the *King's Bench Walk*, from being situated near the King's Bench Office, *Churchyard Court*, from adjoining the churchyard, &c. The particulars of these, with several other erections now destroyed, as recorded in the registers of the house, are given in the *Origines Juridiciales*, and are as follows:

“The wall betwixt the Thames and the garden was begun in 16 Hen. VIII. Mr. John Pakington (afterwards serjeant at law) and Mr. Rice being appointed overseers of the work. This Mr. Pakington was treasurer here, in 20 Hen. VIII. and caused the hall to be tiled. He also built divers chambers between

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the library and Barington's Rents, and gave 10*l.* to the treasury ; for which respect it was ordered by the society, 5th of Febr. 25 Hen. VIII. that those new chambers should be thenceforth called Pakington's Rents. The lodgings in that court, now known by the name of Tanfeild Court (by reason of sir Laurence Tanfeild, chief baron's residence there), were first erected by Henry Bradshaw treasurer in 26 H. VIII. ; whence they were long after called Bradshaw's Rents.

" In 1 Mariæ the kitchen was new-built, every knight and double reader being taxed at 10*s.* towards the charge thereof ; every single reader and bencher at 6*s.* 8*d.* ; and every utter barrister, and other of this society, at 3*s.* 4*d.*

" In 2 Eliz. were those buildings raised near the alienation office, and called Fuller's Rents, by an order of the society 22 Nov. 5 Eliz. by reason that John Fuller was then treasurer.

" In 16 Eliz. the great carved skreen in the hall was made, Thomas Bromley, then solicitor to the queen, being treasurer ; and in 18 Eliz. those buildings paled about, that stood near to the alienation office (commonly called the Black Buildings), were erected by Mr. Bonham, Mr. Bouchier, and Mr. Williams : which buildings were pulled down for enlargement of the walks in an. 1663.

" In 19 Eliz. the alienation office was built by the appointment of Robert Dudley, then earl of Leicester.

" In 23 Eliz. those lodgings in the Middle Temple Lane, called Crompton's Buildings (in part where-

of the prothonotaries office of the common pleas is kept), were erected by Thomas Crompton, esq. a member of this society.

“ In 31 Eliz. two sides of the garden were enclosed with a brick wall, and the posts whereon the twelve celestial signs are placed then set up, Robert Golding being at that time treasurer.

“ In 38 Eliz. there were divers lodgings of rough-cast work built betwixt the church and the hall, on the east part of that court ; towards the charge thereof sir Julius Cæsar knight, then master of the rolls, gave 300*l.* ; in consideration whereof he had power to admit any gentleman into the society during his life: which buildings are still called Cæsar’s Buildings.

“ In 6 Jacobi those lodgings called the Paper Buildings, eastwards from the garden, containing eighty-eight feet in length and twenty feet in breadth (being four stories high), were begun by Mr. Edward Hayward and some others.

“ In 8 Jac. John Benet, esq. then one of his majesty’s serjeants at arms, built the gate called the Inner Temple Gate.

“ In 15 Jac. or shortly after, the brick-buildings in the Inner Temple Lane, where the butler’s chambers are, together with those near Ram Alley ; as also the great brick-buildings wherein the king’s bench office is kept, and another brick-building in Fig-tree Court, were erected, sir Thomas Coventre knight, then the king’s solicitor-general, being treasurer.

“ In 18 Jac. the bridge and stairs to the Thames were made.

“ In 4 Caroli I. the great brick-buildings over-against the garden, as also a new kitchen, together with the staircase to that door of the hall towards the garden, were erected; the whole charge amounting to 2700*l.* sir Richard Shilton knight, then the king's solicitor, being treasurer: and in the same year were more buildings in Fig-tree Court made.

“ In 5 Caroli I. the buildings betwixt the hall and the new buildings in Fig-tree Court were erected, the same sir Richard Shilton being still treasurer.

“ In 10 Car. I. the east end of the church was repaired, and the little brick-building at the end of the alienation office erected.

“ In an. 1657 the buildings of brick betwixt the Inner Temple Lane and Hare Court were set up; and in an. 1662, those in Parson's Court near the east end of the church.”

Orders, &c.]—The following orders and regulations for the better government of this society, and which contain an interesting picture of ancient manners, are copied from the same work:

“ In 3 & 4 Phil. & Mar. (23 Maii) there was an order made, that thenceforth no attorney or common solicitor should be admitted into this house without the assent and agreement of their parliament: and in 5 Eliz. (19 Nov.) it was also ordered, that none should thenceforth be admitted of this fellowship and company but he that should pay for his admittance, to the use of the house and company, 40*s.* except he were the son of one of the bench or utter bar; or except he were and had been by the space of

one whole year of the company of one of the inns of chancery belonging to this house.

“ In 42 Eliz. it was further ordered (scil. 8 Febr.) that none should be admitted of this society, except he were of good parentage, and not of ill behaviour.

“ In 36 Eliz. there was an order made (24 Junii) that no fellows of this house should admit any person to lodge in their chambers, except their known clerks and servants, upon pain of 40*s.* to the use of the house.

“ In 32 Hen. VIII. it was ordered, that if sixteen persons, fellows of the house, would after the term keep commons in the house, that then the officers of the house should give their attendance, and they to find the officers, and the house to allow them weekly towards their charges 6*s.* 8*d.* apiece ; this rule being made, as the said order expresseth, because no learning was then kept : and if there were under sixteen persons, the commons to break, and the servants to have allowance after 6*s.* 8*d.* apiece the week ; but if any of them should depart, his allowance to be deducted.

“ In 3 & 4 Phil. & M. there was an order made, that every man called to the bench should keep some learning vacations next after his calling to and coming to the bench, upon pain of forfeiture for every vacation 5*l.* And in 3 Eliz. (9 Febr.) that every single reader should be at three moots in every term, and in Michaelmas term at four moots ; and every benchman not a reader to be at five moots in

every term, and in Michaelmas term at six, upon pain of 5s. every moot.

“ Until the second year of queen Elizabeth’s reign, this society did use to drink in cups of *ashen-wood* (such as are still used in the king’s court) ; but then those were laid aside, and *green earthen pots* introduced, which have ever since continued.

“ In 6 Eliz. (2 Maii) there was an order made, that none should be called to the bar, or received as an utter barrister in this society, before he had been first called and examined by the whole bench, as by a former order made 5 Nov. 3 & 4 Ph. & M. was provided : and in 42 Eliz. it was also ordered, that special regard should be taken of such as shall be called to the bar and bench for their learning.

“ In 3 & 4 Ph. & M. (20 Junii) it was ordered, that all fellows of this house; being in commons, should from time to time come to the church to hear divine service, viz. mass, matins, evensongs, &c. as before that time had been used : as also that every fellow of this house, being in commons, or lying in the house, should from time to time observe and keep eighteen offering days in the year, according to the ancient laudable custom of this house. And in 42 Eliz. it was further ordered, that all the gentlemen fellows of this society should repair to the church, and hear divine service and sermons, at the usual days and times, unless hindered by sickness or some other reasonable cause ; and that they receive the communion therein once at the least in every year.

“ In 38 Hen. VIII. (30 Maii) there was an order made, that the gentlemen of this company should reform themselves in their cut or *disguised* apparel, and not to have *long beards*; and that the treasurer of this society should confer with the other treasurers of court for an uniform reformation, and to know the justices' opinion therein, and thereupon to perform the same. Whereupon in their parliament, held 5 Maii, 1 & 2 Ph. & M. there was a decree made, that no fellow of this house should wear his beard above three weeks growth, upon pain of 20s. forfeiture.

“ And for their better regulation in apparel, it was ordered in 36 Eliz. (16 Junii), that if any fellow in commons, or lying in the house, did wear either hat or cloak in the Temple church, hall, buttery, kitchen, or at the buttery-bar, dresser, or in the garden, he should forfeit for every such offence 6s. 8d. And in 42 Eliz. (8 Febr.), that they go not in cloaks, hats, boots, and spurs, into the city, but when they ride out of the town.

“ So also in 38 Eliz. (20 Dec.), that no fellow of this house should come into the hall with any weapons, except his dagger, or his knife, upon pain of forfeiting the sum of 5*l*.

“ In 3 Jac. (10 Maii) it was ordered, that if any then or thenceforth of this society, should be called to the bench, at that time being, or that thereafter should be a knight, that notwithstanding such his dignity of knighthood, he should take place at the bench table according to his ancienty in the house, and no otherwise.

“ In 8 Jac. (10 Junii) there was an order made, that Thomas Cæsar, then one of the benchers of this house, notwithstanding an act made 7 Junii, 5 Jac. viz. “ that none who should thenceforth be called to the bench that had not read should take place of any reader, or have voice in parliament ;” having not read, but fined for not reading, and then called to the puisne baron of the exchequer, should have his place at the bench table, the said order notwithstanding. Also at the parliament held upon the 6th of November next following there was an order made, that John Sotherton, one of the barons of the exchequer, being called to the bench, should have his place at the bench table above all the readers, in such sort as sir Thomas Cæsar knight, late puisne baron of the exchequer, had.

“ And in the same year it was likewise ordered (10 Maii), that the said Thomas Cæsar, then being the puisne baron of the exchequer, commonly called the baron cursitor, should not be attended to Westminster by any but the officers of the exchequer, forasmuch as none but such as are of the coif ought to be attended by the fellows of the house.

“ In 13 Hen. VIII. in their parliament held 17 Julii, it was ordered, that none of the society should, within this house, exercise the play of *shoffe-grote* or *slyp-grote* upon pain of 6s. 8d.

“ And in Febr. 8 Jac. that for future prevention of disorder and scurrility, no more *plays* should be in this house upon the feast of All Saints, or Candle-

mas-day ; but this order was repealed the 4th of November following.

“ And for keeping good rule in Christmas time, these following orders were made 7th Nov. 7 Caroli primi :

“ 1. That Christmas commons should continue by the space of three weeks only, and no longer, according to the ancient usage and custom of this house.

“ 2. That every week there be three stewards chosen for that week, according to the old order of Christmas, and the innovation of treasurers to be abolished.

“ 3. That every one of those stewards be chosen of such of the gentlemen under the bar as have chambers in the house, who may be responsible for the monies they receive.

“ 4. That the gentlemen who shall be stewards shall pay the baker, brewer, chandler, and all other officers that shall serve the house with necessary provisions during the time of Christmas.

“ 5. That no stranger, nor any of this society that had not been in the ordinary commons of this house within two years then past, or stood put *extra, per mandatum*, or *ne recipiatur*, should be admitted to take any repast, or to be in commons in the time of Christmas, or to be present at any of the Christmas parliaments.

“ 6. That there be no allowance of wine, but only one pottle to the steward's mess, according to the ancient usage of Christmas.

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“ 7. That there be no *drinking of healths*, nor any wine or *tobacco* uttered or sold within the house.

“ 8. That there shall not be any *knocking with boxes, or calling aloud for gamesters*.

“ 9. That no *play* be continued within the house upon any Saturday night, or upon Christmas eve at night, after *twelve of the clock*.

“ 10. That there be not any going abroad out of the circuit of this house, or without any of the gates, by any lord or other gentleman, to *break open* any house or chamber ; or to take any thing in the name of rent, or of distress.

“ 11. That for preventing of quarrels within the house, and that general scandal and obloquy which the house hath heretofore incurred in time of Christmas, there shall no gentleman of this house side with any person whatsoever that shall offer to disturb the peace and quiet of the house, but shall endeavour to punish them according to the old custom of the house, and that no strangers be suffered to come within the hall but such as shall appear and seem to be of good sort and fashion.”

In 1615, forty gentlemen of the four inns of court, of which ten were of the society of the Inner Temple, were appointed to be *barriers* at court in honour of prince Charles being created prince of Wales, which they performed accordingly, the charge being defrayed by a contribution of 30*s.* from each bench ; every barrister of seven years standing 15*s.* ; and all other gentlemen in commons 10*s.* each. A *mask*

was also performed at court by the gentlemen of the same society, and of Gray's Inn, at the marriage of the lady Elizabeth, daughter to James, to the elector Frederick : and at Christmas (9 Car. I.) a mask was presented to his majesty at the equal charges of the four inns of court ; towards which was contributed by every benchman 5*l.* ; utter barrister of seven years standing 50*s.* ; and every gentleman under the bar 40*s.* ; besides several officers larger sums.

On the 15th of November (3 Eliz.) the society taking into consideration that the fellowship of the Middle Temple (which had lost Strand Inn upon the building of Somerset house) having endeavoured to take *Lyon's Inn* from this house, to which it anciently belonged ; as also that the two chief justices, sir Robert Catlyn and sir James Dyer, had abetted that their attempt, and that through earnest intercession to the queen by the lord Robert Dudley, afterwards earl of Leicester, there was a stop made therein, ordered and enacted, "*that no person or persons of this society that then were, or thereafter might belong to the same, should be, retained of counsel against him the said Robert or his heirs, and that the arms of the said lord Robert should be set up in some convenient place of their hall as a continual monument of that his lordship's favour to them.*"

At the grand feast kept in the great hall of the Inner Temple, in the readership of sir Heneage Finch, solicitor-general (1661), the society was honoured with a visit from the king, who came in his barge from Whitehall, accompanied by the duke of York,

and attended by the lord chancellor, lord treasurer, lord privy seal; the dukes of Buckingham, Richmond, and Ormond; lord chamberlain of the household; the earls of Ossory, Bristol, Berkeley, Portland, Stafford, Anglesey, Essex, Bath, and Carlisle; the lords Wentworth, Cornbury, De la Ware, Gerard of Brandon, Berkeley of Stratton, and Cornwallis; the comptroller and vice-chamberlain of his majesty's household; sir William Morice, one of the principal secretaries of state; the earl of Middleton, lord commissioner of Scotland; the earl of Glencarne, lord chancellor of Scotland; the earls of Lauderdale and Newburgh, and other the commissioners of that kingdom; with the earl of Kildare and other commissioners of Ireland.

At the stairs where his majesty landed, stood to receive him the reader, and the lord chief justice of the common pleas, the latter in his scarlet robe and collar of SS.

On each side, as his majesty passed, stood the reader's servants in scarlet cloaks and white tabba doublets, there being a way made through the wall into the Temple garden; and above them on each side the benchers, barristers, and other gentlemen of the society, all in their gowns and formalities, "the loud music playing from the time of his landing till he entered the hall, where he was received with *twenty violins*, which continued as long as his majesty staid."

Dinner was brought up on this occasion by fifty select gentlemen of the society in their gowns, who

waited the whole time, no others appearing in the hall. The king and the duke of York sat under a canopy of state at a table set at the upper end of the hall, advanced three steps above the rest; the lord chancellor with the rest of the noblemen at a long table on the right side of the hall; and the reader with those of the society on the other side.

On the 3d of November following, to the farther honour of this society, his royal highness the duke of York, the duke of Buckingham, the earl of Dorset, and sir William Morice knight, one of his majesty's principal secretaries of state, were admitted members of the house; the duke of York being then called to the bar and bench.

And on the 4th of November, 14 Car. II. his highness Rupert prince palatine, Thomas earl of Cleveland, Joscelyn lord Percy, John lord Berkeley of Stratton, with Henry and Bernard Howard of Norfolk, were also admitted of this society.

All-hallown, Candlemas, and Ascension day, were anciently kept at this house with great splendour; All-hallown and Candlemas were the chief for cost, solemnity, dancing, revelling, and music, and were conducted by a *master of the revels*: the order was as follows:

First, the solemn revels, after dinner, and the play ended, were begun by the whole house, judges, serjeants at law, benchers, and the utter and inner bar, led by the master of the revels: after this ceremony one of the gentlemen of the utter bar was chosen to sing a *song* to the judges, serjeants, or masters of the

bench, which was usually performed ; or in default of it, was an amerciament. Then the judges and benchers took their places, and sat down at the upper end of the hall : which done, the utter barristers and inner barristers performed a second solemn revel before them. This ended, the utter barristers took their places and sat down ; and some of the gentlemen of the inner bar presented the house with *dancing*, which was called the *post revels*. These dances were continued till the judges or bench thought proper to rise and depart.

The person appointed steward, whose province it was to provide for these entertainments, was by his office an esquire, and as such was entitled to wear a *gold chain* about his neck of the value of one hundred marks.

Eminent Men educated at the Inner Temple'.]—Thomas Audley, lord chancellor to Henry VIII. served the office of reader to the Inner Temple in 1526, was chosen speaker of the parliament and serjeant at law in 1531, and in 1532 was raised to the chancellorship. He was first made a knight, and afterwards in the 30th of Henry VIII. created lord Audley of Walden. He had two daughters,—Mary, who died unmarried ; and Margaret, married to Thomas duke of Norfolk. The first religious house that was dissolved (the priory of the Holy Trinity at Aldgate) was bestowed on him, where he continued

* Ex Registro ejusdem Hospicii, vol. i.—N. B. This register commences 22 Hen. VII. anno 1506.—Entire lists of readers, treasurers, governors, &c. are to be found in the *Origines Juridicales*.

to live till his decease in 1543. He kept up the dignity of the chancellorship with great state. Stowe mentions his gentlemen riding before him on ordinary occasions, "in coats guarded with velvet and chains of gold; his yeomen after him in the same livery not guarded." He lies buried at the church of Saffron Walden, in Essex.

John Whydden, reader, double reader, and treasurer of this society, was created serjeant at law in 1546, king's serjeant in the 5th of Edward VI., and in the 1st of Mary was promoted to the common pleas. He is remarked as being the first judge who rode to court on horseback^{*}; before which time the judges rode on mules.

Nicholas *Hare*, who founded the court of the same name in the Temple, was both reader and treasurer of this house: the latter office he served three separate years, viz. in 1555, 1562, and 1584. He was master of the rolls 1 Mary I.

Edmund Anderson,

Reader, double reader, and treasurer, was serjeant in 1576; afterwards queen's serjeant, chief justice of the common pleas in 1581, and of the king's bench, 1 Jac. I. This eminent lawyer sat in judgment upon Mary queen of Scots in October 1586, and the next year presided at the trial of secretary Davidson in the star-chamber for signing the warrant for the execution of that princess. His decision in that nice point

^{*} Vide page 81.

was, "That he had done *justum non juste* ; he had done what was right in an unlawful manner, otherwise he thought him no bad man." This was excellent logic for finding an innocent man guilty. It was drawn from the same mood and figure with the queen's order and no order for Davidson's signing the warrant. The lord chief justice, who was otherwise no bad man himself, was obliged to find him guilty, upon pain of being deprived of his office.— See the particulars of the case in Robertson's "History of Scotland." Ob. 1605. His Reports were published in French in 1664 and 1665, fol.

Roger Manwood,

A reader at this inn, and afterwards chief baron of the exchequer.

In 1553 he founded a free-school at Rickborow, of which he was a native, and endowed it with 40*l.* of yearly revenue ; and in 1573 built seven alms-houses at Hackington, commonly called St. Stephen's, by Canterbury, where he had a fine large house, and in the church of which he lies handsomely entombed. These alms-houses, for aged honest poor folks, he endowed with a yearly allowance of 4*l.* in money, bread, and fuel, to every one of the alms-men.

Sir Julius Cæsar,

Treasurer of the Inner Temple in 1592, and master of the rolls 8 Jac. I. was descended by the female line from the duke Cesarini in Italy. He was judge of the high court of admiralty, and one of the masters

of the requests in the preceding reign. Upon the accession of James he was knighted, and constituted chancellor and under-treasurer of the exchequer, and in 1607 sworn of the privy council. He was not only one of the best civilians, but also one of the best men of his time. His parts and industry rendered him an ornament to his profession, and his great charity and benevolence an ornament to human nature. He died the 28th of April 1639, and is buried in the church of Great St. Helen's, near Bishopsgate Street, London. His monument, designed by himself, represents a scroll of parchment. The inscription in which he engages himself willingly to pay the debt of nature to his Creator, is in the form of a bond, appendant to which is his seal or coat of arms, with his name affixed. He left many things behind him in manuscript³.

Sir Edward Coke,

Reader and treasurer, was first recorder of London, and in 1593 attorney-general; he was afterwards chief justice of the common pleas; and in the 11th of James I. promoted to be chief justice of the king's bench. Sir Edward Coke is well known for his "Commentary on Littleton," and was, from his great knowledge and experience in the law, eminently qualified for the highest dignity of his profession; but these qualifications, great as they were, scarcely compensated for his insolence and excessive anger, which frequently vented themselves in scurrility and abuse

³ Biog. Hist. Engl.

when he was sitting on the bench⁴. He carried his adulation still higher than his insolence, when he called the duke of Buckingham "our Saviour" upon his return from Spain⁵. It is remarkable that there were only fifteen volumes of reports extant when his three first volumes were published⁶. There is as great a disproportion betwixt the latter and the twelve tables. Viner has abridged it into twenty-two folios; and sir William Blackstone, like an expert chymist, has drawn off the spirit, and left the *caput mortuum* for the benefit of the lawyers. He died at his house at Stoke in Buckinghamshire the 3d of September 1634, in the eighty-third year of his age⁷.

Sir Heneage Finch was another eminent man, educated at this seminary, who attained successively the dignities of recorder of London, solicitor-general and treasurer to Charles II. He was younger brother to Daniel earl of Nottingham. He was made solicitor-general the 13th of January 1678, but was removed

⁴ When he presided at the trial of sir Walter Raleigh, he called him "traitor, monster, viper, and spider of hell;" and he told Mrs. Turner, who was concerned in the murder of sir Thomas Overbury, that "she was guilty of the seven deadly sins; she was a whore, a bawd, a sorcerer, a witch, a papist, a felon, and a murderer."

⁵ Clarendon, vol. i. p. 6.

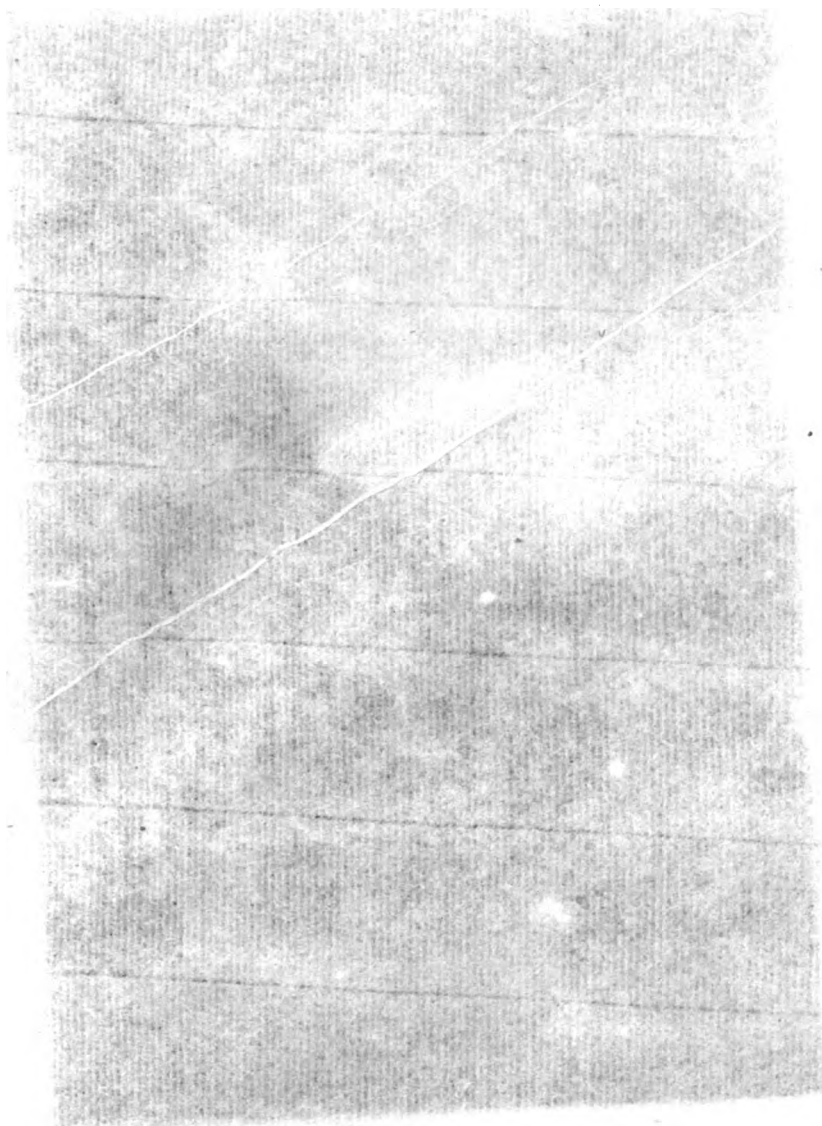
⁶ In Barrington's "Observations on the Statutes," 3d edit. p. 112, note; is this passage concerning him: "The late publication of the journals of the house of commons shews that he did not prostitute his amazing knowledge of the municipal law to political purposes, as he generally argues in the same manner," and from the same authorities which he cites in his "Institutes."

⁷ Birch's Lives. There is a mistake concerning his age in the "Biographia."



MIDDLE TEMPLE HALL.
(from the N.E.)

London, Published Map taken by Thomas A. Wood, Painter. J. Dene & Co. engr. Chancery Street, Fleet Street.



from that office by James II. in April 1686, and "one Powys was appointed in his stead, who was ready and willing to do what the other refused." He was in this reign member of parliament for Guildford in Surry. On the 26th of October 1714, soon after the accession of George I. he was created earl of Ailesford. Ob. 22 July 1719.

To this catalogue, did our limits permit, might be added many other great names, particularly of later times : but want of room forbids their insertion.

CHAP. III.

THE MIDDLE TEMPLE.

A Description of the Form and Manner, how and by what Orders and Customes the State of the Fellowship of the Middle Temple (one of the Houses of the Court) is maintained ; and what Ways they have to attaine unto Learning (temp. Reg. Hen. VIII.)

FIRST^s there is no lands nor revenues belonging to the house, whereby any learner or student mought be holpen and encouraged to study, by means of some yearly stipend or salary ; which is the occasion, that many a good witt, for lack of exhibition, is compelled to give over and forsake study, before he have any perfytt knowledge in the lawe, and to fall to practisyng, and become a *typler* in the law.

^s Vitellius C. 9. in bibl. Cotton. f. 340. a.

The Auctoryte of the Hed Officer in ther House.

Item, that there is in the said house, yearly chosen by the elders of the house, one of the sagest of them to bere the office and name of tresorer ; and his auctorite is to admit into the fellowship such as he thinketh mete : his auctorite is to assign to such as are of the fellowship there, their chambers and lodgings. His auctoryte is to gather of certen of the fellowship, a tribute yerely of iiis. iiiid. a peice, which among them hath the name of a pencion, and to receive of certain of the fellowship a rent of certaine chambers. His office is also to pay of the said money, the rent due to the lord of St. John's for the house that they dwell in ; and to pay also of the same money for reparations of their chambers and houses. His office is also to pay of the same money, the wages or salary of the servants of the house ; as the stuard, their butlers, cokes, and other officers ; and yerely to yield accompt of his receipt unto two auditors, which are apoynted unto them by the elders of the house.

The Diversity of Fellowships there, their Manner of Study, and Preferment therein.

Item, that there is in the same house of the fellowship there, two companyes ; the one called the clerks commens, the other called the masters commens.

Item, the clerks commens are such young men as are admitted to the fellowship of the house, who, during two of the first years, or thereabout after their

admission, shall dyne and sup together, and syt one more at a mess than the masters commens doth ; and untill they be called up to be of the masters commens, they shall not pay the pension money of *iiis. iiid.* a peice ; neither pay so much for their commens weekly as the masters commens doth by *vid.* a peice ; and they serve the masters commens of their meat every day at dynner and supper.

Item, that the masters commens are such as have byn in the house, by the space of two yeres or thereabouts ; and then are by the elders of the house, which they call benchers, called up to the masters commens, whereas they sit one less in a mess than the clerks commens do ; and pay *vid.* a week for their commens more than the clerks commens do ; and pay eche of them *iiis. iiid.* yerely to the treasurer for their pension.

Furthermore, the masters commens are ferder dyvyded into three companies ; that is to say, no utter baristers, utter baristers, and benchers.

Item, those that be no utter baristers are such as for lack of continuance in the house, or because they do not study or profit in lernyng, are not by the elders of the house called to dispute, argue and plead some doubtfull matter in the law, which among them is called *motyng*¹, before the benchers and elders.

Item, the utter baristers are they, which, after they have continued in the house by the space of five or six years, and have profited in the study of the law, are

¹ Derived from the French *mot*, a word.

called by the elders or benchers to plead, argue, and dispute some doubtful matter in the law, before certain of the same benchers, in the terme time, or in the two principall times in the yere, of their lernyngs, which they called *grand vacations*; and the same manner of argument or disputations is called *motyng*: and this making of utter-baristers, is as a preferment or degree, given him for his lernyng.

Also the benchers are those utter-baristers, which, after they have continued in the house by the space of fourteen or fifteen years, are by the elders of the house chosen to reade, expound, and declare some estatute openly unto all the company of the house, in one of the two principall times of their learning, which they call the *grand vacation* in summer: and during the time of his reading, he hath the name of a *reader*, and after of *bencher*.

Item, that they have two chief times of lernyng with them, which they call their *grand vacations*; the one doth begin the first Munday in cleane Lent, and doth continue three weekes and three days, in which time one of the elders or benchers, that hath before time read, and expounded some estatute, doth then read and expound some other statute again: the other doth begin the first Munday after Lammas day, and doth continue three weekes and three days, in which doth rede such as are first chosen to be benchers.

Item, by the old custome of the house, all such as are made fellows of the house, unles they be dispensed withall at their admittance, are compelled to be per-

sonally present at two the first *grand vacations* in Lent, after their coming ; at two the first *grand vacations* in summer, after their comyng, and two the first Christmasses, that be solemnly kept, after their comyng, upon peyne of forfeiture of xx*s.* for every default.

Item, all they that are fellows of the house, except at the time of their admittance they be dispensed withall, or for their lernyng be promotyd and made utter-baristers, are compelled to excercise all such roomes and offices, as they shall be called unto, at such time as they kepe a solempne Christmass, upon such peynes as are by old custome used to be assessed for the refusall of occupying of such offices.

Furthermore, in the same *graund vacations*, when that one of the elders doth rede and expound an estatute, such utter-baristers as are of long continuance, do stand in a place together, where as they rehearse some one opinion, or saying of him that readeth, and by all ways of lernyng and reason, that can be invented, do impugne his opinion : and sometimes some of them do impugne it, and some other do approve it, and all the rest of the house give eare unto their disputations ; and at last the reader doth confute all their sayings, and confirmeth his opynion.

Also in the same *grand vacations*, every day at night, except Sondag, Saturday, or some feste of ix. lessons, before three of the elders or benchers at the leste, is pleayd and declared in homely law-French, by such as are young lerners, some doubtfull matter, or question in the law ; which afterwards an utter-baris-

ter doth rehearse, and doth argue and reason to it in the law-Frenche: and after him an other utter-barrister doth reason in the contrary part, in law-Frenche also; and then do the three benchiers declare their myndes in English; and this is that they call *motyng*; and the same manner is observed in the terme time.

Furthermore, besides this; after dymmer and supper the students and lerners in the house, sit together by three and three in a company; and one of the three putteth forth some doubtfull question in the law, to the other two of his company; and they reason and argue unto it in Englishe; and at last, he that putteth forth the question, declaryth his minde, also shewing unto them the judgment or better opinion of his boke, where he had the same question: and this do the students observe every day through the yere, except festivall days.

Also after the term ended, and after the two *grand vacations* ended, then the young men that be no utter-baristers, do dispute and argue in lawe-Frenche, some doubtfull question, before the utter-baristers, who at the last do shew their opinions, in Englysh, thereunto: and this manner of disputations is called *meane vacation notes*, or *chapell notes*.

Item, that the Myddil Temple doth finde two readers, which are utter-baristers unto two houses of chancery; that is to say, Strondé-Inne, and New-Inne: which readers do reade unto them upon some statute in the terme time, and in the *graund vacations*: and they of the houses of chancery do observe the manner of disputations and motyng, as they do in

the Temple : and their readers do bring eche of them two with him of the Temple, and they argue unto it also.

And besides this, in the *graund vacation* time, out of the four houses of court, come two and two to every house of chancery ; and there according to their yeares and continuance of the house that they be of, which they call auncienty, they do argue and reason to some doubtfull matter that is proponed, so that the most youngest doth begyn, and the next to him in continuance doth follow ; and at last he that readeth to that house of chancery, doth declare his opynion in the matter that is called in question.

There is none there that be compelled to lerne, and they that are learners, for the most part, have their studies and places of learning so sett, that they are much troubled with the noyse of walkyng and communication of them that be no learners : and in the terme time they are so unquieted by clyents and servants of clyents, that resort to such as are attorneys and practysers, that the students may as quietly study in the open streets, as in their studies.

Item, they have no place to walk in, and talk and confer their learnings, but in the church ; which place all the terme times hath in it no more quietnesse than the *pervyse* of *Pawles*, by occasion of the confluence and concourse of such as are suters in the law.

The Charges of the Masters Commens and Clerks Commens, for their Mete and Drinke by the Yeare, and the Manner of the Dyet, and the Stipende of their Officers.

Inprimis, every one of the masters commens payeth by the yeare for his dyet *vi*l. 10*s*.

Item, every one of the clerks commens payeth by the yeare for his dyet *vi*l. *iiii**s*.

This is a generall rule allways observed, that whensoever two of the masters commens doth sit at a messe, then at so myche mete doth sytt three of the clerks commens: and when three of the masters commens doth syt at a messe, then doth foure of the clerks commens sit at so much meat.

Sonday—At Dinner.

Betwene two of the masters commens is served meat to the value of *iii**d*. and the third part of *ii**d*.

At Supper.

Betwene three of the masters commens, at supper, is served meat to the value of *iii**d*.

Munday—At Dinner.

Betwene two of the masters commens is served meat to the value of 1 *d*. ob. and the third part of *ii**d*.

At Supper.

Betwene two of the masters commens is served meat to the value of *ii**d*. ob.

Tuysday—At Dynner.

In the terme time is meat to the value of *iiii d.* served betwene two of the masters commens ; and out of the terme betwene three of the masters commens, mete to the value *iii d.* betwene three of the masters commens.

Wednesday—At Dynner.

Meat to the value of *i d. ob.* and the third part of *ii d.* betwene two of the masters commens.

At Supper.

Meat to the value of *i d.* and the third part of *ii d.* betwene two of the masters commens.

Thursday—At Dynner.

Two of the masters commens have meat to the value of *iiii d.*

At Supper.

Two of the masters commens have meat to the value of *ii d. ob.*

Fryday—At Dinner.

Two of the masters commens have meat to the value of *iiii d. ob.*

Saturday—At Dynner.

Two of the masters commens have meat to the value of *iiii d. ob.*

At Supper.

Every one of the masters commens, and clerks commens, have four eggs.

The Stypend of their Officers by the Yeare.

The stewards wages by the yeare, iiii. marks.

The chief butlers wages by the yeare, xxxiiis. iiii d.

The second butlers wages by the yeare, vis. viii d.

The third butlers wages by the yeare, vis. viii d.

The chief cokes wages by the yeare, xls.

The manciple, or students servant, his wages by the yeare, xxvis. viii d.

The under-cookes wages by the yeare, xxs.

The laundresse of the clothes of the house, her wages yearly vis. viii d.

Also at Christmasse the three butlers have in reward of every gentleman of the house xii d. and some give them in reward more.

Also at Easter the cookes manciple have in reward of every gentleman of the house xii d. or thereabouts.

The Manner of Punishment of Offences and making of Orders.

There is among them no certaine punishment for offences ; but such offences and misdemeanors as are committed, are punished by the judgment of the elders, or benchers ; who punish the offender, either by payment of money, or by putting him forth of commens ; which is, that he shall take no meate nor drynke among the fellowship, untill the elders list to revoke their judgment.

Item, at certain tymes in the yeare, the benchers and utter-baristers do resort together, and there they do consult and advise themselves, concerning the

causes of their house, and make decrees and orders concerning such things, as they thinke meet to be reformed in the house; and that they call a *parliament*.

The Manner of Divine Services in the Church, and their Chardges thereunto.

Item, that they have every day three *masses* said, one after the other; and the first *masse* doth begin in the mornyng at seaven of the clock, or thereabouts. The festivall days they have *mattens* and *masse* solemnly sung; and during the *matyns* singing, they have three *masses* said.

Their chardges towards the salary, or mete and drynke of the priests, is none; for they are found by my lord of St. John's, and they that are of the fellowship of the house, are chardged with nothing to the priests, saving that they have eighteen offering days in the yeare, so that the chargde of each of them is *xviii d.*

Their Order for Payment of Debts due to the House.

Item, if any of the fellowship be indebted to the house other for his diet, other for any other duty of the house, he shall be openly in the hall proclaymed; and whosoever will pay it for him, shall enjoy and have his lodging and chamber that is so indebted.

Apparell.

They have no order for their apparell; but every

may may go as him listeth, so that his apparell pretend no lightness or wantonnesse in the wearer : for even as his apparell doth shew him to be, even so shall he be esteemed among them.

The Fashion of their House in the Night.

In the night-time they have not their gates shut, so that every man may go in and out through the house all seasons of the night, which is occasion that their chambers are often times robbed, and many other misdemeanors used.

Library.

They now have no library, so that they cannot attaine to the knowledge of divers learnings, but to their great chardges, by the buying of such bookes as they lust to study. They had a simple library, in which were not many bookes besides the law, and that library by meanes that it stood allways open, and that the learners had not each of them a key unto it, it was the last robbed of all the bookes in it.

Their Usage in Time of Pestilence.

If it happened that the plague of pestilence be any thing nigh their house, and every man goeth home into his country, which is a great loss of learning ; for if they had some house nigh London to resort unto, they might aswell excercise their learning as in the Temple untill the plague were ceased.

Ancient Orders and Ceremonies.

The history of the Middle Temple is included in that

of the Inner Temple; the constitutions of the two were, however, somewhat different as well as their ancient ceremonies, and the rank and number of their officers. In both, and in fact in all the inns of court and chancery, the important concern of *eating* and *drinking* seems to have occupied the most attention: instruction, such as it was (consisting of public *readings* or lectures, given by a principal of the society, and the *mootings*, or arguing of cases), was only a secondary object. In other respects, the rigorous strictness of a university was observed. In the *solemn revels*, as they are called, *post revels*, *dancings*, and other frequent entertainments, in which the grave gentlemen of the bench indulged, an absurd degree of homage seems to have been exacted from the inferiors to the principals of the society, and the minutest punctilios in dress and behaviour watched with a ridiculous anxiety. These badges of slavery, for such they really appear to be, in the arbitrary way they were formerly insisted on, though in some respects they might have their use, are now all done away with; and the law student, according to the present system, is only required to *dine* a certain number of times during term in the hall of the society, or, as a late writer emphatically terms it, "to *eat* his way to the bench," which is called keeping his *commons*. To dine a fortnight in each term, is deemed *keeping the term*; and twelve of these terms qualify a student to be called to the bar, that is, to be entitled to plead and manage causes for clients in the courts.

The society of the Middle Temple, as well as the

Inner Temple, consists of benchers, or such as have been readers, anciently called *apprentices* of the law, members, barristers, and students ; formerly denominated *utter* barristers and *inner* barristers, being students under seven years, and all of whom had their commons in the hall.

The government of the society is vested in the benchers, whose general meetings to transact business are (and long have been) dignified with the name of *parliaments*, and are held with much state and formality.

The officers and servants are, a treasurer, sub-treasurer, steward, chief butler, three under butlers, upper and under cook, a pannier-man, a gardener, two porters, two washpots, and watchmen : anciently there were four under butlers, who wore gowns, and four washpots, besides a turn-broach, two scullions, &c. ; all of whom, except the porter and gardener, had their diet in the house, besides wages and other perquisites belonging to their offices. The porter's lodge, now near the hall, was anciently under the Middle Temple gateway, and he was entitled to receive the rent of two shops on the east side.

The following were anciently the duties of the several officers and members of this society ; and, as affording a picture of old manners, are interesting.

“ The steward is to provide the ordinary diet for the house (extraordinary being to be taken care of by the second cock) : he is allowed his servant, besides a porter and pannier-man, to bring in the meat ; and keeps a roll, in which the names of all persons are

entered, who are either in whole or in half commons, viz. half the week, and such only as take repasts; every repast being one meal in the hall, and of which two and no more are allowed: for if they exceed that number it is reckoned as half a week; and accordingly they are rated at the week's end, viz. Saturday, when he casts up the commons in the presence of two utter barristers in the term-times, and two gentlemen under the bar in vacation-time, who are to oversee him and to examine his accounts, being termed auditors. But it belongs to the chief butler, and not to the steward, to notice the names of such as are in commons, which are entered in the buttery-book; out of which the steward makes up his roll; and his account so made up is final. Any gentleman, therefore, who happens to be mischarged must pray an allowance of another week, half a week, &c. which is granted him on proving such overcharge.

“To the steward and his servant it belongs to serve in the meat in messes through the whole hall, except to the masters of the bench table and their associates (being like fellow-commoners in the universities), who are served by the second butler and his assistant; and the masters of the bar, that is, the premier bar table, consisting of such as have been readers of New Inn, or such whose puisnes have been readers there, who are served by the second butler and the pannier-man.

“The chief butler is to keep a buttery-book, and enter into it such orders as are made by the bench at table, in the same manner as the under treasurer is to

enter those made in parliament; he is likewise to enter the names of those who are admitted into commons. He is to provide bread and beer, and *green earthen drinking pots*, which are paid for by the steward. He provides cheese at his own expense, and assigns to each his portion after dinner: for this he receives from every one in commons a stated weekly allowance.

“It is the butler’s province to call any student guilty of a misdemeanor to the bench table, there to be reprimanded. He likewise provides torches for the solemn revels, together with a white rod and staff for the readers elect, which are the two next ancients in commons then present in the hall. The first, who is denominated master of the revels, is at all solemn revels to carry the white staff, and leads the several dances, or ancient measures, conducting the whole society (all under benchers) round the hall at those times: the other is to carry the white rod or verge, and is called *master of the ceremonies*, who standing at the cupboard, with a loud voice doth thrice summon the *master of the revels* to come forth and perform that duty. He was to notice such as were absent on these occasions, and present them to the bench; to give information of such as wore hats, boots, or long hair, the latter of which was considered anciently as a high enormity.

“The other butlers were to see the tables covered in the hall, and cleared again at the end of every meal. The oldest was to attend the bar table, and the tables on that side of the hall. The *puisne*, or fifth butler, those on the other side, and to serve the different

tables there with bread and beer. This latter was to say *grace both before and after meat, with a distinct and audible voice; standing in term-time with his face towards the bench table, and in vacation towards that of the bar.*

“By an entry in the buttery-book, an. 18 Eliz. the three butlers were to have a salary from every gentleman of 12*d.*; but this sum was afterwards raised. The collection thus made, was, by an order made in the same reign, to be divided into four parts, of which three fourths belonged to the three ancient butlers; and the remaining fourth to the two younger. The business of these younger or *puisne* butlers was to wash pots, fill beer, “chip bread,” and in general to assist the others. The yearly wages of the head butler were 3*l.* 6*s.* 8*d.* and of the other four 20*s.* each.

“The chief cook had various perquisites, as the dripping and scummings, the rumps and kidnies of loins of mutton (which was the ancient supper fare). He besides gave every Easter term a *calves head* breakfast to the whole society, for which every gentleman paid at least 1*s.* But, in 11 Jac. I. this breakfast was turned into a dinner, and appointed to be on the first and second Monday in Easter term. The price per head was regularly fixed, and to be paid by the whole society, as well absent as present; and the sum thus collected, instead of belonging solely to the cooks, was divided among all the domestics of the house. The chief cook's wages were the same as the chief butler's. The under cook received 40*s.* The turn-

broach 26s. 8d. The scullions were paid by the casual benevolence of the gentlemen.

“ To the second cook’s office it belonged to provide special *achates* for the bench table, and likewise for the ancient m^{ess} of the bar table ; as also of the ancients’ table, such as are past their reading and never read : which special *achates* are such (for the most part) as the bench pleaseth to make choice of ; and for the same the benchers pay weekly, but the rest by the meal.

“ The panyer-man, by the winding of his horn, summons the gentlemen to dinner and supper. He also provides mustard, pepper, and vinegar for the hall ; and hath for his wages yearly *iii*l. *vis*. *viii*d. and the fragments of certain tables ; viz. the bar table and those others in the middle of the hall, which he serves, and is to attend unto. The gardener’s wages were 6l. 13s. 4d. and those of the porter 6l. 10s.

“ The office of treasurer is of considerable importance, and the person who fills it chosen yearly by the parliament from among the readers. He is the supreme officer of the whole society, and has the regulation of their concerns. He admits gentlemen into the society ; and, on such occasions, has power to remit or abate fines. He is to make sale of such chambers as are forfeited, or fall to the house by the death of its members. He is the disburser of the society’s cash, and has the power to make repairs to a limited extent : he may likewise compound and mitigate forfeitures, house duties, rents of tenants, and other matters which concern the society. The

duration of this office was anciently unlimited, but by an order in an. 39 Eliz. it was made annual. The treasurer is not allowed salary. The under treasurer transacts the active business of the above office, and besides several privileges has a stated allowance and certain fees. He attends on the masters of the bench at their parliaments and solemn assemblies, and is their clerk of parliament. He enters all matters of record; is *custos rotulorum* for the society, and receives fees or gratuities for searching, copying, or certifying of the records and orders of the house."

The manner of holding the parliaments is as follows:

First, the benchers only, who have been readers, meet in the parliament chamber, which is at the lower end of the hall, and take their places according to their seniority. Then the treasurer for the time being sits at the table bareheaded, and reads petitions or proposes such other subjects as are to be discussed; the under treasurer standing by as an attendant. If a difference of opinion occurs, the votes are taken separately, beginning at the youngest, and the majority determines it. Formerly none who had been called to the bench to read attended these parliaments till they had fulfilled the office of *reader*; but that objection was afterwards dispensed with. All new laws passed by the parliament are notified to such inferior members of the house as are in commons, by the high treasurer; and such members, by the orders of the society, are bound to attend every last Friday of each term (which is called a parliament

of attendance), and all absentees are subject to a forfeit of 3s. 4d. *pro non consultando*.

The several degrees in this house were, student, utter or outer barrister, inner barrister, *cupboard-man*, benchers; and from the benchers were elected the readers.

Admission of students was either *generally* or *specially*, and the fee was accordingly: if generally, five marks; if specially, 5*l.*; and, anciently, as much as 6*l.* 13*s.* 4*d.* unless the person had previously studied in an inn of chancery, in which case it was less. The admission of students is entered, on payment of the fine, by the under treasurer, though formerly a bond was first given for his observing the rules and orders of the house, and a small fee is afterwards paid to the chief butler and senior washpot. The student must continue in commons two vacations, or fine, if *generally* admitted; but if *specially*, he is not bound to such attendance.

The *habit* is a student's gown, and in term-time a round cap, which is worn both in the hall and in church. Boots, spurs, swords, and cloaks, are in these places expressly forbidden; and a breach of these orders incurs a penalty.

On admittance, the student is entitled to make purchase of a chamber; which, by the ancient custom of the house, he had an estate in for the term of his life, if he so long continued in the society, and kept commons at least six weeks in every year, otherwise it became forfeited to the house. And this chamber he was entitled to sell, the party purchasing having his

own life in it; but the latter was to pay a fine of 6*l.* for admittance; and if he happened to die before sale made of the same, it fell to the house.

Students formerly used in the reading times to carry the readers' meat to the bench tables, and still carry up the meat at the reader's feast, and at the two other great feasts of All Saints, and the Purification of our Lady. "They used also, post revels upon such feast-days, and every Saturday night between the said feasts, besides masques and other disports in the time of Christmas."

After performance of the regular exercises of the house, the student was admitted to the degree of utter barrister, anciently by the call of the reader, who was vested with that power; but afterwards by the parliamentary act of the benchers. The ceremony of calling to the bar consisted merely in the notification of election to the other barristers, the entry of the name by the under treasurer, and taking the oath of supremacy at the *cupboard*. They were not allowed, however, to wear a bar gown openly, or to practise, till they had continued their exercise of *mooting* for some time afterwards in the inns of chancery.

The next step to which the barrister ascended was to the *cupboard* (certainly an enviable station). Four of these cupboard-men, in the reading times, argued cases by turns, and were usually the four senior barristers. No man was to become a cupboard-man unless he resolved to *read* in his turn, in which case he gave an expensive treat. From cupboard-man the

next degree was benchers: then a *reader*, which usually succeeded within two years after the party's first admittance to the cupboard; though this was at the option of the bench, who rejected him, if they saw fit, the cupboard-man, before his election as *reader*, being only a probationer.

The reader elect, on being called to the bench table, where he was thenceforth to take his commons, was to give a garnish of wine for his first welcome; and when his *readings* were finished, and he removed from the bar table to the "auncients' table," was to give likewise a second garnish of wine for his welcome there. After which he was freed from all the exercises of the house, and also from the ceremony of "walking the old measures about the hall at the times accustomed."

The ceremonies to be observed by the new readers were very curious. At the following feast-day of All Saints, when such dignitaries as were educated at the inn were "highly feasted," and came in their scarlet robes, the readers were to meet and conduct them to the upper end of the hall. "For distinction and order's sake, the one of them, viz. the ancient, hath a white staff in his hand; the other a white rod, with which they usher in the meat, following next after the musick. When the meat is brought to the table (which at such solemn feasts is always performed by young gentlemen of the house, under the bar); the one of the two new readers elect, receives every dish of the gentlemen who carried it, and placeth it on the table, in decent order; the

other standing by to wait on the judges. And during the feast, they both, with solemn *curtesies*, welcome both the judges and serjeants.

“ Besides this, the puisne reader elect serves every mess throughout the hall, receiving it from the steward and placing it on the table. Dinner being ended, they wait on the judges and serjeants; ushering them either into the garden or some other retiring place, untill the hall be cleansed, and prepared; and then they usher them again into the hall, and place them in their rooms, one after another. This being done, the auncient of the two that hath the staff in his hand, stands at the upper end of the bar table; and the other, with the white rod, placeth himself at the cupboard, in the middle of the hall, opposite to the judges; where the musick being begun, he calleth twice the master of the revells. And, at the second call, the auncient, with his white staff, advanceth forward, and begins to lead the measures; followed, first by the barristers, and then the gentlemen under the bar, all according to their several antiquities: and when one measure is ended, the reader at the cupboard calls for another, and so in order.

“ All such as are in commons, under the degree of benchers (except only them of the auncients table, who are past their readings) ought not to be absent from solemn revells: and whoever they be that do absent themselves, do forfait, or are finable *iiis. iiid.* And whosoever of the bar that are made choice of to carry up *wafers* (on grand days) to the judges, and

H H

do refuse, do forfait *xs.* And whosoever of the young gentlemen under the bar, that refuse, do forfait *vs.* And whosoever, on days of solemn revells, do refuse to carry up bread and beer to the masters of the bench, do forfeit, barristers *vis. viiid.* and others *iiis. iiid.*

“ When the last measure is dancing, the reader at the cupboard calls to one of the gentlemen of the bar, as he is walking or dancing with the rest, to give the judges a *song* : who forthwith begins the first line of any *psalm* as he thinks fittest, after which *all the rest of the company follow and sing with him.* Whilst they are thus walking and singing, the reader, with the white rod, departs from the cupboard and makes his choice of a competent number of utter baristers, and as many under the bar, whom he takes into the buttery, where there is delivered unto every barister, a towel, with wafers in it, and unto every gentleman under the bar a wooden bowl filled with *ipocras*, with which they march in order into the hall, the reader with his white rod going foremost. And when they come near to the half pace, opposite to the judges, the company divide themselves, one half (as well baristers as those under the bar) standing on the one side of the reader, the other on the other side ; and then, after a low solemn congee made, the gentlemen of the bar first carry the wafers ; the rest, with the new reader, standing in their places. At their return, they all make another solemn low congee, and then the gentlemen under the bar carry their bowls of *ipocras* to the judges ; and returning when the judges

have drank, they make the like solemn congee, and so all depart, saving the new readers elect, who wait upon the judges till their departure, and then usher them down the hall unto the court gate, where they take their leaves of them.

“ Besides these *solemn revels*, or measures afore-said, they had wont to be entertained with *post revels*, performed by the better sort of the young gentlemen of the society with *galliards*, *corrantoës*, and other dances; or else with *stage plays*: the first of these feasts being at the beginning, and the other at the latter end of Christmas. But of late years these post revels have been disused, both here and in the other inns of court¹. ”

The reader entered on his reading generally the beginning Monday in Lent, with much state and ceremony. He first absented himself from commons for a time, and kept his chamber, that his reapppearance might be with more splendour. On the Sunday afternoon preceding his entry on his office, he went to church accompanied by such benchers as were in town, two of whom, generally the next precedent readers, were appointed for his assistants. He was, besides, accompanied by at least twelve or fourteen servants, in rich liveries, and the same night at supper took his place in the hall, in a *chair* prepared for him at the upper end of the benchers' table.

The following morning he chose his *sub-lecturer*, to whom delivering his bag of books and papers, he repaired to the parliament chamber to breakfast: that

¹ Origines Juridicales.

ended, he went into the hall, where the whole society awaited his coming, and, resting at the cupboard, there took the oaths of *supremacy* and *allegiance*. He then seated himself at the lower end of the bench table, where the *sub-lecturer* first read over the statute, or that part of it he intended to discuss. The reader himself then began "with a grave speech, excusing his own weakness, with desire of their favourable censures; and concluded with the reasons wherefore he made choice of that statute."

These readings were frequently honoured with the attendance of such judges and serjeants as had been brought up in the house, who came always in their *purple robes* and *scarlet hoods*, and were placed on a form opposite to the benchers, with their backs to the reader. The debate finished with a grand feast, in which the principals of the company were entertained by the reader at his own table, and every other mess throughout the hall was honoured with an extraordinary dish.

Other arguings succeeded the removal of the dinner-cloth, and this agreeable method of study was followed three days in a week, viz. every Monday, Wednesday, and Friday, "the other intermediate days," says an author of the time, "being spent in *feasting* and entertainment of strangers, who are commonly great lords and other eminent persons. But, be the guests of never so high a degree, the reader, within the precincts of the house, hath precedence of them; and at the table keeps his chair at the upper end. His expenses, during this time of

reading, are very great ; insomuch as some have spent above six hundred pounds in two days less than a fortnight, which now is the usual time of reading."

This excess had been gradually increasing ; for, by an order of the bench, made in the reign of Philip and Mary, every summer reader was enjoined to spend fifteen bucks in the hall, during his time of reading, on pain of . . . marks. And shortly after, to avoid all occasion of superfluous expense, by another order, in the reign of the same king and queen, the reader was enjoined not to exceed those fifteen bucks : but few summer readers afterwards had less than *threescore bucks*, besides *red deer* ; some spent *fourscore*, and even an *hundred*. One brace of these bucks were commonly bestowed on *New Inn*, to feast the students there : and the neighbouring parishes to the Temple, also tasted of the reader's bounty. The house contributed a small sum towards this expense, allowing each reader one hogshead of wine, or 5*l.* in money ; and a special admittance of any gentleman into the house, or 5*l.* more in lieu of it. And in the last week of his reading, a costly feast was provided for the entertainment of foreign ambassadors, peers, and men of eminent quality : which, though called the reader's feast, was not at his cost, it being imposed on four gentlemen of the house ; who were called stewards of the feast. Two of them were outer barristers, and the other two under the bar, whose expense was at least 10*l.* each ; though anciently less : for by an order made 34 Eliz. they were to be at no farther charge than 5*l.* a man.

The readings held originally during the space of a month, but were afterwards reduced to three weeks, and then to a fortnight. When they were finished, it was usual for the students to accompany the reader with great state and solemnity to his residence, and to treat him at night with a plentiful supper, at their own charges.

The reader was *thus* created a bencher. The first parliament of the succeeding term he was invited by the benchers; where being come, and modestly taking the lowest seat, one of his assistants, in a formal oration, declared the reader's great learning, and the expense he had been at; and having finished this compliment, the reader himself, in another grave oration, magnified the important assistance he had derived, in the fulfilment of his office, from the gentlemen of the society: after this, having received the thanks of the bench, "they all together sit down to supper; at what time (and not before) the reader is an absolute and confirmed bencher, and hath voice with the rest in all succeeding parliaments."

By an ancient custom the former reader was to officiate as steward of the house at Christmas; but this office being thought rather a degradation, was, by an order made in the time of Elizabeth, commuted by a fine of money, afterwards turned into a "*brawn*," and "*muskadine*."

On the Tuesday and Thursday evenings there were usually *moots* after supper before the benchers, who assembled themselves for that purpose, in the bay

window, at the upper end of the hall, ranked according to their seniority.

A reader, by the ancient orders of the house, was obliged in his turn to read a second time, and was then called a *double reader*; his expenses, however, in the latter event, were more moderate, and he had a greater allowance from the house.

The benchers of this inn of court are possessed of great privileges. They are governors of the house, and in parliament have power to bind the rest, as well as out of parliament, at the bench table, to punish transgressors by fine, forfeiture of their chambers, and expulsion. They may come within the bar at the chapel of the Rolls among the serjeants at law and the king's council, and are heard by the master of the rolls in preference to other members.

Any member of this society made recorder of London, takes precedence as a reader, though otherwise not in his turn, an instance of which happened in 1635, when sir Henry Calthorp, the queen's solicitor-general, being made recorder of London, was declared by the bench to be the next Lent reader, before Mr. Latham, who was then the city serjeant and his immediate ancient. Afterwards, on the death of sir Walter Pye, sir Henry Calthorp being made king's attorney of the court of wards, and resigning the recordership, the term following Mr. Latham would not give way to him, but took his room according to his seniority.

Serjeants at law have always been chosen from among the readers, and in this event are placed at the

upper end of the bench table as elected to that office, —though the new-made serjeant is still accounted a bencher, and in commons till he receives the *coif*, when he takes leave of the house with the following solemnity.

In the morning all the members of the society meet in the hall, where likewise comes the serjeant elect. The treasurer of the house then makes a grave and learned speech, and at the conclusion of it presents him as the gift of the whole society with a purse and ten pounds raised by a collection of *iiis. ivd.* each member, which is received by him with a congratulatory oration.

Yet though the new-made serjeant, in consequence of his dignity, takes leave of the society, he is still in part a member; that is to say, he keeps his chamber till he is assigned one in one of the serjeant's inns. This is, however, said to be rather a matter of favour than of right. If he is suspended from his degree, or accepts another office, as attorney or solicitor general, he returns again into commons without any new admittance.

When a serjeant of this society is made a judge, he is accompanied to Westminster Hall by all the fellows of the house; and they are at liberty, after he is possessed of his dignity, to request his advice and assistance in such matters as respect the welfare of the society.

Besides the benchers are another description of members, called *associates*, who sit at the bench table, but have no voice in the government of the

house. These are persons who hold eminent offices, and receive this favour by curtesy. They are not bound to observe any rules like the members of the house, and are in fact a kind of visitors. By an order made in the reign of James, associates for their admittance were to pay to the treasurer a fine of an hundred marks.

Fines.]—A fine of 12*d.* was formerly imposed upon every member who came into the church or hall in a hat, or without a round cap. Any one absenting himself from “solemn revels,” was likewise forfeited 3*s.* 4*d.* These fines were disbursed by the treasurer’s direction for necessaries for the house, “as table linen, coals, pewter vessels, wages for officers, *musicians*,” &c.

The following annual salaries were paid by the benchers of this inn :

“To the Lent reader, one special admittance and a hogshead of wine, besides in money 11*l.* To the clerk of the church for carrying the bell about, which summoned them to prayers, and for finding wax-lights for the altar, mats, bell-ropes, &c. per annum, 5*l.* 13*s.* 4*d.* The annual rent of the house and fees for the payment of it into the exchequer, their fees and acquittance, 10*l.* 7*s.* 8*d.* The music for their yearly entertainments, besides their diurnal pay for service, 2*l.* 13*s.* The cook for allowance for pewter 5*l.* The panyer-man for saucers 1*l.* 7*s.* The undertreasurer for keeping and cleaning all the house-plate, being 780 ounces, 1*l.* 3*s.* The *stage-players*

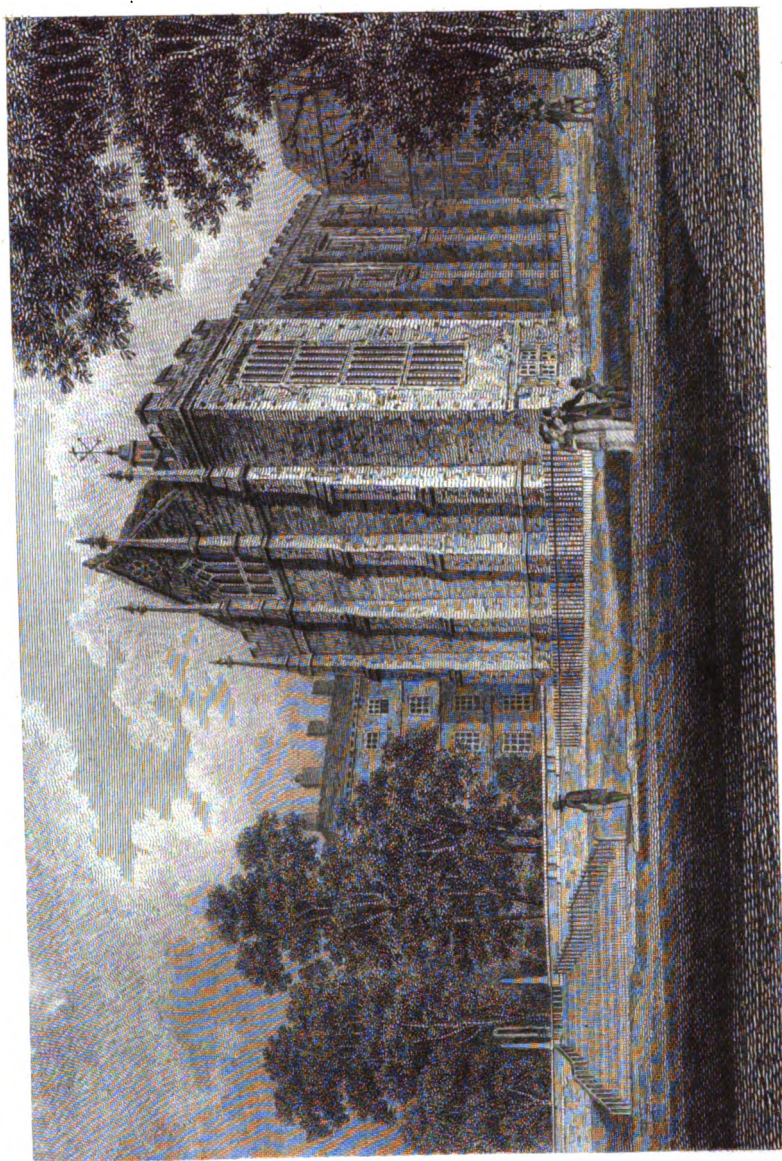
on the two grand days for each play 20*l*." The fee to the stage-players was afterwards raised to 40*l*.

Orders for Government.]—Various orders, principally respecting dress, have been made from time to time, both for the government of the Inner and Middle Temples. In 4 & 5 Ph. & M. it was ordered¹, "that none of this society should thenceforth wear any great *bryches* in their hoses, made after the *Dutch*, *Spanish*, or *Almon* fashion; or lawnde upon their capps, or cut doublets, upon pain of 3*s*. 4*d*. forfeiture for the first default, and the second time to be expelled the house." And in 26 Eliz. the following orders were likewise made for reformation in the same article²:—"1. That no great ruff should be worn. 2. Nor any white colour in doublets, or hosen. 3. Nor any facing of velvet in gownes, but by such as were of the bench. 4. That no gentlemen should walk in the streetes in their cloaks, but in gownes. 5. That no hat, or long or curled hayr, be worn. 6. Nor any gownes, but such as were of a *sad* colour."

In the 11th of Charles I. every gentleman was strictly commanded to receive the holy communion in the Temple church at least *twice* in the year, upon pain of expulsion. Regulations were likewise made respecting the too early practice of *young barristers*. The act of the parliament, made 3 & 4 Ph. & M. forbidding the admittance of *common attornies*, was put strictly in force: and it was ordered, that any member of the house then admitted who should

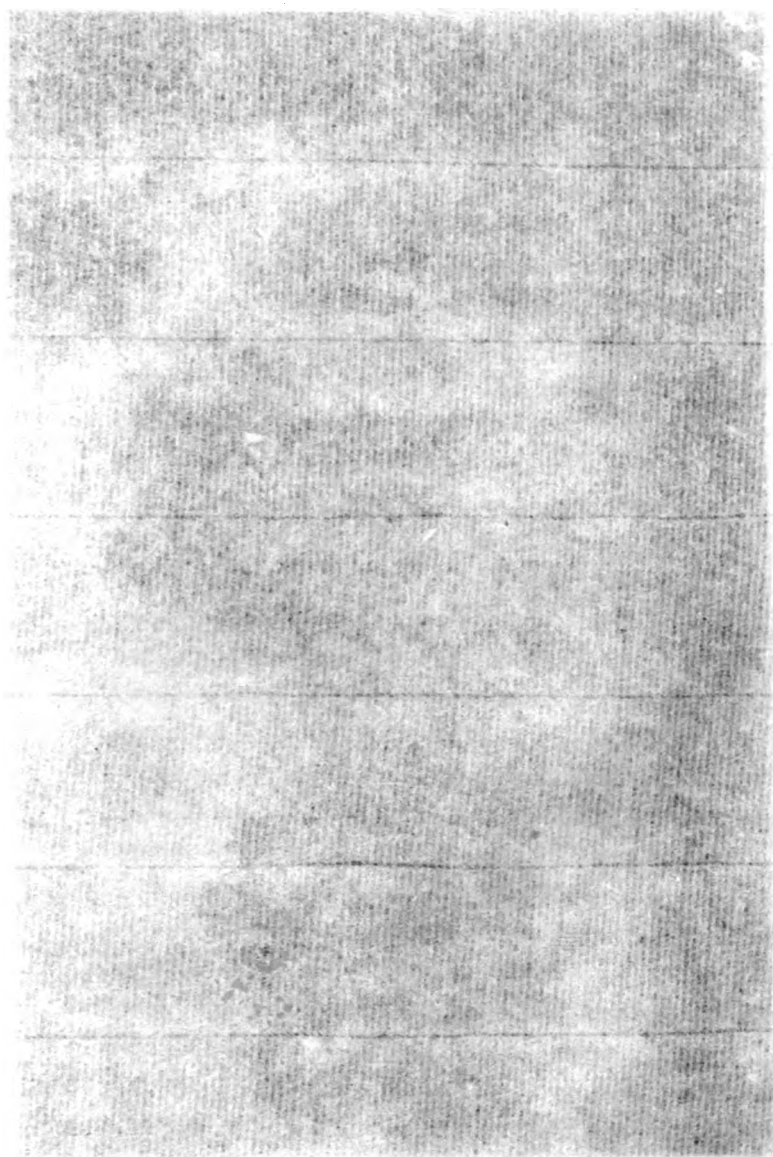
¹ Ex registro (D.), f. 27. b.

² Ex registro 2do, f. 168. b.



SW View of the
MIDDLE TEMPLE HALL.

London Engraved by W. B. Thomas & Son, 25, Abchurch Lane, London. Printed by J. G. Smith, 10, St. Dunstons, London.



thenceforth become an attorney, or should practise as a common attorney or solicitor in any of his majesty's courts, should *ipso facto* be expelled the house. By the same order, no gentlemen of any house were to come into the several halls or places of public prayer with *hats, cloaks, boots, spurs, swords or daggers*, or to wear *long hair*; and every utter-barrister and other gentleman was to give due respect and reverence to the readers, benchers, and ancients of every house. The gentlemen under the bar were enjoined to apply and follow their studies; to keep the case; to perform their exercises; to order their *habits and hair to decency and formality*, according to the orders of the house; and to yield due respect and observance to the benchers and ancients, their governors, as they expected and desired to receive the preferment of the bar, &c.

Buildings.]—The principal and only building of importance in the *Middle Temple* is the great hall, though it contains several courts or squares filled with very handsome chambers, besides gardens, a fountain, &c.

The chief entrance is by Middle Temple Lane, a long narrow street which reaches to the water-side, and divides the two houses. It has a front in the manner of *Inigo Jones* of brick, ornamented with four large stone pilasters of the *Ionic* order, with a pediment, but is much too narrow, and being lofty wants proportion: the passage to which it leads also, although designed for carriages, is crowded, inconvenient, and mean.

This gateway was erected in place of one destroyed

by a great fire, and which is reported to have been built by sir Amias Powlet, ancestor of the present earl Powlet, on a singular occasion. It seems sir Amias, about the year 1501, thought fit to put cardinal Wolsey, then parson of Lymington, into the stocks. This affront was not forgotten when the cardinal came into power ; and in 1515, on account of that ancient grudge, he was sent for up to London, and commanded to await the favourite's orders. In consequence he lodged five or six years in this gateway, which he rebuilt ; and to pacify his eminence, he adorned the front with the cardinal's cap, badges, cognizance, and other devices, "in a very glorious manner."

The following particulars respecting some of the other buildings are to be found in the register of the house :

Brick Court, formerly called "Brick Buildings," north of the hall, was erected in the 11th of Eliz. chiefly at the expense of Thomas Daniel esq. treasurer.

"In 9 Jac. I. certain brick buildings, adjoining to the east side of the Middle Temple gate, were erected by sir Walter Cope and sir Arthur Gorge, knights."

"And in 10 Jac. (an. 1612), those also of brick in the *Vine Court*, over the cloisters three stories high, by Francis Tate esq. a person of great learning in the laws, and eminent for his knowledge in antiquities.

"In 13 Jac. I. those buildings of brick, near the Middle Temple gate, called *Luther's Buildings*, were

made by Anthony Luther, an utter-barrister of this house.

“ In 1 Car. I. (an. scil. 1625) were erected those fair brick buildings adjoining to the hall; and the next year following, those brick buildings in the *Pump Court*.

“ In an. 1629 (scil. 5 Car. I.) there was an order made (19 Junii) for pulling down the fabric erected by sir Walter Cope and sir Arthur Gorge before mentioned, and to rebuild it that next vacation.

“ And in the next year following (viz. an. 1630, 6 Car. I.) were erected those lodgings of brick on the east side of the Middle Temple Lane; those also in *Elm Court*, and over the church-porch.

“ In an. 1631 (7 Car. I.) was the building by the church in the Inner Temple Lane made: and in an. 1637 (13 Car. I.) the rest of the brick buildings in the *Pump Court*, and between the *Vine Court*, *Elm Court*, *Pump Court*, and *Middle Temple Lane*, were set up.”

The foundation of the hall was laid in 1562, and the edifice completed in 1572, in the treasurership of Edmund Plowden; but the curious carved screen at the lower end was not put up till 1574. The latter was paid for by a contribution of 20s. from each bench, 10s. from a barrister, and from every other member 6s. 8d.

The Middle Temple hall is the largest and finest room of the kind in any of the inns of court, being one hundred feet long, including the passage, forty-four feet wide, and in height upwards of sixty feet.

The roof is venerably constructed of timber, and the other decorations of the interior are in a style of correspondent grandeur; but what adds particularly to the splendour of its appearance is, its fine *stained* windows. These contain the armorial bearings of one hundred and fifty-four persons, members of this society, most of whom were men of eminence, and among them several of royal and noble rank: the great *bay* window at the south-west end, alone, contains *thirty* coats of arms, and, when illuminated by the sun, has an uncommonly rich effect.

Along the sides, which are wainscoted to a considerable height, are the arms and names of the *readers*, from Richard Swaine, dated 1597, to 1804. This place is still preserved, and the readers annually elected; but the lectures or readings, as before observed, have been long disused. There are upwards of two hundred and fifty of these memorials.

The oldest date in the windows is 1540. This coat of arms was probably removed from the former hall which stood on this site. Among the more modern ones are those of the lord chancellors Cowper, Yorke, and Somers, the late lord chief justice Kenyon, lord Ashburton, sir Pepper Arden (afterwards lord Alvanley), and the present lord chancellor. The arms of the last four are the work of Mr. Pearson, and are very beautiful: lord Eldon's has this inscription:

"Johannes Scot baro de Eldon in com. Dunelm. capitalis justiciarius com. placit. & regie majestati a secretioribus consiliis 1799; summus Angliæ cancellarius, acad. Oxon. senescallus 1801."

Besides these decorations the hall contains excellent busts of the twelve *Cæsars* in imitation of bronze, and full-length portraits of the following personages: Charles I. and the duke d'Epemon (Vandyke), a very large picture from which a print has been engraved by Baron¹, king Charles II., the duke of York afterwards James II., William III., queen Anne, and king George II. There is likewise at the upper end near the great window an ancient painting of the "Judgment of Solomon," of considerable merit, with a Latin inscription beneath.

The music gallery at the entrance must not be forgotten: it is of right wainscot, supported by columns of the Doric order, fluted, and the pedestals enriched with figures in *alto rilievo*; the intercolumniations, the pannels over the doors, and all the other parts of this beautiful screen, are most elaborately carved: above it hang several suits of rusty armour, matchlocks, &c. of the *Elizabethan* era.

The massy oak tables and benches with which this apartment was anciently furnished, still remain, and so may do for centuries, unless violently destroyed, being of wonderful strength. In the parliament chamber are painted all the arms of the treasurers since the first who possessed the office: it is likewise adorned with

¹ It appears from Sully's "Memoirs," that Mons. de St. Antoine, knight of Malta, equerry to the king of France, was sent to England by that monarch with six horses as a present to Charles I. This person, and not the duke d'Epemon, is thought by Mr. Granger to be represented in the above picture as holding the king of England's helmet, a circumstance no ways consistent with the dignity of the latter.

some of Gibbons's carving. These rooms are both excellently well kept.

The building of the hall, it appears, put the house much in debt, and the incumbrance was not discharged for some years afterwards ; for in 17 Eliz. (16 Junii) there was an order made in the parliament, " that forasmuch as by one decree made 8 Febr. 13 Eliz. the old pensions had been augmented for three years then next following towards the payment thereof ;" and by another, held 10 Febr. 16 Eliz. that they had been augmented one year more to the same purpose ; " and that all these helps were not sufficient ; that the augmentation of the said pensions should continue yet one year longer."

Entertainments.]— In the Middle and Inner Temple halls were held several of the great feasts and hospitable Christmassings of ancient times. One of these yearly festivals, celebrated at the latter, is very minutely, but with considerable quaintness, described by Gerrard Leigh in his " Accidence of Armory," which we shall extract. The hero on this occasion was Dudley earl of Leicester, " who, with the romance of his mistress, styled himself *Palaphilos*, prince of *Sophie*." He was entertained by a person representing a sovereign prince, and had for his officers the lords chancellor, privy seal, treasurer ; the chief justices of the king's bench, common pleas, chief baron of the exchequer ; besides many other dignitaries of the law, and upwards of fourscore of the guard. Our author begins :

" After I had travelled through the east parts of the unknown world to understand of deedes

of arms, and so arriving in the fair river of Thames, I landed within half a league from the city of London, which was, as I conjecture, in December last; and drawing neer the city, suddainly heard the shot of double canons, in so great a number, and so terrible, that it darkened the whole ayr; wherewith, although I was in my native country, yet stood I amazed, not knowing what it meant. Thus, as I abode in despair, either to return or continue my former purpose, I chanced to see coming towards me an honest citizen clothed in a long garment, keping the highway, seeming to walk for his recreation, which prognosticated rather peace than perill; of whom I demanded the cause of this great shot; who friendly answered: 'It is (quoth he) a warning shot to the constable marshal of the Inner Temple to prepare to dinner.'

" 'Why (said I), what, is he of that estate that seeketh no other means to warn his officers than with such terrible shot in so peaceable a country?'— 'Marry (saith he) he uttereth himself the better to be that officer whose name he beareth.'

" 'I then demanded what province did he govern that needeth such an officer? He answered me, 'The province was not great in quantity, but ancient in true nobility. A place (said he) privileged by the most excellent princess, the high governor of the whole island, wherein are store of gentlemen of the whole realm, that repair thither to learn to rule and obey by law, to yield their fleece to their prince and common weal; as also to use all other exercises of body and mind whereunto nature most aptly

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‘ serveth to adorn by speaking, countenance, gesture,
‘ and use of apparel, the person of a gentleman ;
‘ whereby amity is obtained, and continued, that gen-
‘ tlemen of all countries, in their young years, nou-
‘ rished together in one place, with such comely or-
‘ der and daily conference, are knit by continual ac-
‘ quaintance in such unity of mindes and manners as
‘ lightly never after is severed, than which is nothing
‘ more profitable to the common weal.’

“ And after he had told me thus much of honour of the place, I commended in mine own conceit the policy of the governour, which seemed to utter in itself the foundation of a good common-weal ; for that the best of their people, from tender years trained up in precepts of justice, it could not choose but yield forth a profitable people to a wise common-weal : wherefore I determined with myself to make proofe of that I heard by report.

“ The next day I thought for my pastime to walk to this Temple, and entering in at the gates, I found the building nothing costly ; but many comely gentlemen of face and person, and thereto very courteous, saw I to pass to and fro, so as it seemed a prince’s port to be at hand : and passing forward, entered into a church of ancient building, wherein were many monuments of noble personages armed in knightly habit, with their coates depainted in ancient shields, whereat I took pleasure to behold. Thus gazing as one bereft with the rare sight, there came unto me an herehaught, by name Palaphilos, a king of arms, who curteously saluted me, saying, ‘ for that I was a

‘stranger, and seeming by my demeanour a lover of honour, I was his guest of right:’ whose curtesy (as reason was) I obeyed, answering, ‘I was at his commandment.’

“Then said he, ‘Ye shall go to mine own lodging here within the palace, where we will have such cheer as the time and country will yield us;’ where I assure you I was so entertained, as no where met I with better cheer or company, &c.

“—Thus talking we entered the prince his hall, where anon we heard the noise of drum and fyfe. ‘What meaneth this drum?’ said I. Quoth he, ‘This is to warn gentlemen of the houshold to repair to the dresser; wherefore come on with me, and ye shall stand, where ye may best see the hall served;’ and so from thence brought me into a long gallery that stretcheth itself along the hall neer the prince’s table, where I saw the prince sit; a man of tall personage, a manly countenance, somewhat brown of visage, strongly featured, and thereto comely proportioned in all lineaments of body. At the nether end of the same table were placed the ambassadors of sundry princes. Before him stood the carver, sewer, and cupbearer, with great number of gentlemen-wayters attending his person; the ushers making place to strangers of sundry regions that came to behold the honour of this mighty captain. After the placing of these honourable guests, the lord steward, treasurer, and keeper of Pallas seal, with divers honourable personages of that nobility, were placed at a side table neer adjoyning the prince on the right-

hand : and at another table on the left side were placed the treasurer of the houshold, secretary, the prince's serjeant at the law, four masters of the revels, the king of armes, the dean of the chapell, and divers gentlemen pensioners to furnish the same.

“ At another table on the other side were set the master of the game and his chief ranger, masters of houshold, clerks of the green cloth and check, with divers other strangers to furnish the same.

“ On the other side against them began the table, the lieutenant of the Tower, accompanied with divers captains of footbands and shot. At the nether end of the hall began the table, the high butler, the panter, clerks of the kitchen, master-cook of the privy kitchen, furnished throughout with the soldiers and guard of the prince : all which, with number of inferior officers, placed and served in the hall, besides the great resort of strangers, I spare to write.

“ The prince so served with tender meats, sweet fruits, and dainty delicates, confectioned with curious cookery, as it seemed wonder a world to observe the provision ; and at every course the trumpeters blew the couragious blast of deadly war, with noise of drum and fife, with the sweet harmony of violins, sackbuts, recorders, and cornets, with other instruments of music, as it seemed Apollo's harp had tuned their stroke.

“ Thus the hall was served after the most ancient order of the island ; in commendation whereof I say, I have also seen the service of great princes, in solemn

seasons and times of triumph, yet the order hereof was not inferior to any.

“ But to proceed, this herehaught Palaphilos, even before the second course came in, standing at the high table, said in this manner : ‘ The mighty Palaphilos, prince of Sophie, high constable, marshal of the knights templars, patron of the honourable order of Pegasus ; and therewith cryeth a largess.’ The prince, praying the herehaught, bountifully rewarded him with a chain to the value of an hundred talents.

“ I assure you I languish for want of cunning ripely to utter that I saw so orderly handled appertaining to service ; wherefore I cease, and return to my purpose.

“ The supper ended and tables taken up, the high constable rose, and awhile stood under the place of honour, where his atchievement was beautifully embroydered, and devised of sundry matters, with the embassadors of forein nations, as he thought good, till Palaphilos king of armes came in, his herehaught marshal, and pursivant before him, and after followed his messenger and Caligate knight ; who, putting off his coronal, made his humble obeysance to the prince, by whom he was commanded to draw neer and understand his pleasure ; saying to him in few wordes to this effect : ‘ Palaphilos, seeing it hath pleased the high Pallas to think me to demerit the office of this place, and thereto this night past vouchsafed to descend from heavens to increase my further honour, by creating me knight of her order of Pegasus ; as

‘ also commanded me to join in the same society such
‘ valiant gentlemen throughout her province, whose
‘ living honour hath best deserved the same, the
‘ choice whereof most aptly belongeth to your skill,
‘ being the watchman of their doings and register of
‘ their deserts ; I will ye choose as well throughout
‘ our whole armies, as elsewhere, of such special gen-
‘ tlemen, as the gods *hath* appointed, the number of
‘ xxiiii, and the names of them present us : com-
‘ manding also those chosen persons to appear in our
‘ presence in knightly habit, that with conveniency
‘ we may proceed in our purpose.’ This done, Pa-
laphilos obeying his prince’s commandement, with
xxiiii valiant knights, all apparelled in long white ves-
tures, with each man a scarf of Pallas colours, and
them presented with their names to the prince, who
allowed well his choise, and commanded him to do his
office ; who, after his duty to the prince, bowed to-
wards these worthy personages, standing every man
in his ancienty, as he had borne armes in the field, and
began to shew his prince’s pleasure, with the honour
of the order.”

These Christmassings lasted several days, and on
each day the ceremony differed. The proceedings
were regulated by a *parliament* expressly summoned,
who having entered into a “ solempne consultation,”
the result was communicated to the other members
of the house by one of the senior benchers ; the
eldest butler was directed to publish the names of
the various officers appointed for the occasion, “ and
then in token of joy and good liking, the bench and

company pass beneath the harth, and sing a caroll, and so to *boyer*."

In the first place the steward was to provide five fat brawns, vessels, wood, and other necessities belonging to the kitchen ; as also all manner of spices, flesh, fowl, and other *cates*.

"The chief butler was to have a rich cupboard of plate, silver and parcel gilt ; seven dozen of silver and gilt spoons ; twelve fair saltsellers, likewise silver and gilt ; twenty candlesticks of the like ; twelve fine large table-cloths of damask and diaper ; twenty dozen of napkins suitable at the least ; three dozen of fair large towels ; which the gentlemen sewers and butlers of the house were to have every of them one at meal-times during their attendance. He was likewise to provide carving-knives : twenty dozen of white cups and *green* pots ; a carving table ; torches ; bread ; beer, and ale. The chief butler was to give attendance at the highest table in the hall, with wine, ale, and beer ; and the other butlers to attend at the other tables."

The constable marshal was to provide "a *fair gilt compleat harneys* (suit of armour), with a nest of fethers in the helm ; and a fair poleaxe to bear in his hand, in order to be chevalrously ordered on Christmas day, and the other different days."

Before Christmas eve was a grand dinner. The tables for this were all arranged with much form by the marshal, and the company placed according to their several degrees. The first course was brought in, preceded by the minstrels sounding their instru-

ments. The steward and marshal followed, and after them the gentleman *sewer*; and then came the meat. These three officers were to make all together three "solempn curtesies," at three several times, between the screen and the upper table, the first at the end of the benchers' table; the second about the midst; and the third at the other end; and then withdrawing on one side, the sewer performed his office.

Dinner ended, the musicians prepared to sing a song at the highest table: which ceremony accomplished, the officers were to address themselves every one in his office, "to avoid the tables in fair and decent manner, beginning at the clerk's table;" and thence proceeding to the next, and thence to all the others, "till the highest table be solempnly avoided." All this time the musicians were to stand "right above the hearth side, with the *noise of their music*; their faces direct towards the highest table: and that done, to return into the buttery, with their music sounding." The second course was served like the first.

The meal concluded with *revels*; during which, and also at dinner, the porters were to view the comers in and out; and for this service they were allowed *a cast of bread and a candle nightly after supper*. The revels and dancings continued the twelve days of Christmas, and each day after dinner and supper the senior master of the revels sung a "caroll or song, and commanded other gentlemen then there present to sing with him and the company," which was "very decently performed."

On Christmas day, after hearing divine service at the Temple church, the gentlemen breakfasted at the hall with *brawn, mustard, and malmsey*. The first course at dinner on this day was "a fair and large *boar's head* upon a silver platter, with minstralsye." At supper two gentlemen in gowns attended, bearing two fair torches of wax next before the musicians and trumpeters, and stood above the fire with the music till the whole first course was served in ; which performed, they returned with the music into the buttery ; and this same order was observed during the whole Christmas festival.

The grandest ceremony, however, was on St. Stephen's day. This consisted of a sort of *drama*, in which the company personated various characters, accompanied by music, dancing, and pageantry. The chief personage on this occasion was termed the *Lord of Misrule*. He was attended by his courtiers, sir *Francis Flatterer*, sir *Randle Rackabite*, sir *Morgan Mumchance*, and sir *Bartholomew Baldbreech*. The ceremony after the first course commenced with the entry of the constable marshal, arrayed with a "fair, rich, complete harneys, white and bright, and gilt, with a nest of feathers of all colours upon his crest or helm, and a gilt poleaxe in his hand." He was accompanied by another officer, called the *Lieutenant of the Tower* (from a large machine resembling a fortress, of which he was supposed the governor), and who was likewise armed in a similar manner. These two officers were preceded by sixteen trumpeters, four drums and fifes, and four men in white "*harneys*"

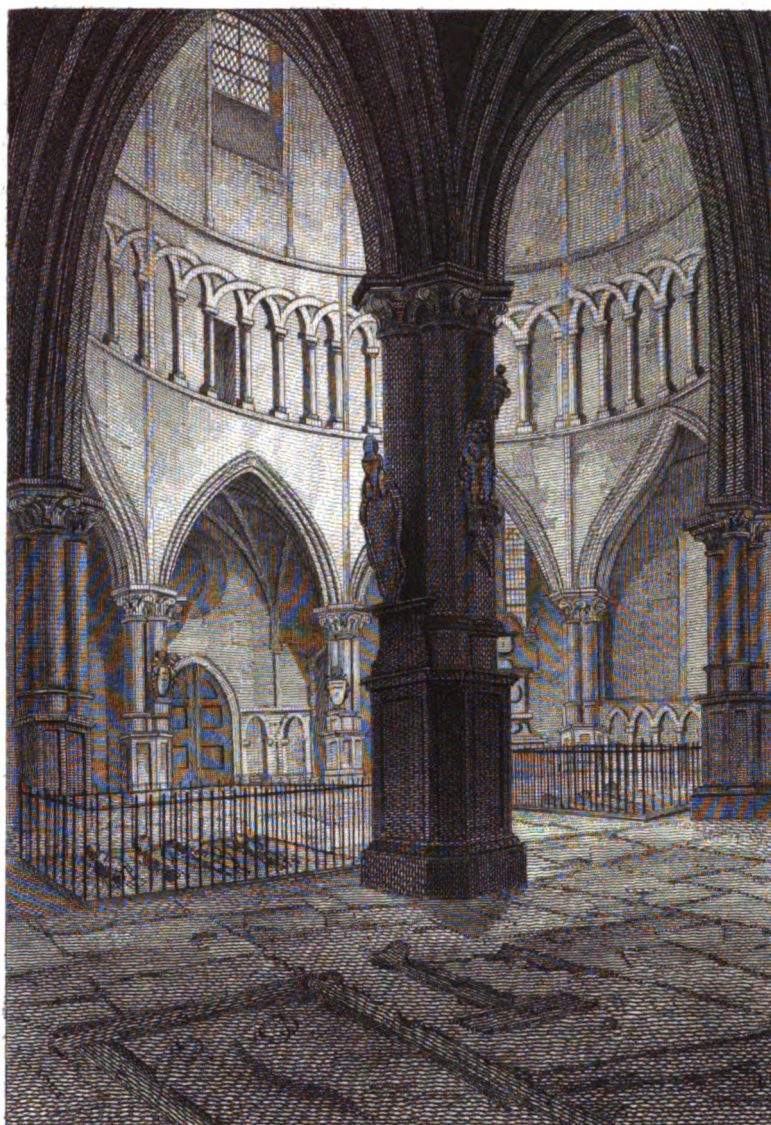
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from the middle upwards, with halberts in their hands, bearing on their shoulders the *tower*.

After this procession had walked three times round the fire, the music playing, &c. the constable marshal and lieutenant knelt before the lord chancellor (always invited at this solemnity), and the former pronounced an oration of *a quarter of an hour's length*; the purport of which was, to request to be taken into his lordship's service; he then delivered his naked sword to the steward, who presented it to the lord chancellor, &c.; and during this ceremony the tower was placed near the fire.

Then came the master of the game and the ranger of the forest (two other characters so called), the former apparelled in green velvet, and the latter in a suit of green satin, having in his hand a green bow and several arrows, and each of them a hunting horn slung over the shoulder. Arriving at the fire they blew together "three blasts of *venery*," and paced round about it three times, and then making three curtesies, desired in the same manner to be admitted into the service of the lord chancellor. Other formalities, too long to detail, succeeded the above, and the ceremony concluded with the actual hunting of a *fox* and a *cat*, with nine or ten couple of hounds round the hall, whose deaths terminated this very extraordinary and singular species of amusement.

During these "*revels*," as they were very properly called, defaulters were to be committed to the custody of the *lieutenant*; but if they could make their escape to the buttery, and bring into the hall "a



INSIDE OF THE TEMPLE CHURCH.

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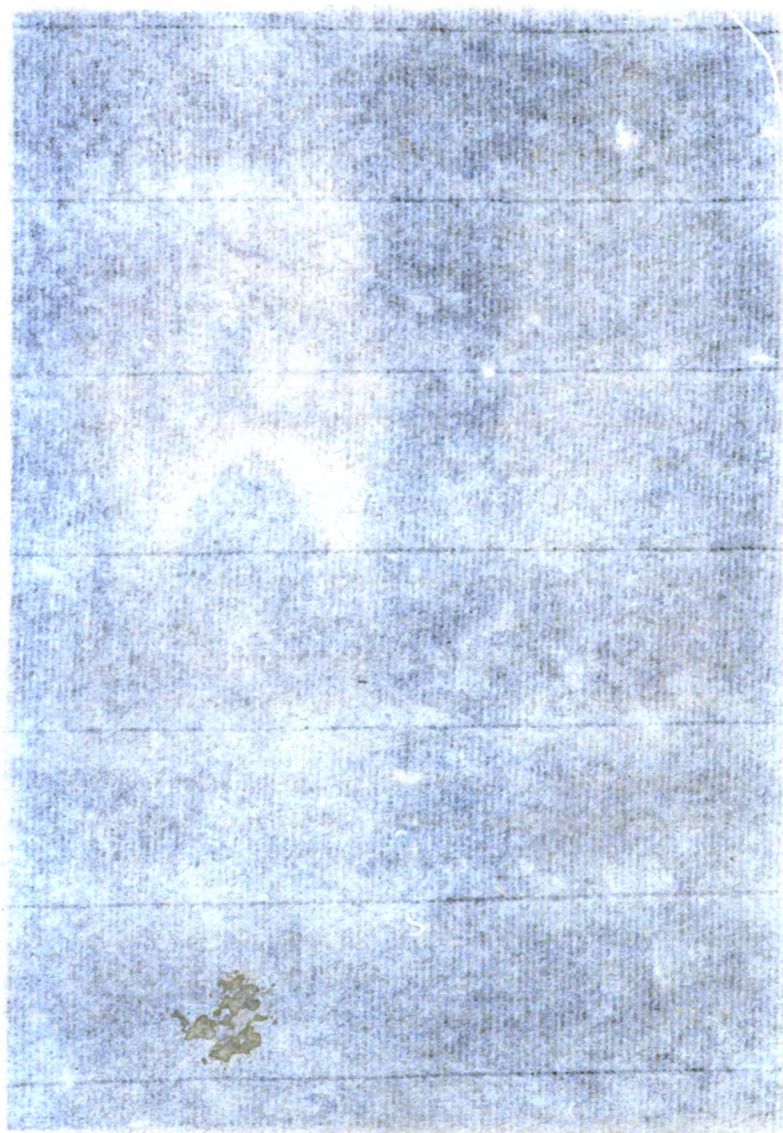
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manchet upon the point of a knife," they were free: for the buttry in this case was allowed for "sanctuary."

On the "grand banquetting night" the inns of chancery were invited to see a play and masque. The hall was furnished with scaffolds, and, at the conclusion of the entertainment, the ladies and other company were plentifully feasted.

Church.]—The Temple church belongs in common to the two societies: we have before mentioned the particulars of its foundation. This is a very beautiful specimen of the early Gothic architecture: it has three isles running east and west, and two cross isles. The windows are *lancet-shaped*, very antique, and the western entrance, which answers to the nave in other churches, is a spacious round tower in imitation of the church of the *Holy Sepulchre* (a peculiarity which distinguishes all the churches of the knights templars¹). This is separated from the choir, not by close walls, but by a handsome screen, which, however, has the defect of obstructing the sight. It is supported by six pointed arches, each resting on four round pillars, bound together by a *fascia*. Above each arch is a window with a rounded top, with a gallery, and rich Saxon arches intersecting each other. Without side of the pillars is a considerable space preserving the circular form. On the lower part of the wall are small pilasters meeting in pointed

¹ Part of the first Temple church, which stood near Southampton Buildings, Chancery Lane, was discovered about a century ago, on pulling down some old houses. It was built of Caen stone, and *circular* like the present church.

arches at top, and over each pillar a grotesque head.

The choir is a large building of the square form, evidently erected at another time. The roof is supported by slight pillars of what is usually called *Sussex* marble; and the windows on each side, which are three in number, are adorned with small pillars of the same. On the *outside* is a buttress between each. The entire floor is of flags of black and white marble. The length of the choir is 83 feet, the breadth 60, and the height 34: it is unencumbered with galleries. The height of the inside of the tower is 48 feet, its diameter on the floor 51, and the circumference 160.

The pillars of this tower (six in number) are wainscoted with oak to the height of eight feet, and some have monuments placed against them, which injures the uniformity of the plan. It is singular that the small pillars, and the heads which ornament them, are not of *stone*, but a *composition* resembling coarse mortar, which is very rotten, and from neglect and damp, threatens (unless repaired) a very speedy demolition.

The Temple church is principally remarkable (excepting the fashion of the edifice itself, which has a very uncommon and noble aspect) for the tombs of eleven of the knights templars. Eight of these have the monumental effigies of armed knights; the rest are coped stones of grey marble.

The figures consist of two groups, out of which five are cross-legged; the remainder lie straight.

Each group is environed by a spacious iron grate. In the first are *four* knights, each of them cross-legged, and three in complete mail, in plain helmets flatted at top, and with very long shields. One of these is known to have been Geoffry de Magnaville, created earl of Essex in 1148: the other figures cannot be identified either in this or the second group; but three of them are conjectured by Camden to commemorate William earl of Pembroke, who died in 1219, and his sons William and Gilbert, likewise earls of Pembroke and marshals of England. One of the stone coffins also, of a ridged shape, is supposed by the same antiquary to be the tomb of William Plantagenet, fifth son of Henry III ².

The dress and accoutrements of these knights are extremely singular: no two are alike, though all are armed in mail. Their position likewise is varied, and there is still sufficient expression in the faces to shew that *personal resemblance* was aimed at, and in some degree successfully. One figure is in a spirited attitude, drawing a broad dagger; one leg rests on the tail of a cockatrice, the other is in the action of being drawn up, with the head of the monster beneath ³.

² Weever mentions a fragment of a funeral inscription, once engraved on one of these monuments, and preserved in manuscript in the Cottonian library, which proves it to have been placed there to the memory of one Robert Rosse, otherwise called *Fursan*, a Templar, who died about the year 1245, and who gave to his brother knights his manor of Ribston.

³ The being represented *cross-legged* is not always a proof of the deceased having had the merit either of having been a crusader, or of having made a pilgrimage to the holy sepulchre, if two modern in-

Another is bare-headed and bald; his legs armed, his hands mailed, his mantle long; and round his neck a *cowl*, as if, according to the common superstition of those days, he had desired to be buried in the dress of a monk, lest the evil spirit should take possession of his body. On his shield is a *fleur de lys*. The earl of Pembroke bears a *lion* on his shield, the arms of that great family. The helmets of all the knights are much alike, but two of them are mailed⁴.

The Temple church contains some few other ancient monuments, chiefly to the memory of eminent lawyers, as Plowden, Selden, sir John Vaughan, &c. and one of a bishop in his episcopal dress, a mitre and a crosier, well executed in stone.

The superior clergyman of the Temple church, since the reign of Henry VIII. is called master or *custos* of the Temple, and is constituted such by the king's letters patent without institution or induction: there is besides a reader and lecturer. In Stowe's time it had four stipendiary priests, with a clerk, who had stipends allowed them out of the possessions of the dissolved monastery of St. John of Jerusalem. But the establishment was still greater in the Romish

stances mentioned by Mr. Pennant of persons who died in the seventeenth century, and are thus represented at the church of Mitton in Yorkshire, may be admitted as a contradiction of the common received opinion. This, however, they scarcely can, as it was the opinion of Stowe, Camden, and other writers, who lived long prior, and whose information must have been derived from authentic historical sources, or very remote tradition.

⁴ These figures are all beautifully engraved, and accurately described, in that truly magnificent work, "Gough's Sepulchral Monuments."

times, when the several priests had a hall and lodgings assigned them within the house, as appears by testimonials in the reign of Henry VII. The charges of the present church are jointly paid by both societies, who have each their side at divine worship.

The tone of the organ here has long been remarked as the very finest in the kingdom.

Garden.]—Shakespeare, whether from tradition or history, is unknown, makes the Temple garden the place in which the badge of the white and red rose originated, the distinctive cognizance of the houses of York and Lancaster, under which the respective partisans of each arranged themselves in the fatal quarrel which caused such torrents of blood to flow.

—“The brawl to-day,
Grown to this faction in the Temple garden,
Shall send between the red rose and the white,
A thousand souls to death and deadly night.”

The Middle Temple, as well as the Inner, is possessed of a very good library, to which strangers find a ready access during term time. Both contain many valuable MSS.¹; but the far greater number belongs to the Inner Temple.

¹ First Part of Hen. VI. act 2. sc. 4.

² Catalogues of the numerous and valuable MSS. contained in the libraries of the inns of court, as well as of those in the possession of many other public societies, have, by the laudable exertions of parliament, been lately printed, and may be seen in the Report of the select committee for examining into the state of the “public records.” As this book, however, is by no means common, and the knowledge of such a treasure of literature ought to be generally known, we shall take the liberty to extract from the *returns* of the law societies such

The MSS. of the Inner Temple were principally collected and composed by William Petyt, esq. keeper

particulars as are most interesting, and which the inquisitive reader will pardon our giving verbatim.

"The MSS. in the *Middle Temple* library are confined to the following :

"A book, labelled 'Placita coram Rege. Temp Edw. 1.' containing, as appears, a short state of records of proceedings and judgments in that king's court, in the several years of his reign.

"Rotuli Parliamentorum Edw. 2. 1 vol.

Edw. 3. 4

Rich. 2. 4

Hen. 4. 3

Hen. 5. 2

Edw. 4. 3

Hen. 6. 7

"Journal (Commons) of Parliament, held at Westminster, May 8, 1661; and the said journal continued to Dec. 30, 1678, 8 vols.

"Journal (Lords) of Parliament, from May 1, 1660, to April 15, 1671, 2 vols.

"Dockets of all the Things that passed the Great Seal by *Privy Seal*, or by *immediate Warrant*, from Oct. 20, 1710, to April 5, 1718, 1 vol.

"Dockets of all the Things that passed the Seal without Privy Seal Bill, from Oct. 20, 1710, to Nov. 20, 1714, 1 vol.—37.

"The manuscripts in the library of the *Inner Temple* are above 400 in number; many of these are on subjects wholly unconnected with the present inquiry, as divinity, general history, &c. &c.: others are upon subjects also not within the object of this inquiry; but more nearly connected with it, such as several ancient manuscripts of English historians, viz. Hovedon, Higden, &c.

"The remainder may be thus classed, viz. manuscripts, concerning,

"1. Parliamentary matters.

"2. Statutes and common law.

"3. Ecclesiastical matters.

"4. Copies and extracts from records.

"5. Repertories to other repositories.

"6. Miscellanea.

"1. *Parliamentary Matters.*

"These consist of copies from the Parliament Rolls, from Edw. 2. to Hen. 8. 33 volumes folio.

of the Tower records, and author of "The ancient Rights of the Commons of England asserted," &c.

"Journals of the House of Lords, from Hen. 8. to 32 Car. 2. 46 volumes folio.

"Journals of the House of Commons, from 1604 to 1707, 83 volumes folio *.

"Proceedings in Parliament and Miscellanies (see Miscellanea).

"The Antiquity, Power, and Privileges of Parliament (see also Miscellanea).

"Cases argued in Parliament, in Mr. Prynne's own Hand-writing, and never printed.

"2. *Statutes and Common Law.*

"Comprising, 1. Divers ancient Statutes from Magna Charta to Hen. 6.

"A Volume of private Acts, from Hen. 8. to Car. 2.

"2. Reports official, viz.

"Year Book †, from 10 to 16 Edw. 3. inclusive.

"Another Book ‡ contains the following Anni, 38, 40, 41, 42 Edw. 3. 3 Hen. 6.

"3. Reports unofficial, viz.

"A volume of Reports, in which there are a few cases in the reigns of Edw. 3. and Hen. 6. but chiefly temp. Phil. & Mar. & Eliz.

"Cases in the Courts of King's Bench, Common Pleas, and Exchequer, temp. Eliz. Jac. 1. Car. 1. 9 original volumes folio.

"A Collection of Paper Books and Pleadings in Cases determined in the King's Bench, 14 to 27 Geo. 2. 14 volumes folio.

"These were presented to the society by sir Martin Wright.

"Cases determined in Law and Equity, by Thomas Ley, esq. and

* These MS. copies of the rolls and journals must formerly have been of considerable use to the student. They are now, since they have been printed, comparatively of very little value.

† This year book is extremely valuable, the whole period to which it relates, except the tenth year, being deficient in the printed copies. It is very finely written, in a coeval hand; and, upon examining the tenth year with the printed copy, they appear so nearly alike as almost to induce a belief that this MS. for that year was used in the printed edition.

‡ The hand in which this MS. is written is not coeval.

publications which evidently prove him to have possessed great learning and industry.

by him lately bequeathed to the society — 1750 to 1765, 4 volumes.

“ 3. *Ecclesiastical Matters, viz.*

“ Clergy.

“ A Collection as to the Jurisdiction the Clergy hath used in England, and their exceeding the same, and as to Prohibitions and *Modus Decimandi*.

“ Ecclesiastical Courts:

“ A Volume of Instruments and Proceedings therein—ancient.

“ Another, containing Prohibitions, &c.

“ Registrum Chartarum Ecclesiæ Sarum.

“ 4. *Copies and Extracts from Records, viz.*

“ Placita de Juratis et Assisis apud Wigorn. Salop. et Novum Castrum super Tynam, 1, 2, 3, 20, 21 Edw. 1.

“ Placita coram Rege Temp. Edw. 1.

“ Placita coram Rege 1 ad 29 Edw. 2.

“ Placita coram Rege 1 ad 37 Edw. 3. 2 vols.

“ Placita Temporibus Johannis, Edw. 1. Edw. 2. 1 Edw. 3.

“ The above Placita are contained in 6 volumes folio.

“ A set of very important MSS. upon various subjects, intitled simply, ‘*Recordæ*,’ which, upon examination, appear to contain a great number of copies and extracts from the charter rolls, claus rolls, patent rolls.

“ Placita of various courts, and other records, from the reign of king John to that of Edw. 4. in 38 vols. folio.

“ LONDON—Its Charters, Privileges, Proceedings, &c. collected by William Petyt, esq. upon the *Quo Warranto* brought against the City by Charles 2. 2 vols. folio.

“ 5. *Repertories to other Repositories.*

“ An Index, or Repertory, to Decrees, Orders, Inrolments, and some other Records of the Court of Exchequer, from Edw. 1. to the present Reign, compiled with great care and accuracy, by Adam Martin, esq. one of the sworn Clerks of the King’s Remembrancer’s Office, and by him bequeathed to the Society, 2 vols. 8vo.*

“ A Calendar of all the Acts in the Clerk of Parliament’s Office, from 12 Hen. 7. to 32 Car. 2.

* A copy of this MS. is in the possession of D. B. Fowler, esq. of the exchequer.

This gentleman, by his will, bequeathed his MSS. to trustees for public use, who were not to suffer or

" A Catalogue of the Cottonian Library, 2 vols. folio.

" 6. *Miscellanea*.

" Under this comprehensive head, in this library, are contained,

" A large and valuable set of manuscripts, intitled, ' Proceedings in Parliament, and Miscellanies.'

" Upon a view of these it appears, that besides parliamentary affairs they relate to a great variety of important subjects, the principal of which seem to be the following, viz.

" Ambassadors, Instructions to, &c.

" Alienation Office—Cinque Ports—Coronations—Divorce—Fishings—Forests—Fortresses—Heraldry—Installations—Letters, and other original Papers *—Knights Templars, their Privileges, &c.—Monasteries—Navy—Nobility—Papal Bulls and Letters—Precedency—Sheriffs—Soldiers—Stannaries—Star-Chamber—Wards and Liveries, Court of—Wolsey, Cardinal.

" Some of these are only treatises on the subjects to which they respectively relate; but even these in general appear to be so replete with erudition, and to contain so much useful matter, selected from original records (some of great antiquity), that it would have been improper to have left them unnoticed. They comprise 56 vols. folio.

" The same observations may be applied to another.

" 2. Collection of MSS. principally concerning the Government of England.

" The Kings.

" Their Oaths and Coronations.

" The Antiquity, Power, and Privileges of Parliament, &c. Contained in 26 vols. folio.

" 3. There is also a third collection divided into volumes, bearing the following titles, viz.

" De Pardonationibus, 1 vol.

" De Moneta, 1 vol.

" Cleri Literarum Procuracione, &c. 1 vol.

" Theatrum Criminalium, 5 vols. (being criminal proceedings chiefly on state affairs).

" De Provisionibus Papalibus in Anglia, 2 vols.

* Some of these are valuable, with signs manual of kings and queens of England. They chiefly comprehend the reigns from Hen. 8. to Eliz. (Inclusive).

M M 2

permit them to be embezzled or sold ; and in order to their preservation he also gave 150*l.* towards building or buying a place for their safe custody. He likewise left 50*l.* each to the use of libraries of the Inner and Middle Temple.

The trustees of Mr. P.'s will assigned these books, together with the 150*l.* to the society of the Inner Temple, on condition that they should build a library for their reception, and admit the public to the free use of them, both of which have been complied with, and they have remained there since 1707.

Mr. Caley, of Gray's Inn, appointed by the select committee of the house of commons to inspect these MSS. says, "I am convinced they contain an abundant fund of information of the highest importance, evidently evincing the skill and judgment of the collector, and which may be consulted with advantage by the *lawyer*, the *historian*, and the *antiquarian*."

"De Creatione Nobilium in Parlamento et extra, 2 vols.

"De Cartis concessis Civibus et Burgis, 2 vols. making all together 14 vols. folio, of Copies and Abstracts of Records concerning those matters from the Tower and other repositories.

"In addition to the above, there are in this library a few single articles deserving notice, viz.

"Scotland.—A Collection of Treatises concerning it and its Subordination to England, 1 vol.

"Household Royal—A volume respecting it, made about 1622.

"Coronation—The Proceedings of the Coronation of Geo. 1. 1 vol.

"Among the above MSS. there are very few which, strictly speaking, can be called *originals*; perhaps the original letters and papers, and the *Registrum Chartarum Ecclesie Sarum*. are those only which can be properly so denominated; but many of these copies (which appear to be correctly made) may in future, and perhaps even already, be entitled to that appellation, from the loss or obliteration of the records from whence they have been transcribed."

Eminent Men.

Among the illustrious characters educated at the Middle Temple, we find many who rose to the highest rank in their profession, and were otherwise sufficiently eminent to merit a distinguished mention in the page of history.

Lord chancellor Rich, a celebrated statesman in the reign of Henry VIII. was a member of this house, and served here the office of reader in the 21st of that monarch. In the 27th of the same reign he was advanced to the place of chirographer of the common pleas, and soon afterwards to the dignity of the chancellorship. He distinguished himself as a leading man in many of the political measures of that day, and shared liberally with other of Henry's favourites in the plunder of the religious houses.

William Fleetwood, serjeant at law and recorder of London, an officer often noticed in the history of Elizabeth's reign, was another member who conferred celebrity on the place of his education.

Plowden, the celebrated author of the "Reports," studied the elements of legal knowledge, in which he afterwards became so eminent a proficient, at the Middle Temple, and held here the office of treasurer, during the rebuilding of the great hall; in one of the windows of which, his arms, with the date 1576, still remain. This gentleman was of an ancient family in Shropshire, and a most distinguished lawyer and author. Camden says of him, that in integrity he was second to none of his profession. He lies

buried in the Temple church. On his tomb his figure is represented recumbent, and in his gown.

Sir Thomas Smith, educated at this inn, was born March 28, 1512, and was appointed dean of Carlisle, and provost of Eton, by Edward VI. He was afterwards secretary of state to that monarch and to queen Elizabeth, was sent ambassador to several foreign princes in both these reigns, and had a principal hand in settling the public affairs, both in church and state. In 1575 he procured an act of parliament, that the third part of the rent upon college leases should be always reserved in *corn*, at the low price at which it then sold. He clearly saw that the collegiate bodies would reap great advantage from this act, as there was the highest probability that the price of grain would be much advanced. He died 1576¹.

Judge Dodderidge, another member of this society, and reader, 45 Elizabeth, rose to the honours of the bench from a very obscure situation, and was highly celebrated for his great legal knowledge.

Sir Francis Moore, reader of the Temple in the 5th of James I. was born at Ilsley, or Ildesley, near Wantage in Berkshire, and was a frequent speaker in parliament in this and the preceding reign. In 1614

¹ Sir Thomas Smith, on account of the several spiritual preferments he enjoyed, particularly the rectory of Leverington in Cambridgeshire, and the provostship of Eton, is supposed by Strype to have been in deacon's orders. Of this, however, there is no direct evidence, and the rectory might have been held by any one who was a clerk at large: for though the law of the church was, that in such a case he should take the order of priesthood within one year after his institution, yet that was frequently dispensed with.

he was made serjeant at law ; and in 1616 knighted by king James at Theobalds. He was a man of merit in his profession, and of a general good character. His "Reports," in the reigns of Elizabeth and James I. were published in 1668, with his portrait prefixed. His learned reading concerning the statute on charitable uses, which he drew up himself, is printed with Duke's book on that subject. He died the 20th of November 1621, aged 63, and lies buried at Great Fawley near Wantage.

Sir James Dyer was constituted chief justice of the king's bench in the reign of Elizabeth, on which he conferred great honour by his superior abilities. He died in March 1581, and was author of a book of "Reports" in French, of which several editions have been published, and to which his portrait is affixed.

Besides the above, we find the names of many others (members of this society), who were advanced to dignities, and were men of the first eminence in their day : as, sir Robert Catlyn and sir Edward Montague, chief justices of the king's bench, and the judges Corbet, Nicholls, sir Thomas Malet, sir James Whiteloke, &c.

In the common pleas, sir Robert Broke, sir Nicholas Hide, sir John Brampston, sir Robert Hide, and sir John Popham, all chief justices : sir Robert Berkeley, sir Anthony Browne, sir Edward Mervin, sir Francis Harvey, Weston, Walshe, and Southcote, judges of the same court : to these may be added, such as have presided in the exchequer court, or who have been serjeants, recorders of London, privy

counsellors, speakers of the house of commons, &c. And among the great names of modern times, the lord chancellors Cowper and Yorke; the immortal Blackstone; the late lord chief justice Kenyon, and the present great ornament of the equity court, lord chancellor Eldon.

CHAP. IV.

INNS OF CHANCERY BELONGING TO THE TEMPLE¹.

CLIFFORD'S INN.

CLIFFORD'S INN, a member of the Inner Temple, is situated on the north side of Fleet Street, adjoining St. Dunstan's church, and is of very considerable antiquity. It derives its name from the honourable family of the barons Clifford, ancestors of the earls of Cumberland, who had a residence there many ages since, which was called, according to the custom of the time, "Clifford's Inn."

The first of the family that appears to have possessed this residence was Robert de Clifford, an

¹ To the two Temples, the Inner and Middle, belonged five inns of chancery, Strand Inn (destroyed at the building of Somerset House), Clifford's Inn, Clement's Inn, New Inn, and Lyon's Inn. Of the ancient state of these, and indeed of most of the inns of chancery, which were, as before observed, of a subordinate rank, scarcely any thing can be said. There are no records which fix any certain date to their foundation; and excepting their own local constitutions, which principally respected their *exercises of learning*, and were very similar to those of the other inns, their concerns may be said to have been absorbed in those of the larger inns of court, of which they were members.



CLIFFORDS INN.

London, Middle and West. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

officer of great power, in the reign of Edward II. who received it by a grant from that monarch, dated February 24, in the third year of his reign, in these words :

“ The king granteth to Robert Clifford that messuage, with the appurtenances, next the church of St. Dunstan's in the West, in the suburbs of London; which messuage was sometimes *Malculines de Herley*, and came to the hands of Edward I. by reason of certain debts which the said *Malculines* was bound at the time of his death, to our said father, from the time that he was escheator on this side Trent. Which house John earl of Richmond did hold at our pleasure, and is now in our possession,” &c.

This grant was held by the service of one penny, to be paid into the king's exchequer at Michaelmas.

After the death of Robert de Clifford, *Isabel*, his widow, let the same messuage, 18 Edward III. to the students of the law, or *apprenticiis de banco*, as they were then called, as appears by record :

“ *Isabell quæ fuit uxor Roberti Clifford messuagium unipartium quod Robertus Clifford habuit in parochia S. Dunstani West in suburbio Londini, &c. tenuit et illud dimisit post mortem dict. Roberti apprenticiis de banco, pro 10l. annuatim, &c. anno 18 Edwardi tertii inquisitis post mortem Roberti.*”

Clifford's Inn fell into the king's hands after this period, by means with which we are unacquainted, but returned again to the Cliffords. Since that time, first by lease, and afterwards by a grant in fee-farm to Nicholas Sulyard, esq. principal of this house,

and a bencher of Lincoln's Inn, in the reign of Henry VI. Nicholas Guybon, Robert Clinche, and others, the then seniors of it, and in consideration of 600*l.* and the rent of 4*l.* per annum, it has continued to be a mansion for lawyers till the present time.

This society was governed by a principal and twelve rulers. The gentlemen were to be in commons a fortnight in every term; and those that were not, paid about 4*s.* a week, but not always certain. They sell their chambers for one life, and formerly had *mootings*.

Their armorial ensigns are chequy *or* and *az.* a fess gules, within a border of the third.

In Maitland's London, Clifford's Inn is said to be 'of late years much enlarged in new buildings. In the garden, an airy place and neatly kept, the gardens being enclosed with a palisado paling, and adorned with rows of lime-trees, are set grass-plats, which have a pleasant appearance, intersected by gravel walks.'

The gardens do not altogether at present answer the above description, being rather neglected, and several of the houses in the Inn want rebuilding; but it nevertheless is a tolerably pleasant retirement. It consists, like Clement's Inn, of three small courts or squares, two of which are separated by the hall, the passage of which forms a thoroughfare into the two inner courts.

It has the conveniency of three doors, or entrances; the one into Serjeant's Inn, in Chancery

Lane, another into Fetter Lane, and a third into Fleet Street.

The hall is a moderate-sized room, and modern, though built in imitation of the *Gothic* style. It contains nothing worthy of remark, except an old-fashioned chest, in which are kept the original institutions of this society, and which are of a nature very similar to those of the other inns.

In this hall sir Matthew Hale and the principal judges sat after the great fire of London, to settle the various differences that occurred between landlord and tenant, and to ascertain the several divisions of property; which difficult and important business was performed by them so much to the satisfaction of the city, that the mayor and commonalty, in gratitude for so signal a service, ordered their *portraits* to be painted, and hung in the Guildhall, where they still remain.

In this momentous employment it is but justice to the memory of judge Hale to say, that he was the first that offered his service to the city; and this measure certainly obviated numerous difficulties that would otherwise have occurred concerning the rebuilding of it; insomuch, says the author of his life, "that the sudden and quiet building of the city, which is justly to be reckoned among the wonders of the age, is in no small measure due to the great care which he and sir Orlando Bridgeman, then lord chief justice of the common pleas, used, and to the judgment they shewed in that affair," &c.

LYON'S INN.

Lyon's Inn is situate between Holywell Street and Wych Street, and is, like the former, an appendage of the Inner Temple.

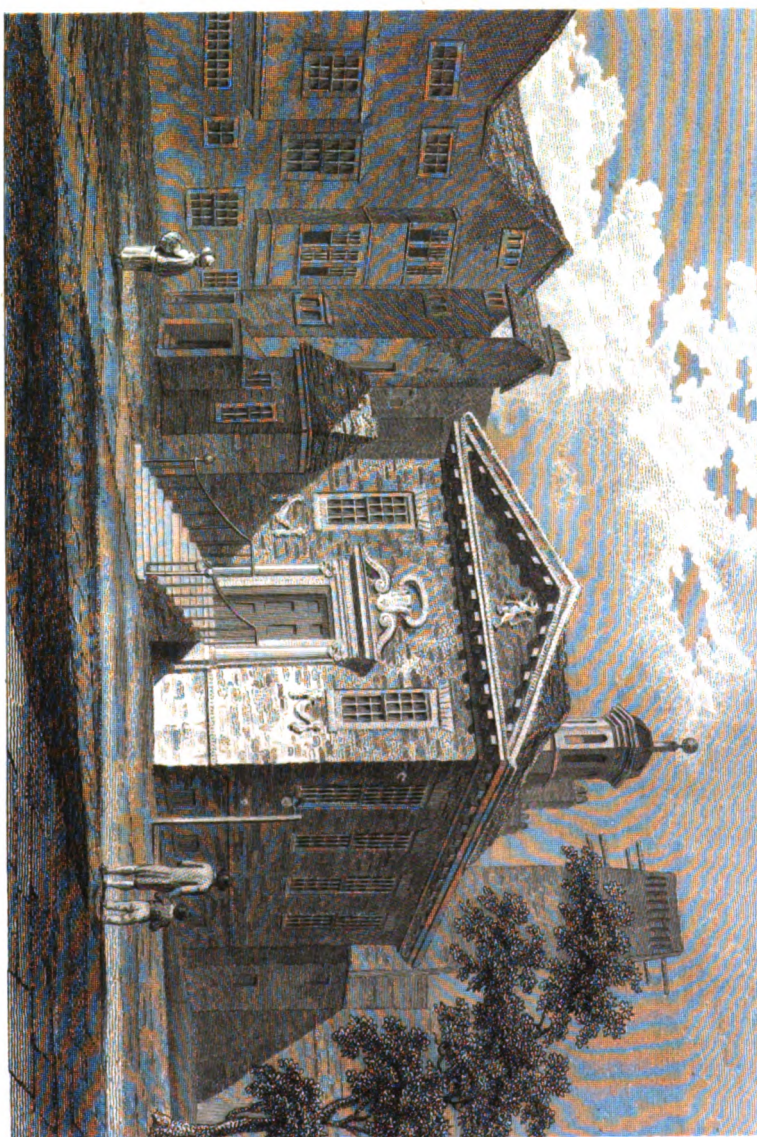
It is known to be a place of considerable antiquity from the old books of the steward's accounts, which contain entries made in the time of king Henry V. How long before that period it was an inn of chancery is uncertain.

Its government was formerly vested in a treasurer and twelve ancients. The gentlemen of the house were in commons *three* weeks in Michaelmas term, in other terms *two*. They paid 5*s.* for the reading weeks, and for the others 2*s.* 6*d.* ; sold their chambers for one or two lives, and had *mootings* once in four terms.

This little inn, whose buildings at present exhibit evident marks of neglect and decay, consists of one small square only, and has chambers built on two sides, the windows of the northern range looking into Wych Street, and the others into the inn: the south side is formed by the old houses in Holywell Street.

It has a hall, which stands in the south-west corner of the court, and was formerly, when properly kept, a commodious handsome room ; but it is now appropriated to indifferent purposes.

The exterior is decorated with a handsome doorway, to which there is an ascent by a flight of stone steps and ballustrades: the roof terminates in a pointed pediment, in the midst of which is the armorial bear-



LYONS INN

London: Published by W. G. Smith, 15, Abchurch Lane, in the Strand, near St. Dunstons Church, 1847.

ing of the society ; a lion, in *alto relievo*, indifferently sculptured, and beneath, the date 1700.

ST. CLEMENT'S INN.

St. Clement's Inn appears to have derived its name from the church near which it stands, and a celebrated holy well adjoining ; both of which were dedicated to the Roman pontiff St. Clement ¹. This well was one of the principal springs at which the city youth on festival days used to entertain themselves with a variety of diversions, and is the same which is now covered, and a pump placed in it, on the east side of St. Clement's Inn, and lower end of Clement's Lane.

A house, or inn of chancery, for the education of the students of the law, was situated on this site in the time of king Edward IV. as appears from the book of entries ², from the record of Mich. 19 E. 4. fol. 61, *titulo, misnomer* ; where the defendant, to shew that he was not named of the right place of his abode, pleaded thus :—" Dicit, quod tempore impe-

¹ " There are (saith Fitzstephen) near London, on the north side, special wels in the suburbs, sweete, wholesome, and cleere: amongst them, Holywell, Clark's well, and *Clement's* well, are most famous, and frequented by scholers and youths of the city, when they walk forth to take the ayre *."

" The fountain called St. Clement's well, north from the parish church of St. Clement's, and neere unto an inne of chancery, called Clement's Inne, is faire curbed square, with hard stone, kept clean for common, and is always full †."

* Impr. Lond. 1598, fo. 108.

* Stowe.

† Ibid.

trationis brevis, fuit de hospicio de Clement's Inne, in parochia S. Clementis Dacorum, extra barram Novi Templi, Lond. in comitatu Midlesexia: quod quidem hospicium est, et tempore ante impetrationis brevis, et diu ante, fuit quoddam hospicium hominum curiae legis temporalis, necnon hominum consiliariorum ejusdem legis."

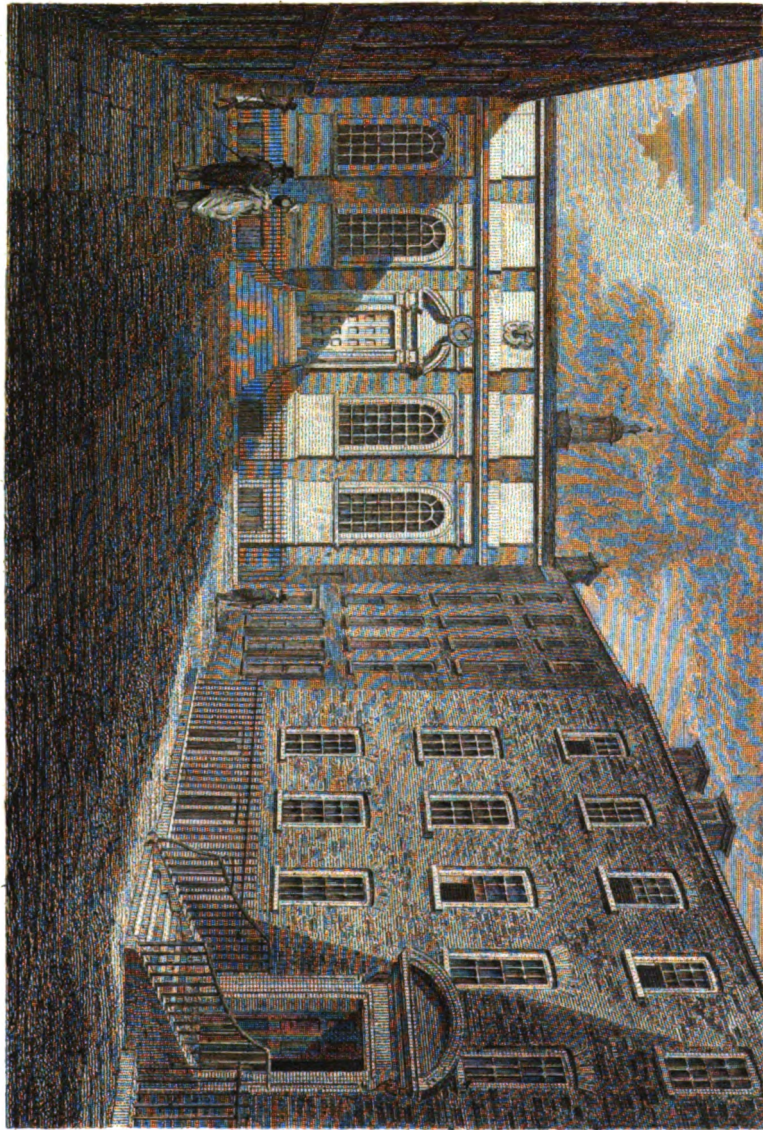
Whose inheritance it anciently was, however, is not known. In the year 1486 (2 Henry VII.) sir John Cantlowe knight, by a lease³ bearing date the 20th of December, in consideration of xl. marks fine, and 4*l. vis. viiid.* yearly rent, demised it for eighty years to William Elyot and John Elyot (in trust, as may be presumed, for the students of the law).

About the year 1528 (20th of Henry VIII.) Cantlowe's right and interest was passed to William Holles, citizen of London, afterwards knight, and lord mayor of that city, and ancestor of the dukes of Newcastle, one of whom, John earl of Clare, son and successor of sir John Holles, the first earl, and whose residence was on the site of the present Clare market, demised it to the then principal and fellows.

The buildings of the present inn are all modern, and occupy three small courts; through which there is a thoroughfare in the day-time to Clare market and into New Inn. The chambers are by no means so good as those of the latter place.

The hall fills one side of the middle square, or court, and is a well-proportioned and elegant room.

³ Ex autogr. penès principalem et socios hujus hospicii. Videsis etiam Rot. claus. de anno 2 Hen. 7.



CLEMENT'S INN.

London, Published by Wm. G. & Co. 11, Strand, near the Theatre Royal, and by J. & W. G. & Co. 11, Strand, near the Theatre Royal.

It contains a good portrait of sir Matthew Hale, and five other pictures of no importance. On the outside, the front of which has a respectable and handsome appearance, are placed the arms of the society, argent, an anchor (without a stock) in pale proper, and a C sable passing through the middle.

In the middle of the garden, which adjoins that of New Inn, and is kept with particular neatness, is a sun-dial, supported by a figure of considerable merit kneeling (a naked Moor, or African), which was brought from Italy by lord Clare, and presented to the society: it attracts much attention³.

The students who nestled at this and the several adjoining little law seminaries or inns, notwithstanding the greater severity than at present with which they were governed, appear to have possessed much of the unruliness of the modern gentlemen of our universities, if we may credit the following anecdote told by Strype. Speaking of St. Clement's church, he says:

³ The following lines, *said* to have been found stuck upon the figure of the Moor, supporting the sun-dial in the gardens of Clement's Inn, the production of some unlucky wag, and given in the "Elegant Extracts," have too much merit to be omitted in this place:

"In vain, poor sable son of woe,
Thou seek'st the tender tear:
From thee in vain with pangs they flow,
For mercy dwells not here.
From cannibals thou feed'st in vain;
Lawyers less quarter give;
The *first* won't eat you till you're slain,
The *last* will do 't alive."

“ Here about this church, and in the parts adjacent, were frequent disturbances, by reason of the unthrifths of the inns of chancery, who were so unruly on nights, walking about to the disturbance and danger of such as passed along the streets, that the inhabitants were fain to keep watches. In the year 1582 the recorder himself, with six more of the honest inhabitants, stood by St. Clement's church to see the lanthorn hung out, and to observe if he could meet with any of these outrageous dealers. About seven at night they saw young Mr. Robert Cecil, the lord treasurer's son, who was afterwards secretary of state to the queen, pass by the church, and as he passed gave them a civil salute : at which they said, *Lo ! you may see how a nobleman's son can use himself, and how he putteth off his cap to poor men : our Lord bless him.* This passage the recorder wrote in letter to his father, adding, ‘ Your lordship hath ‘ cause to thank God for so virtuous a child’ .”

Lord chief justice Sanders, who succeeded sir Francis Pemberton, chief justice in 1681, received the rudiments of his education here, and was too extraordinary a person to be passed over in silence. He was originally, it is said, a strolling beggar about the streets, without known parents or relations, and coming often to beg scraps at Clement's Inn, was taken notice of for his uncommon sprightliness ; and as he expressed a strong inclination to learn to write, one of the attorneys' clerks taught him, and soon qualified him for a hackney writer. In this station he took all opportunities of improving him-

self by reading such books as he borrowed of his friends, and in the course of a few years became an able attorney, and a very eminent counsel. His practice in the court of king's bench was exceeded by none: his art and cunning were equal to his knowledge, and he carried many a cause by laying snares. If he was detected, he was never out of countenance, but evaded the matter with a jest, which he always had at hand. He was much employed by the king against the city of London in the business of the *quo warranto*. His person was as heavy and ungain as his wit was alert and sprightly. He is said to have been "a mere lump of morbid flesh;" the smell of him was so offensive, that people usually held their noses when he came into the court. One of his jests on this occasion was, that "none could say he wanted issue, for he had no less than nine in his back."—See more of him in North's "Life of the Lord-keeper Guildford," p. 224, 225⁴.

St. Clement's Inn is an appendage of the Inner Temple.

NEW INN, IN WYCH STREET.

New Inn, since the destruction of *Strand Inn*, which anciently belonged to the Middle Temple, is the only law seminary remaining in the possession of that society. It stands contiguous to Clement's Inn on the west, and has little to interest, being built of brick, and entirely modern. In point of neatness, however, it may be proposed as an example to many

⁴ Biog. Hist. England.

of the other inns ; none of which are more pleasantly situated, and few so well kept.

The buildings occupy three sides of a square,—the fourth, or north-easterly part, joining to Clement's Inn, from which it is only separated by a gate and iron railing. They contain a number of spacious and handsome chambers, and which are in general inhabited by the more respectable part of the profession. The garden, which is a fine large plot of ground, surrounded by iron railing, and is laid out in pleasant walks, is common to both societies.

The hall is a high square brick building, and stands towards the south-east corner of the square : the front is adorned with a large clock. It has nothing withinside remarkable, but is a spacious and good room.

The site of New Inn, about the year 1485, was occupied as a common inn, or hostery for travellers and others, and was called, from its sign of the Virgin Mary, " Our Lady Inn." " It became first an hostell for students of the law," says Dugdale, " (as the tradition is) upon the removal of the students of the law from an old inn of chancery, situate in Seacole Lane, a little south from St. Sepulchre's church, called St. George's Inn, and was procured from sir John Fineux knight, sometime lord chief justice of the king's bench, for the rent of 6*l.* per annum, by the name of NEW INN."

This tradition is further confirmed by Stowe :—

" In St. George's Lane (near St. Sepulchre's church), on the north side thereof remaineth yet an



NEW INN.

London: Published by W. G. and J. W. at the Corner of St. James's Street, and at the Corner of St. Martin's Lane.

olde wall of stone inclosing a piece of ground by *Seacole Lane*, wherein (by report) sometime stood an inne of chancery⁴; which house being greatly decayed, and standing remote from other houses of that profession, the company removed to a common hostery, called of the signe, *Our Lady Inne*, not far from *Clement's Inne*, which they procured from sir John *Fincox*, lord chiefe justice of the king's bench, and since have held it of the owners, by the name of the *New Inne*, paying therefore sixe pound rent by the yeere as tenants at their owne will; for more (as is said) cannot be gotten of them, and much lesse will they be put from it."

This society was governed by a treasurer and twelve ancients.

The members were to be in commons, in their gowns and caps (as the other courts), one week in every term, or pay if not there. They had also anciently *mootings* once or twice a term.

Their armorial ensigns are, *vert*, a *flower-pot argent*.

New Inn may boast the honour of having educated the great sir Thomas More, who for some time studied here previous to his entering himself of Lincoln's Inn, of which he was afterwards a *reader*. And here the students of Strand Inn, as being also under the same government of the Middle Temple, removed on the destruction of their house as before mentioned by the protector Somerset.

⁴ Part of this ancient stone wall is still to be seen under the houses of *Bishop's* and *Green-arbour courts*, at the back of the Old Bailey.

STRAND INN.

Strand Inn, called also Chester Inn, or "Chester's Inn," was a house of chancery belonging to the Middle Temple, which stood near the church of St. Mary le Strand, and, together with that building and several others, was destroyed in the reign of Edward VI. to make room for Somerset house,—the students having previously been removed to New Inn opposite.

Occleve, the poet in the reign of Henry V. is said to have studied the law at "Chestre's Inne," which is the only circumstance known concerning it. It is presumed by Strype to have been built on ground belonging to the bishops of Chester; to one of whom, Roger de Mulnet, or de Molend, called also *Longspée*, Roger, named the *Amner*, by his deed, dated 1257, gave and confirmed "a parcel of land and buildings lying in the parish of St. Mary le Strand without London, towards Westminster; and the same to hold to the said Roger and his successors by the yearly rent of 3*s.* at Easter." For the purchase of this the bishop gave 20 marks of silver.

Chestre's Inn is frequently confounded with the house of the bishops of Chester, which stood near the same spot, and was sometimes so named; but Stowe says the latter was most commonly called "Litchfield and Coventrees Inne, or London Lodgings," and was first built by Walter Langton, bishop of Chester and treasurer of England in the reign of Edward I.

Many vacant pieces of land, from Temple Bar and so towards the Strand, lying in the parishes of St. Clement Danes and St. Mary Strand, were about the same time granted and built upon : viz. in the 29th of Edward I. Walter de Barbur had granted him a void place in the high street, in the parish of St. Clement Danes without the bars of the New Temple. The same year Robert Le Spencer had another vacant place of ground in the same parish, containing forty feet in length and forty in breadth. The second of Edward II. Thomas earl of Lancaster granted to the bishop of Landaff a place of ground near the church of St. Mary atte Strand, containing fourscore feet in length and eight in breadth, *pro manso suo ibidem elongand.* (for enlarging of his mansion-house there). And in the fifteenth of Henry II. John de Langton obtained for the bishop of Worcester a place in the parish of St. Mary atte Strand, containing thirty perches in length and four in breadth.

In the high street near the Strand some time stood a cross of stone against the bishop of Coventry or Chester's house aforesaid, "whereof I read (says Stowe), that in the year 1294, and divers other times, the justices itinerant sat without London at the stone cross over against the bishop of Coventry's house, and sometimes they sat in the bishop's house, which was hard by the Strand (as is aforesaid)."

CHAP. V.

LINCOLN'S INN.

THIS principal inn of court occupies a large plot of ground on the west side of Chancery Lane (formerly called Chancellors Lane), nearly in the centre of the metropolis. It was founded partly on the ruins of the monastery of the "black friars," who resided here previous to their removal to the quarter which now bears their name, and a mansion formerly belonging to Ralph Nevil, bishop of Chichester and chancellor of England in the reign of Henry III.

These black or preaching friars (thirteen in number) came into England with their prior *Gilbert de Fraxineto* in the year 1221 ; about which time great numbers of mendicants of the different orders were imported from the continent to reform the manners of the age. Peter de Rupibus, bishop of Winchester, introduced them to Stephen Langton, archbishop of Canterbury, at his cathedral, who commanded the prior to preach, and so much approved of his sermon, that he became their warm patron.

On their arrival in London, the piece of ground on which the present inn stands, then described to be "without the wall of the city by Holbourn, near unto the old Temple," was given them, and there they founded a house and church, where they met with several benefactors, particularly the famous Hubert de Burgo, or Burgh, earl of Kent, and Margaret,



LINCOLN'S INN GREAT SQUARE

From the North West, as the View from the North, taken from the North

sister to the king of Scots, widow to Geoffry earl marshal, who were both buried here, but afterwards removed to Ludgate. Hubert died, according to tradition, at his manor of Banstead in Surry, in 1242, having first bestowed on the friars his "place," or palace, at Westminster. This was afterwards sold by them to Walter Gray, archbishop of York, and left by him to his successors for ever as a town residence; and hence denominated *York Place*. Cardinal Wolsey gave it to Henry VIII.; since which time it has been called *Whitehall*. Margaret died in 1244⁶.

In 1276 Gregory Rokesley, a devout and munificent citizen, and then mayor of London, with the concurrence of the "barons of London," granted and gave to Robert Kilwarby, archbishop of Canterbury, two lanes or ways next the streets of Baynard's Castle, together with the materials of a tower called *Mountfitchet*, then in decay, and standing near the Thames, in trust for the same friars; and by the voluntary aid of the king and others, they were enabled to erect a new convent, to which they soon afterwards removed. This ancient monastery fronted Holborn.

⁶ At this monastery of the black friars a general convocation of the order from all parts of Christendom, and even the Holy Land, assembled in 1250, to the number of 400, to treat of the affairs of their order, having their meat and drink found them of alms, because they had no possessions of their own. The first day the king came to their chapter, entered and dined with them; another day the queen sent them provisions; and they were afterwards feasted by the bishops of London, and the abbots of Westminster, St. Alban's, and Waltham.

⁷ Vide note 3, page 36.

The bishop's house was built in a garden in the lower part of the lane, once belonging to John Herlirum, as appears by the grant made to him of it by Henry, who excepted it out of the *domus conversorum*⁸ (now the Rolls).

"The king granted to Ralph bishop of Chichester, chancellor, that place, with the garden, which *John Herlirum* forfeited in that street called *New Street*, over against the land of the said bishop in the same street; which place, with the garden and appurtenances, was the king's *escheat*, by the liberty of the city of London, as it was acknowledged before the king in his court of the tower of London, in the last pleas of the crown of that city⁹."

⁸ Ch. J. Brooke, esq.

⁹ The site of this house and garden still retains the names of "Bishop's Court" and "Chichester Rents." Of both this and the friary there are now no remains. Chichester house was standing as late as the reign of Elizabeth; at which time Spelman informs us, sir Richard Read master in chancery, and Mr. Atkinson a counsellor at law, men eminent in their time, resided. It had long before ceased to be the dwelling of the bishops of Chichester, who had for several years leased it to various persons.

Of the extent or magnificence of this dwelling we are at present unacquainted; but Matthew Paris, who speaks of its foundation, terms it "a noble palace." "*Venerabilis pater* (says he) *episcopus Cicestrensis Redulphus de Nevilla, cancellarius Anglie*, &c. The venerable father, Ralph Nevil, bishop of Chichester and chancellor of England, built *his noble palace* from the ground not far from the New Temple, and House of Converts; in which place he deceased in the month of February 1244."

At this house, in the same year, the above author tells us, *Boniface*, the wrathful archbishop of Canterbury, with his retinue, lodged in his famous visitation to the priory of St. Bartholomew the Great: from both these circumstances we may conjecture it to have been a fine and large building.

Richard de Wihtz, afterwards called Saint Richard, was the next occupier of Chichester house after bishop Nevil; about which period both that mansion and the deserted house of the black friars became appropriated to the study of the law; but in what particular way does not appear. Tradition reports, that Henry Lacy, the great earl of Lincoln, who in the next age had a grant by patent from king Edward I. of "the old friar house *juxta* Holborn, being a person well affected to the study of the laws," assigned the professors of it this residence, but we are not told whether by gift or purchase. From this nobleman, however, it derived the name of Lincoln's Inn, which it still retains. Lacy died in 1310.

To the earl of Lincoln's estate on this spot was soon afterwards added the greater part of that possessed by the bishops of Chichester, who afterwards leased it to the students of the law, reserving a certain rent and lodgings for themselves on their coming to London; one of which students, Francis Sulyard, resided there till the 27th of Henry VIII. In that year Robert Sherborn, then bishop of Chichester, made a new lease of it to William Sulyard, the son of Francis Sulyard, usher of the bedchamber to king Henry VIII. and likewise a student of the same house, for 99 years, for the rent of 6*l.* 13*s.* 4*d.*: this lease ended Michaelmas 1634.

Richard Sampson, one of the succeeding bishops of the see, passed the inheritance of this house and the garden called Cottrell Garden or Coneygarth, by his deed bearing date the 1st July, 28 Hen. VIII.

P P

to the said William Sulyard, and Eustace his brother ; which grant was confirmed by the dean and chapter of Chichester the 1st of August then next ensuing.

The inheritance thus settled in these two brothers, became vested by survivorship in Eustace, whose son and heir, Edward, by his deed bearing date the 12th of November, 22 Eliz. in consideration of 520*l.* conveyed to Richard Kingsmill, and to the rest of the then benchers, the aforesaid house and garden, &c. in fee ; and a fine was accordingly levied by him the said Edward and his wife.

Buildings.]—In the year 1492 (8th Henry VII.) the society having raised a sum of money, partly by contribution, and partly by loan, about two years afterwards the old hall was pulled down for the purpose of erecting another. The new one, however, was not begun to be built till fourteen years afterwards¹, owing to a deficiency of funds. It was forwarded by a gift in 13 Hen. VII. of John Nethersale, a member of the society, who bequeathed 40 marks, “ partly towards the building of a library here, for the benefit of the students of the laws of England ; and partly, that every priest of this house, then being, or hereafter to be, who should celebrate mass and other divine service every Friday weekly, should then sing a mass of *requiem* ; and also, in the time of the said mass, before

¹ The *loover* (or lantern) thereon was not set up till 6 Edw. VI. ; for in that year the charge was accounted for ; the carpenter's work and timber amounting to xlv*s.* ; the smith's, for the vane, viii*s.* ; the gilding thereof, xi*s.* ; the plumber's work viii*l.* x*s.* ; and the glazier's work xxxi*l.* On the outside were placed, in lead, the arms of Lacy earl of Lincoln, with Quincy and the earl of Chester's.

his first *lavature*, say the psalm of De profundis, with the orizons and collects accustomed, for the soul of the said John."

The next year, that fine ancient remain the great gateway, or Gatehouse Tower, as it is called, was contracted for, and the masons for the stone-work engaged. The timber was brought by water from Henley upon Thames. Towards this work sir Thomas Lovell, the founder of Holywell nunnery, and formerly a member of this society, but then treasurer of the household to king Henry VII. was a good benefactor. The work however was not completed till the 9th of Henry VIII. and that by means of additional assistance from the same person, whose liberality at length so far operated on the rest of the society, that, two years afterwards, all in commons were taxed, and orders made for the speedy payment of former subscriptions. An additional sum of 40*l.* was also allowed from the treasury of the house, and the structure was finally finished in 12th Henry VIII. the expense amounting to 153*l.* 10*s.* 8*d.* William Sulyard, before named, was the principal cashier and director of this work.

The brick and tile used in the gateway were dug from a piece of ground then called Coneygarth, lying on the west side of the house adjoining to Lincoln's Inn Fields; and 16*l.* 7*s.* 5*d.* was paid for forty-three cart-loads of freestone, together with the wrought-work of the chimnies, and sculpturing the arms over the gate.

But though the gate-house was thus finished, the

gates themselves were not ordered to be put up till the 25 Henry VIII. when the building was finally completed by an order of council, which likewise directed the making of more brick for another building, under the direction of a Mr. Heyden the elder. This latter building contained nine chambers, and was three stories high. It stood on the *postern* side of the house towards the fields, and was begun in Trinity term, 27 Henry VIII. the expense amounting to 199*l.* 8*s.* 4*d.*

The 34th of Henry VIII. the street now called Chancery Lane was, at the expense of the society, ordered to be paved with stone as far as the extent of their own house and garden: this cost 46*l.* and took place pursuant to an act of parliament, made in 1540, which directed the paving of the whole street¹.

In 1 & 2 Philip and Mary, the walk under the trees in the Coneygarth was made.

The next structure was the kitchen; which, by an act in council, in 3 & 4 Philip and Mary, was

¹ Chancery Lane, in the time of Edward I. was so foul and dirty, that John Briton, *custos* of London, had it barred up, to hinder any harm that might happen in passing that way; and the bishop of Chichester, whose house was there, kept up the bar for many years. Afterwards, however, upon an inquisition made of the annoyances of London, the inquest presented, that John bishop of Chichester, ten years past, stopped up a certain lane, called Chancellor's Lane, *levando ibid. duas stapulas cum una barra*, i. e. by setting up there two staples with one bar, across the said lane, whereby men with carts and other carriages could not pass. The bishop answered, that John Briton, while he was *custos* of London, for that the said lane was so dirty that no man could pass, set up the said staples and bar, *ad viam illam defutand.* and he granted that what was an annoyance should be taken away: which was done by the sheriff accordingly.

ordered to be new built of brick, with a wall and gates; for supporting the charge of which every one of the society at the clerk's commons was assessed at 13s. 4d.; every of the master's commons 20s. and every of the masters of the bench 26s. 8d. besides a benevolence from those who chose to give above that proportion.

Till the beginning of the reign of Elizabeth, the enclosure which separated Lincoln's Inn from Chancery Lane on the one side, and from the fields, since called Lincoln's Inn Fields, on the other, was merely an embankment of clay; but in the first year of that princess an order was made that a brick wall and gates should be set up on the backside of the house, and that the gates on the foreshore (or gate-house) should be put up, which it seems, notwithstanding the directions given in 25 Henry VIII. was not before done. This work, however, lay dormant till 4th Elizabeth, when new directions were given for making three thousand bricks, in the Coneygarth, and Mr. Newdigate, a member of the society, appointed surveyor. These bricks were employed in making the wall along the garden side towards Chancery Lane, with a pair of gates in the midst of it, and was finished in two years; ten shillings being allowed to the panyer-man, for the loss he sustained in the produce of the garden destroyed in making the bricks.

In 7 Elizabeth the gallery was built over the screen at the lower end of the hall. The ensuing year "a fair and beautiful wall was ordered to be

made, on the backside of the house, together with a cellar and passage to the chapel. Provision of timber and other materials was at the same time made for other buildings on the north side of the quadrangle, and which cost 450*l.* 11*s.* 11*d.* These were afterwards enlarged at an additional expense of 127*l.* 12*s.* 8*d.* issued for that purpose out of the treasury; and three years afterwards the well was converted into a pump.

In 24 Elizabeth, eighty tons of stone, a hundred and sixty load of timber, and clay for making brick, were directed to be provided; in order to build chambers over the kitchen, the hall, entry, and the pastry, the wood-house under the stairs on the east side, and another on the west side.

A wall, the full length of the ditch on the backside, and another at the upper end, towards Holborn, was soon afterwards completed, besides a gate towards "Ficket's Fields," and another in the brick wall towards the pump, with a sink from the kitchen.

In 35 Elizabeth the wall of brick was made, and cost 18*l.* 12*s.* 3*d.*; and two years afterwards Messrs. Dalton, Hughes, and Collins, members of the society, were chosen to see in what manner water might be brought to the house in leaden pipes, and to estimate the expense.

In 44 Elizabeth, it being resolved to pull down the old buildings then standing between the great gate-house and John Bevington's house (the nearest towards the inn on the south), in order to erect new ones of brick, stone, and timber; persons having

chambers there were ordered to quit the same against an appointed time.

In the beginning of the reign of James I. a brick wall, nine feet high, was ordered to be made before the kitchen windows and chambers, and for enclosing the garden there; and, two years afterwards, another brick wall, appointed to be set up by line, from the new wall near the north gate, leading to the walks, to the new wall towards the *Antelope*, and 60*l.* allowed for the same. This enclosed the long walk.

In 5 James, at a council, held 19th June, an order was made for pulling down the old buildings of the short gallery "between the gate-house and the chambers of sir John Tindall, knight, and Mr. Henry Davies (two of the masters of the bench of this house); and that a new building of brick, stone, and timber, should be erected in the room thereof." The following year it was ordered, that such as were overseers of the intended buildings, then in hand, should take into their consideration the building of a new chapel, and likewise of the long gallery, and some other buildings, then intended to be made in this house: and, in October following, it was farther ordered, that all such as had chambers in the said long gallery, should pay towards those new buildings 50*l.* for each chamber, viz. 25*l.* apiece; and such as were new takers to pay 70*l.* viz. 35*l.* apiece; as also that the said building should be made twenty-four feet square within the walls, and nether rooms to have cellars, wherein to lay wood.

This year also it was resolved that the old buildings in the long gallery, near the kitchen, and towards Bevington's house, should be pulled down, and a new building of brick, stone, and timber, erected in their place, which was accordingly done; the expense amounting to 140*g*l. 9*s*. 5*d*. besides old materials. And the succeeding year, a uniform building, containing twenty chambers, was directed to be built on the north side of the house, answerable in length and breadth to that last finished.

The foregoing buildings comprise the ancient part of Lincoln's Inn (with the exception of the *chapel*, which will be separately noticed), and are most of them yet standing, being those adjoining Chancery Lane, and approached by the great gate-house. The modern part, which occupies the greatest extent, lies to the north and south, and consists of two principal piles of building, known by the name of the "New Square," or "Searle's Court," and the "Stone Buildings."

"Searle's Court" was part of the plot of ground called "Little Lincoln's Inn Fields," and received its name from Henry Searle, esq. a bencher of the house, whose property it was about 1697. It is surrounded on three sides by large handsome brick buildings, the chambers of which are spacious and convenient, but for the most part want rebuilding. The fourth, or north side, opens on the garden.

In the midst of this square, which is covered with gravel and neatly kept, is a *fountain* (as it is called), consisting of a small handsome column, of the



(LINCOLN INN HALL & CHAPEL.)

Engraved by W. B. Woodcut from a drawing by J. G. Smith.

Corinthian order, from a design of Inigo Jones : the top supported a sun-dial, and the four corners of the pedestal infant tritons holding shells, which formerly spouted water. This is in itself a handsome decoration ; but if it was still kept playing, would preserve its name with more propriety, and give far greater pleasure than the basin of stagnant water, which at present scandalizes the place.

The arms of Mr. Searle, with those of the inn, are in one corner of this square.

The " Stone Buildings " are a set of rooms so called from the material with which they are erected, and stand towards the north end of Chancery Lane, immediately behind the " Six Clerks' Office," their fronts facing the west. This handsome range is part of a regular and noble plan, formed a few years since, for rebuilding the whole inn, but which has never been completed. The chambers are the most pleasant and elegant of any belonging to the society, having, independent of the gracefulness of the buildings themselves, a spacious and very beautiful garden, the whole length in front with Lincoln's Inn Square, or Fields, beyond. This piece of architecture is the work of sir Robert Taylor, and is not only simple and elegant in its exterior, but the rooms or chambers are on a grand and commodious scale.

In the old part of the building, the principal objects worthy notice are, the gateway, the hall, and the chapel.

The *gateway* is a large brick building, with a pointed stone arch, and has a most venerable appear-

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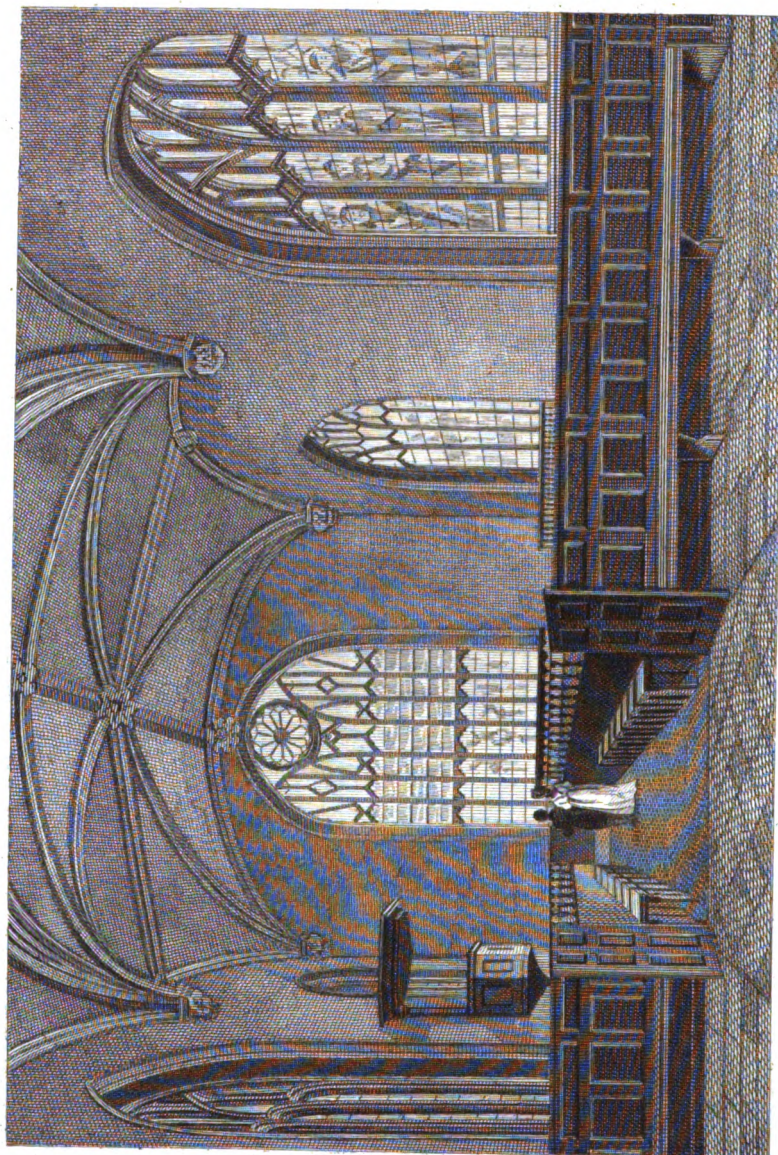
ance. The gate itself was finished in 1518, but the other parts not till some years afterwards. This forms the principal entrance to the inn, and affords a view of the fine hall and chapel. Over the gateway, towards the street, are three coats of arms, of very ancient workmanship, viz. the royal arms of England, and on the right side this coat, within a garter, or, a lion azure, or purple. On the sinister side, another coat, within the garter, borne quarterly, being the bearing of the Lovels. Underneath is the date, Ann. Dom. 1518. These arms were new painted and refreshed in 1695, as appears by the following inscription underneath:

"Insignia hæc refecta decorata Johanne Hawles, sollicitatore generali thesaurario, 1695."

The *hall* is an extremely fine room, though by no means equal to those of the other inns. It is used not only for the *commons* of the society, but for sittings out of term, before the lord chancellor, in matters relative to suits in chancery. At the upper end of the hall is a picture that deserves the notice of a stranger, as the production of Hogarth, although a species of painting in which he was not most successful. The subject is St. Paul before Felix.

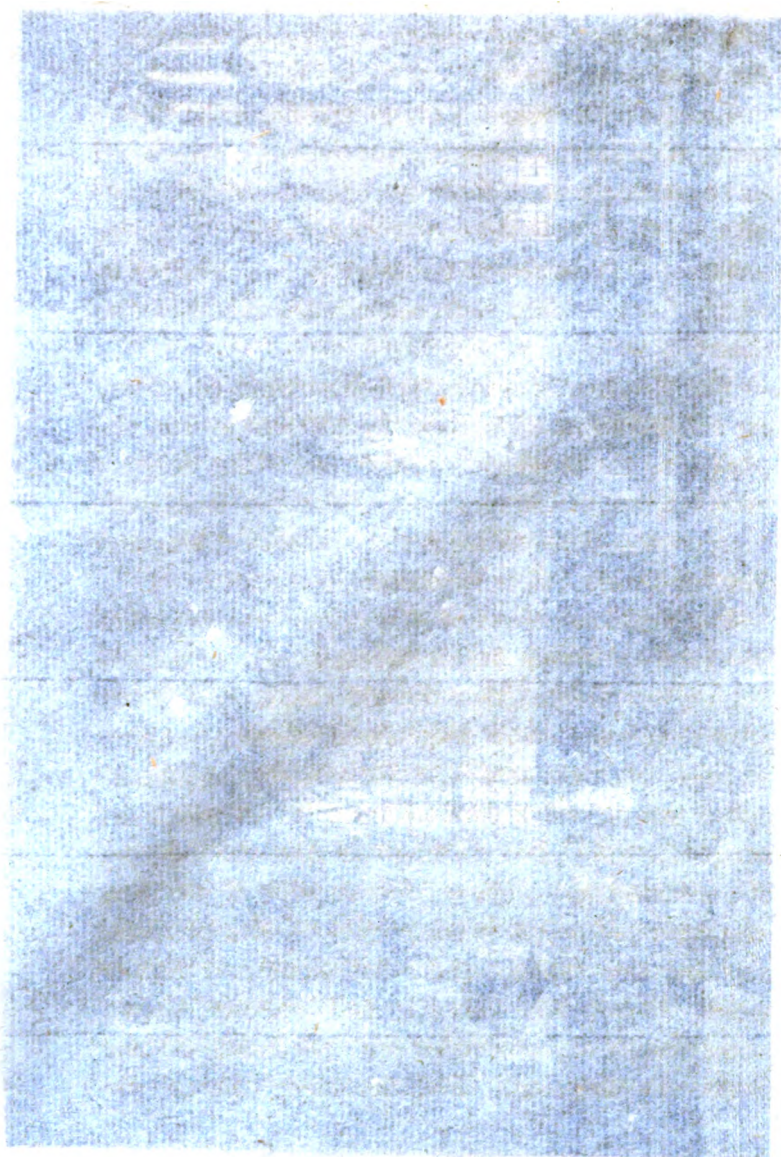
This hall, which is now much modernized, was originally built in 1506, but has been many times repaired, as in 1625, 1652, in 1704, and 1706, and frequently of later times.

Sir Thomas Lovel, at the same time that he built the great gateway, caused the Lacy arms to be cast and wrought in lead, on the *loover*, or lan-



INTERIOR OF LINCOLN'S INN CHAPEL.

London: Published by Messrs. Agnew & Sons, 15, Abchurch Lane, in the Strand, W.C.



tern of the hall, which was in three escutcheons, a lion rampant for Lacy, seven masculles voided for Quincy, and three wheatsheaves for Chester. On some reparation being made to this loover afterwards the arms were left out.

Lincoln's Inn *chapel* is a large edifice, in the *Gothic* taste, built by Inigo Jones; but the work evinces he had no true perception of the characteristic beauties of that style, and was never designed for a *Gothic* architect. It is reared on huge pillars and arches, which form an open walk beneath the floor of the chapel.

The chapel windows are the most admired. They are of beautiful stained glass, by different artists, representing the prophets, apostles, &c. The designs, however, are censured as poor, and the faces want expression. This edifice is sixty-seven feet long and forty-one wide. It is excellently well kept.

The first foundation of this chapel was begun in the time of James I. in the 8th year of whose reign it was ordered that the old chapel, which was grown ruinous, and was besides inconveniently situated, and too small for the society, should be pulled down, and a new one erected in the court where it stood. But nothing was done till the 15th of the same king, when a select number of members was appointed by the bench, "to consider of materials for this chapel, and what stone and timber should be provided for it; and whether *Oxford* stone should be concluded on, according to the workman's direction. And the model thereof was

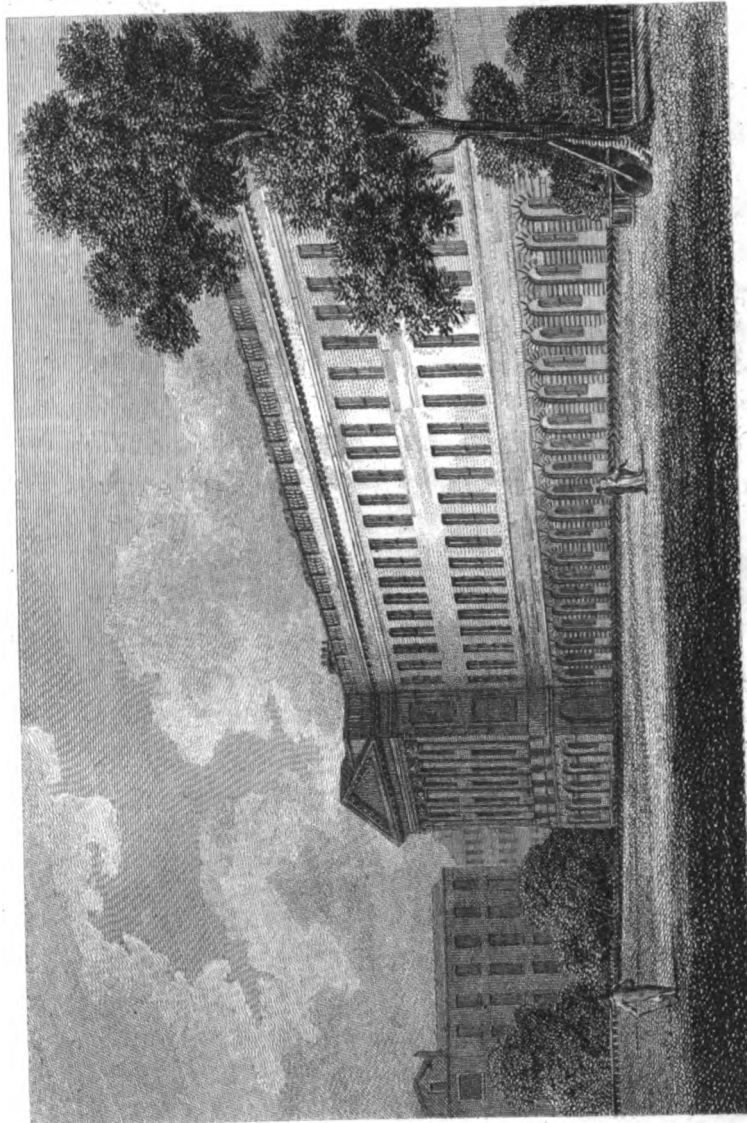
recommended to the contrivance of Inigo Jones, the king's surveyor-general, who, having made a draught thereof, estimated the charge of the same at 2000*l*."

Accordingly, a subscription was begun among the benchers, but falling short of 200*l*. "it was agreed and ordered, first, that each of the masters of the bench, and associates thereunto, should pay towards this structure xx*l*. apiece; each of seven years standing at the bar, xx nobles; each of the bar, under that time, vi*l*.; and each gentleman of the house, under the bar, x*l*s.

"And ten days afterwards, at another council, that there should be a general tax upon all such as had not contributed, or shewed their willingness so to do, towards this work. And for receipt of their moneys, Thomas Spencer, esq. was appointed treasurer, and Alexander Chart his under-treasurer."

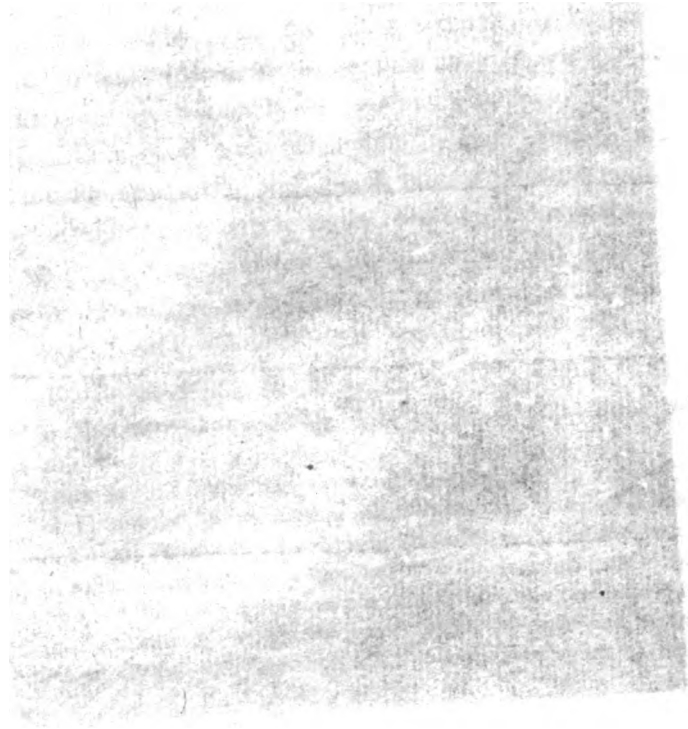
This general taxation, and other contributions which followed upon it, enabled the society, in about five years, fully to complete this edifice; which was consecrated upon Ascension day, A. D. 1623, 22 James, by George Mountaine the bishop of London, as appears by an inscription placed under his arms at the east end of the arched roof; doctor John Donne, then dean of St. Paul's, preaching upon this text, *Facta sunt autem encaenia Hierosolomis, & kyems erat, & ambulabat Jesus in templo, in porticu Salomonis.* John, cap. 10. ver. 22 & 23.

The walk beneath this building was used till of late as a promenade, to which it was ill adapted, being too cold for bad weather, and in fine too much secluded.



THE STONE BUILDINGS.
(from the Garden, Lincoln's Inn.)

London, Published May 15, 1841, by Thomas & Wood, Printers, 1, Strand, & J. Gump, Chelsea Street, Manchester.



It has for some years been enclosed with an iron railing, and is now used as a place of interment for the benchers only.

The *gardens* of Lincoln's Inn are exceedingly pleasant, and a great ornament. The *terrace walk* (which, together with the wall that supports it, were erected in 1663, and cost nearly 1000*l.*) forms an uncommonly fine promenade, and is always open in summer to the public. The gardens themselves are adorned with a number of fine stately trees, and receive a sort of consequence from the grandeur of the adjoining pile, called "Stone Buildings." They are besides laid out with great taste, and excellently well kept.

From the terrace walk we have a prospect of one of the largest and most beautiful squares in Europe, originally laid out by the masterly hand of Inigo Jones, and intended to have been built all in the same style and taste, but unfortunately not finished agreeable to the design of that great architect, "because the inhabitants had not taste enough to be of the same mind, or to unite their sentiments for the public ornament and reputation." The disposition of these grounds was, by the commission from the king, issued in 1618², intrusted to the care of

* It recites, "that more public works near and about the city of London, had been undertaken in the sixteen years of that reign, than in ages heretofore, and that the grounds called Lincoln's Inn Fields were much planted round with dwellings and lodgings of noblemen and gentlemen of qualitie; but at the same time it was deformed by cottages and mean buildings, incroachments on the fields, and nuisances to the neighbourhood. The commissioners were therefore

the lord chancellor Bacon, the earls of Worcester, Pembroke, Arundel, and numbers of other noblemen and principal gentry.

Several of the original houses still remain to be a reproach to the rest, particularly Lindesey house, once the seat of the earls of Lindesey, and of their descendants, the dukes of Ancaster, which was built after a beautiful design of the above architect.

Lincoln's Inn library, which is situated in the Stone Buildings, contains, besides a good collection of books, many very fine and curious manuscripts. These were removed in 1787 from the old library to the present, which is a handsome, spacious, and commodious apartment, being made out of three sets of chambers. The manuscripts are in close presses at one of the ends of the library, where fires are daily

directed to reform those grievances, and, according to their discretion, to frame and reduce those fields, both for sweetness, uniformitie, and comelines, into such walkes, partitions, or other plottes, and in such sorte, manner, and forme, both for publique health and pleasure, as by the said Inigo Jones (recited in the commission) is or shall be accordingly drawn by way of map *. But three years *before* an order had been sent from the council to the justices of Middlesex to forbid the erection of *any* buildings whatever in Lincoln's Inn Fields; by reason, it is said, of the inconveniencies that could not be avoided by the swelling multitudes of people, which by that occasion were drawn thither from all parts of the kingdome; and that as well in regard of the provision of victual, then growing to a high rate, as also in respect of government and order; that there was nothing frequent in the skirts and confines of the city, but new-erected buildings; and that some went about to erect new buildings in a field called Lincoln's Inn Fields, with an intent to convert the whole field into new buildings, contrary to his majesties proclamation, and all other publick orders taken in that behalf, and to the great pestring and annoyance of that society," &c.

* Rymer, xvii. 119, 120.

kept, except in summer. The building is very substantial, with stone stair-cases and solid party-walls. The keys of the presses are kept by the master of the library, who is chosen annually by the benchers from their own body, and the manuscripts cannot be viewed without a special order from one or two of the masters of the bench.

The first formation of the library of this society was begun in the reign of Henry VII. ; and in the early part of the reign of Elizabeth the building was erected ; but the books accumulated so slowly, that in the 6th of James I. " it was ordered for the more speedy furnishing of the same, every one that should thenceforth be called to the bench in this society should give *xxs.* towards the buying of bookes for the same library ; and every one thenceforth called to the bar *xiiis. iiid.* : all which summs to be paid to Mr. Matthew Hadde, who, for the better ordering of the said library, was then made master thereof."

The greater part of the valuable MSS. now in the possession of the society, were bequeathed by sir Matthew Hale, and have been accurately classed and explained in the return made to the select committee for examining into the state of the public records. From which the following is an extract :

" There is in the custody of the society of Lincoln's Inn, being the property of the society, a considerable number of manuscripts, containing matters of a parliamentary, judicial, legal, and public nature. Among them there are, strictly speaking, scarcely any originals, but many of the transcripts and abstracts in

the collection have, in some respects, acquired the value of originals, and are in the estimation of those who have had occasion to examine them of great authenticity and importance. They belonged, for the greatest part, to that illustrious member of Lincoln's Inn, lord chief justice Hale, who bequeathed them to the society by a clause in his will, which, being short, it may not be improper to insert in this place, both as it expresses the opinion of a person so eminently capable of appreciating their value, and for another reason to be mentioned afterwards.

“ ‘ As a testimony of my honour and respect to the
‘ society of Lincoln's Inn, where I had the greatest part
‘ of my education, I give and bequeath to that honour-
‘ able society the several manuscript books contained
‘ in a schedule annexed to my will. They are a trea-
‘ sure worth the having and keeping, which I have
‘ been near forty years in gathering with very great in-
‘ dustry and expense. My desire is, that they be kept
‘ safe, and also in remembrance of me. They were fit
‘ to be bound in leather, and chained and kept in ar-
‘ chives. I desire that they may not be lent out or
‘ disposed of, only if I happen hereafter to have any of
‘ my posterity of that society that desires to transcribe
‘ any book, and gives very good security to restore it
‘ again within a prefixed time, such as the benchers of
‘ that society in council shall approve of, then, and not
‘ otherwise, only one book at one time may be lent
‘ out to them by the society. They are a treasure not
‘ fit for every man's view, nor is every man capable of
‘ making use of them. Only I would have nothing of

'these books printed, but entirely preserved together
'for the use of the industrious learned members of
'that worthy society.'

"This clause was printed by Dr. Burnet at the end of his Life of sir Matthew ; but for the sake of accuracy, an office copy of that and of the schedule have, on the present occasion, been obtained from Doctors' Commons'."

'The manuscripts, transcripts, and copies of books and documents of a public nature, in the library of Lincoln's Inn, may be arranged under the three following heads ;

I. Statute Law : Comprehending,

1. Statutes.
2. Other parliamentary matters.

II. Common Law and Matters of a Judicial Nature : Comprehending,

1. Ancient writers on the law.
2. Copies and abstracts of records of various sorts.
3. Itinera, Placita, and Assize.
4. Repertories of, and references to, records in public offices.
5. Reports of judicial proceedings.

III. Miscellaneous Articles,

I. 1. Statutes.

Under this division there are various ancient manuscripts on vellum (some finely illuminated), containing copies of statutes from Magna Charta to the reign of Hen. 4.

I. 2. Other Parliamentary Matters.

These consist of

- Copies of, 1. Petitions in parliament in the reigns of Edw. 1. Edw. 2. Edw. 3. and Hen. 4.
2. Rolls of parliament in 18 volumes, including the several reigns from Edw. 1. to Edw. 4.
 3. Summons to parliament in the reigns of Rich. 1. Hen. 4. Hen. 5. Hen. 6. and Edw. 4.

R R

Orders for Government.] Every member of this society, upon his first admittance, was obliged to take an oath, the form of which was as follows :

Tu jurabis quod sis obediens, assistens, et confortans gubernatoribus ejusdem hospicii electis, eligendis, et

II. 1. *Ancient Writers on the Law.*

Under this division the collection contains,

1. "Glanvill Tractatus de Legibus et Consuetudinibus Angliæ Tempore Regis Henrici Secundi compositus."

An ancient and fair manuscript, which did not form part of lord Hale's legacy, but was lately presented to the society by Mr. Selwyn.

2. "Bracton de Legibus et Consuetudinibus Angliæ."

Of this work there are two manuscripts on vellum, both of great antiquity, and one of them differing materially from the printed editions of 1569 and 1640, neither of which is considered as correctly published. Selden, in his "Titles of Honour," pointed out several errors in the first edition, which were, however, repeated in the other.

3. "Fleta seu Commentarius Juris Anglicani."

A manuscript fairly written, but not ancient, and differing very little from the printed copies. There are many similar manuscripts extant.

4. "Horne's Mirror of Justices."

A fair manuscript on vellum, but not ancient.

II. 2. *Copies and Abstracts of Records of various Sorts.*

These all consist of transcripts or abstracts from the records in the Tower of London, being copies of,

1. Close Rolls of king John, from the sixth year to the end of his reign; of the whole of Hen. 3.'s reign; of Edw. 1. from the 3d to the 13th year; of Edw. 2. from the 1st to the 20th year; and of the whole of Edw. 3.
2. Abstracts of the Close Rolls, from 13 Hen. 3. to 21 Rich. 2.
3. Patent Rolls during the whole reign of Hen. 3.
4. Extracts from the Close and Patent Rolls of the above periods.
5. Hundred Rolls, viz. of Brampton and Poughley Hundreds, com. Oxon. 7 Edw. 1.
6. Welsh Rolls, from 6 to 10 Edw. 1.

pro tempore ibidem existentibus in omnibus gubernationem societatis ejusdem concernentibus et concernendis.

And that taken by the governors :

7. Roman Rolls, from 1 to 26 Edw. 3.
8. Chartæ antiquæ, contained in two volumes, from A to Q, and from A A to N N.
9. Exchequer Records, viz. Proceedings called *Communia* from 23 to 46 Edw. 3. and Memoranda Scaccarii from 1 to 22 Edw. 3.

II. 3. *Itinera, Placita, et Assize*, viz.

1. Itinera de Cornubia, 30 Edw. 1.
Kancia, Temp. Edw. 1. and 6 Edw. 2.
London, 14 Edw. 2.
Bedford, 3 Edw. 3. and 4 Edw. 3.
Northampton, 3 Edw. 3.
Derb. 4 Edw. 3. and 8 Edw. 3.
Nottingham, 3 Edw. 3. 4 Edw. 3. and 8 Edw. 3.
Foresta Lancastriæ, 8 Edw. 3.
2. Placita de Banco Regis, Communi Banco, &c. in the following Periods.

<i>Reigns.</i>	<i>Years.</i>
John	1 to 18.
Edw. 1.	1 to 35.
Edw. 2.	1 to 19.
Edw. 3.	1 to 43, and 46 to 49.
Rich. 2.	1 to the end of his reign.
Hen. 4.	1 to 14.

3. Assize during the Reign of Edw. 3. from his 20th to 45th Year.
Henry 4. in his 8th Year.

These transcripts are for the most part fairly written, and in hands coëval with the dates to which they respectively refer.

II. 4. *Repertories and References to Records in Public Offices.*

1. A Table to the Rolls in the Tower (the same which was printed by Powell, Lond. 4to. 1631), and a Repertory of Escheats, Inquisitions, &c. for the Counties of Gloucester and Leicester: also in the Tower.
2. A Repertory of Commissions in the Exchequer, from Rich. 3. to 3 Car. 1.
3. An Index to the Placita de Quo Warranto and Rageman in the Chapter House.

Tu jurabis pro viribus tuis videas et facias observari bonum regimen, honorem, et proficuum ejusdem societatis à festo S. Barnabe apostoli anno regni regis Henrici Sexti xviii usq. festum Omnium Sanctorum

II. 5. *Reports of judicial Proceedings, viz.*

1. Year Books, sometimes called Relationes, Annals, Narrationes, Anni, & Tempora. Of these there are many volumes, a few of them being duplicates. They also are for the most part fairly written, and in the hands of the respective periods to which they relate, and which periods are,

<i>Reign.</i>	<i>Years.</i>
Edw. 1.	17, 18, 19, 30, 31, 32.
Edw. 2.	1 to 20.
Edw. 3.	1 to 46.
Rich. 2.	2, 6, 7, 8, 11, 12, 13.
Hen. 4.	2, 8, 11, 13.
Hen. 5.	1, 5, 9.
Hen. 6.	1, 2, 3.
Edw. 4.	10.

2. Reports, not official, in the reigns of Eliz. Jac. 1. and Car. 1.

III. Under the head of miscellaneous articles may be noticed the following, as the most considerable:

1. Pipe Rolls, Temp. Edw. 4.
2. An ancient manuscript on vellum of "Lindewode's Provincial Constitutions." It does not seem to differ much from the printed editions.
3. Liber Niger Admiralitatis. Not ancient.
4. A Book of Inquisitions, taken at Lynn before the Lord High Admiral, Temp. Hen. 8.
5. Curia Militaris, being a Collection of Cases of Duel, which seem to come down only to the reign of Hen. 6. and to be chiefly taken from the Records in the Tower.
6. Extracts from Records concerning the Mint.
7. Claims at the Coronation of Rich. 2.
8. Two ancient Register Books of Chartularies, viz. of Battle and Bath. These are perhaps to be considered as originals.
9. The book commonly called Lord Hale's Common-place Book, and thus described by him in his Schedule, "The Black Book of the new Law, collected by me, and digested into alphabetical Titles, written with my own hand, and which is the original copy."

quod erit in anno Domini MCCCCXLI. et deinde quousq. nos et socii tui constituerint.

In 3 & 4 Philip and Mary it was ordered that thenceforth none should be admitted into the fellowship of this house who had not been of an inn of chancery before, by the space of one year, except he paid for his admittance, for his not being in chancery, 40s. This sum, in 7 Eliz. was raised to five marks. But such as were utter barristers of *Furnivall's Inn* and *Thayves Inn*, of one year's continuance, were to be admitted for four marks. And the year following, it was farther ordered, that every fellow of the above two inns of chancery, "by reason they were the proper houses of this house," as the register expresses, who had been allowed an utter barrister there, and had *mooted* there two vacations at the utter bar, should pay for his admission into the fellowship of this house only 13s. 4d.; but utter barristers of any other inn of chancery 20s.

And in 27 Eliz. it was decreed that the gentlemen after that time to be admitted, should pay as follows, viz. such as were of *Furnivall's Inn*, or *Davy's Inn*, one year 40s. and such as were of other houses of chancery one year 3l. 6s. 8d.

Several attornies and common solicitors having obtained admittances into this society, which was esteemed "no small disparagement," it was in a council, held 4 *Junii*, in 11 Car. I. ordered, that none from thenceforth should be admitted. And the better to prevent the like abuse, it was farther ordered, that if any gentleman, after his admittance,

should become an attorney, or common solicitor, his admittance should be *ipso facto* void.

In 6 Edward IV. for the better advancement of learning in this house, at a general council held in the chapel (dedicated to St. Richard bishop of Chichester), an order was made, " that all the members of this society, which then were, or should thereafter be, and every of them, so soon as they should be called to the bar, or admitted to the bench, should keep six whole vacations within the compass of three years immediately ensuing such their admission to the bench; that is to say, one month in Lent, in the time of the reading of this society, and another month in autumn, in the time of reading also; and that they should also be personally present at the readings there, in every vacation, for the first week wherein the same lecture was to begin. Provided, nevertheless, that if any bencher of this society did observe the whole remainder of the vacation, it should be allowed to him for a whole vacation, and that he should be in commons for that whole month, during the before specified reading. And, moreover, that every member of this society, who should thenceforth be called and admitted from the bar to the bench, in manner and form aforesaid, should swear upon the holy evangelists, to keep and observe six vacations, in all points as aforesaid, without any excuse whatsoever, excepting sickness; or sickness of his or their fathers, mothers, or wives; or any suits, pleadings of assize, or *nisi prius*, relating to them, or any one to their use, happening within that

month and time of such reading ; or within fourteen days before or after the said reading, upon pain of *xxs.* to be forfeited and paid to the society for every default in the premisses."

At a council, held on the day of the Nativity of St. John Baptist, 23 Henry VIII. it was ordered "for a continual rule to be thenceforth kept in this house, no gentleman, being a fellow of this house, should wear any *cut or pansyd hosen or bryches, or pansid doblet*, upon pain of putting out of the house."

And so strict were the orders in those days, in point of habit, that, in 1 & 2 Philip and Mary, one Mr. Wyde of this house was by a special order, made upon Ascension day, fined five groats, for going in his *study gown* in Cheapside on a Sunday, about ten o'clock in the forenoon ; and in Westminster Hall, in the term-time.

In 30 Eliz. it was farther ordered, that if any fellow of this house should wear any hat in the hall or chapel, or go abroad to London or Westminster without a gown, he should be put out of commons ; and pay such a fine, before his readmittance, as the masters of the bench, then in commons, should assess. And likewise, that if any fellow of this house should wear *long hair*, or *great ruffs*, he should also be put out of commons, and pay such a fine, before he were readmitted, as the masters of the bench, then in commons, should assess.

Also in 38 Eliz. "that if any fellow of this house, being a *commoner*, or *repaster*, should, within the

precincts of this house, wear any *cloak, bootes and spurrs, or long hair*, to pay for every offence 5*s.* for a fine, and also to be put out of commons. And in 11 Car. I. it was also ordered, that what gentleman soever should come into the hall at meal-time, with any other upper garment than a gown, he should be suspended from being a member of the society."

Equal formality was observed with respect to beards; for, in 33 Henry VIII. an order was made, that none of the fellows of this house, being in commons, or at repast, should wear a beard, upon pain to pay double commons or repasts during such time as he should have any beard. But this order being not strictly observed, the penalty was made greater in 1 Mary, viz. that such as had beards should pay 12*d.* *for every meal they continued them: and every man to be shaven, upon pain of putting out of commons.*

In 1 Eliz. it was further ordered, that no fellow of this house should wear any beard above a fortnight's growth, and that whoso transgressed therein should, for the first offence, forfeit 3*s.* 4*d.* to be paid and cast with his commons; and for the second 6*s.* 8*d.* in like manner to be paid and cast with his commons; and the third time to be banished the house.

Soon after, however, the fashion of wearing beards grew so predominant, that the next year it was agreed, "that orders, before that time made, touching *beards*, should be void and repealed." And no limits were henceforth put to that venerable excrescence.

In 1 Eliz. there was an order made, that no fellow of this society should wear any sword or buckler, or cause any to be borne after him into the town. And in case any one transgressed, he was for the first offence to forfeit 3s. 4d. to be paid and cast with his commons; for the second time 6s. 4d. and in like manner to be cast into commons; and the third time to be banished the house. And in 8 Jac. I. it was further ordered, that no *rapier* should be worn in this house by any of the society.

In 32 Eliz. it was ordered, "that not only the sportings, late watchings, and exercises, before that time yearly used on the *hunting night*, but also their repair usually at a certain day yearly to *Kentish Town*, and the dining, with sports and assemblies, before that time used, should be taken away and no more exercised;" and that at those days and times all the fellows of this house should have and take their diet at such time and place, as on other days was then used by an order of this house, and not otherwise.

Public Expenses at great Solemnities.] The first article of this kind noticed in the registers is in 7 Edward IV. and was incurred for the justs then held in Smithfield, betwixt Wydeville lord Scales and the bastard son of the duke of Burgundy, upon a mandate received from the king, by the four inns of court, that each of them should furnish out four armed men for his guard. This was accordingly done, scaffolds being likewise set up to see the justs by this house, and the expenses defrayed by a *rate*.

The next contribution was in honour of the coro-

nation of king Henry VIII. ; when there was spent one hogshead of claret wine, price 20s. and 5*l.* laid out in making scaffolds at Westminster, to see the justings and tiltings.

The third was on account of a mask, in 11 Jac. I. presented by this society before the king, at the marriage of the lady Elizabeth, his daughter, to the prince elector palatine of the Rhine, which cost no less than 1086*l.* 8*s.* 11*d.*

Shortly after, at the creation of the "most illustrious Charles prince of Wales" a taxation was agreed on, of 40*s.* apiece from every bench and associate ; every barrister above seven years 30*s.* ; every barrister under seven years 20*s.* ; and every gentleman 13*s.* 4*d.* for defraying the charge of the performances at the barriers, in honour of that great solemnity.

Lincoln's Inn first proposed the famous mask which was presented to the king at Christmas, 9 Car. I. the total amount of which cost the four inns 2400*l.* Towards this sum every bench in this society paid 6*l.* ; every utter barrister of seven years standing, or above, 3*l.* ; and under seven years standing 40*s.* ; and every gentleman 20*s.* : and which was so well approved by the king, that, besides his thanks to them, he invited an hundred of the members of the four inns of court to the mask at Whitehall, held on the Shrove Tuesday following.

Revels.]—Lincoln's Inn had anciently its *dancings* or *revels* allowed at particular seasons, as well as the Temple, and that by the special order of the society.

For it appears that, in 9 Henry VI. it was ordered, "that there should be four revels that year, and no more; one at the feast of All Hallown, another at the feast of St. Erkenwald; the third at the feast of the Purification of our Lady; and the fourth on midsummer day;" one person yearly elected of the society, being made choice of, for the director of these pastimes, called the master of the revels. But these sports were used long before that time, as appears by an order of council, made on Allhallown day, 8 Eliz. that the musicians, at the ancient and solemn revels (for so they were then called) should have their stipend increased, for their service on the two principal feasts; Allhallown tide and Candlemas; that is to say, where they were wont to have for their service done, for Allhallown even, Allhallown day at noon, and Allhallown day at night, 3*s.* 4*d.*; that thenceforth they should have for their said service, at that time, 6*s.* 8*d.* and the like sum at Candlemas, having had but 3*s.* 4*d.* before.

Nor were these exercises of dancing merely permitted, but insisted on. For, by an order made 6th Feb. 7 Jac. I. it appears, "that the under-barristers were by decimation put out of commons, for example's sake, because the whole bar were offended by not dancing on the Candlemas day preceding, according to the ancient order of this society, when the judges were present;" with a threat, that if the like fault were committed afterwards, they should be fined or *disbarred*.

Besides its "revels" Lincoln's Inn had also

“grand Christmassings.” Instead of its “lord of misrule,” it had its “king of the cocknies:” they had also a “Jack Straw;” but in the time of Elizabeth he and all his adherents were utterly banished.

Grand Christmasses.]—The first mention of these solemnities at this house is in 9 Henry VIII. it being then agreed and ordained, that he who should, after that time, be chosen king on Christmas day, ought then to occupy the said room, if he were present; and in his absence, the marshal for the time being, by the advice of the utter barristers present, to name another.

And for the learning of young gentlemen to do service, that the marshal should sit as king on New Year's day, and have like service as on Christmas day; and the master of the revels, during dinner-time, supply the marshal's room.

Moreover, “that the king of cockneys on Childermass day, should sit and have due service; and that he and all his officers should use honest manner and good order, without any wast or destruction making, in wine, brawn, chely, or other vitails; as also, that he and his marshal, butler, and constable marshal, should have their lawful and honest commandments by delivery of the officers of Christmass: and that the said king of cockneys, *ne none of his officers, medyll neither in the buttry, nor in the stuard of Christmass his office, upon pain of xls. for every such meddling.* And lastly, that Jack Straw and all his adherents should be thenceforth utterly banisht, and no more to be used in this house, upon pain to forfeit, for every time, five

pounds, to be levied on every fellow offending against this rule."

But these grand Christmasses were not, it seems, constantly kept, by the following order entered in the register, 27 Nov. 22 Hen. VIII. "*It is agreed, that if the two Temples do kepe Chrystemas, then Chrystemas to be kept here: and to know this, the steward of the house ys commanded to get knowlydge, and to advertise my masters by the next day at night.*"

[*Readers.*].—By an order made in 3 Ed. IV. it was established, that the reader for summer should be chosen in Easter term, and the reader for Lent in Michaelmas term: and in 5 Hen. VIII. (23 Junii) it was *concorded and agreed*, by the assent of the whole company of the bench, that none of the same bench, who were to read in the harvest vacation, should thenceforth charge the company of this house, in any wise, over the number of xii. *bucks*; so that if it were the pleasure of the same reader to have more, he himself should be at the charge of them, "as well for the reward as for the *baking*."

In 33 Eliz. the *readings* having declined, owing to the excessive expense of keeping them, it was with the advice of the judges ordered, "that no such readers should allow any greater diet in the hall of any house, either in wine or meat, than was allowed usually before the first year of the queen's majesty's reign (*viz.* 1559). And that the stewards of the reader's drinking should not expend about the same, above the sum of twenty marks, that is to say, either of them *viz. xiiis. iiid.*; and that the steward of the reader's

dinner should not defray, about the charges of the said dinner, above xx*l.* viz. either of them x*l.* at the most ; and that no reader should have more wine to be spent in his reading than *two hogsheads* at the most.

“ And the said justices thought proper to advise, that the readers should be recommended by the benchers of their houses, not only in the proportion of their own diet ; but also, what number of guests, and of what sort, they should bid to their table during their reading, to the intent that a mediocrity might be used frugally without excess.”

These orders were ratified ; and for bucks brought in during the time of reading, by way of *assisting*, the house allowed “ towards the reward for each *iiis. iiid.* ; the rest to be at the reader's own charge.”

They likewise agreed to allow “ *pepper and flower* for baking of all the venison which should be spent in the *hall*, but not for what was spent at the reader's *own table.*”

The readers of this house might admit any person into the society they thought proper, and were allowed one clerk in commons at the rate of *xxd.* a week ; but a double reader, two clerks, each at the same rate.

Eminent Men.—Of these Lincoln's Inn boasts a far greater number among its members than any other of the law societies. The first on the illustrious list is the famous sir John Fortescue, knight, lord chief justice of the king's bench in the reign of Hen. VI. and author of the learned discourse “ *De*

Laudibus Legum Angliæ." This treatise was written in France during his attendance there upon his royal pupil Edward prince of Wales, eldest son of king Henry VI. (to whom he was then chancellor, as we learn by the preamble). Judge Fortescue was a member of this society in the 6th of Hen. VI.

Sir Arthur Plantagenet, knight, the natural son of Edward IV., afterwards created viscount Lisle, was admitted of this society the 4th Feb. 2 Hen. VII.

Sir Thomas Lovell, before mentioned, occurs in the list of *readers* 15 Edw. IV. as a "double reader," 21 Ed. IV. and held the office of treasurer in the next reign. He was made a banneret at the battle of Stoke A. D. 1487, and was a great favourite of Henry VII., who, when a simple esquire, made him chancellor of the exchequer for life. He afterwards rose to the dignities of a knight of the garter, treasurer of the household and president of the council, constable of the tower, and was one of the executors of Henry VII.'s will. He died at his house at Enfield in 1524, and was buried in the chapel of Halliwell nunnery, Shoreditch, which he had refounded.

Sir THOMAS MORE.—This great man, whose name and talents are too well known to need any comment, removed to *Lincoln's Inn* from *New Inn*; in the latter of which he first laid the foundation of that legal knowledge for which he was afterwards so celebrated. He is the first lay chancellor upon record*, and presided in the chancery with great

* It has been said that he was the first lay chancellor since the reign of Henry II. But it is certain that Becket, who was chancellor in

abilities. He was the son of John More, who was himself for many years a puisne judge of the king's bench, and died at a very advanced age. It is said that his son, in passing through Westminster Hall to the chancery, never failed to fall on his knees and ask his blessing whenever he saw him sitting in the court.

Sir Thomas More had the honour to be the intimate friend of Erasmus, and was himself a great master of the elegant learning of the ancients. His well-known "*Utopia*," a kind of political romance, gained him the highest reputation as an author. He was beheaded for denying the king's supremacy the 6th of July 1535, aged 53.

LAMBARD, the great antiquary, and author of the "*Perambulation of Kent*," and *Spelman*, the learned author of the "*Glossary*," and other excellent works, were both members of Lincoln's Inn. Concerning the former, it was agreed by a special order of council, "that having deserved universally well of the commonwealth and country, and likewise of the fellowship and society of this house, and being like hereafter to win greater credit to himself and the society of the house, he should have a room to sit amongst the society of the fellowship of the bench as other assistants used to do, without any thing paying for the same."

Spelman was admitted of this society in 28 Eliz. and died "full of years, and of literary and virtuous fame," in 1641.

that reign, was in holy orders when he bore that office, though he had thrown off the clerical habit.

Sir JAMES LEY was for his singular merit made lord chief justice in Ireland, and afterwards in England, by James I. He was also by that prince created baron Ley, and constituted lord high treasurer. On the accession of Charles he was created earl of Marlborough. His Reports, to which his portrait is affixed, were first printed in 1659.

Sir JOHN DENHAM, author of the admirable poem, entitled "*Cooper's Hill*," first studied at Trinity College, Oxford, and afterwards at Lincoln's Inn: he was an active loyalist in the reign of Charles I. and at the restoration was made surveyor-general and a knight of the bath. He died in March 1688, and was interred in Westminster Abbey, near the tombs of Chaucer, Spencer, and Cowley; the latter of whom he survived but a few days.

WILLIAM PRYNNE, the author of the valuable collection of Records, in four large volumes; *Selden*, sometimes styled "the great dictator of learning to the English nation," a man of extensive and profound knowledge; lord chancellor *Egerton*; *Lenthall*, speaker of the parliament during the Oliverian usurpation; *Oliver St. John*, earl of Bolingbroke, another conspicuous character of the same period; sir *William Noy*, author of "*The Complete Lawyer*," and other learned and judicious works, and attorney-general to Charles I.; sir *Ranulph Crewe*, chief justice of the common pleas in 1664; and, lastly, the great sir *Matthew Hale* before mentioned; with many others equally celebrated,—were members of this inn.

T T

Sir MATTHEW HALE was eminent for all the several qualifications that compose the character of an able lawyer and a good man. His learning in his profession was scarcely equalled, and never exceeded. But he was also a philosopher and a divine, and was as good and amiable in his private, as he was great and venerable in his public capacity. He was made a judge in 1653-4, and was, without exception, the most impartial dispenser of justice of any of his contemporaries. His decisions on the bench (says a late historian) were frequently a learned lecture upon the point of law; and such was his reputation for integrity, that the interested parties were generally satisfied with them, though they happened to be against themselves. No man more abhorred the chicane of lawyers, or more discountenanced the evil arts of pleading; and he was so very conscientious, that the jealousy of being misled by his affections made him rather partial to that side to which he was least inclined. This excellent person died in 1676.

CHAP. VI.

THAIVE'S INN.

THAIVE'S INN, burnt down some few years since, and now converted into a private court, adjoined the parish church of St. Andrew, Holborn, and is at least as old as the time of king Edward III. It took its name from one John Thaive, or *Tavie*, whose house it then was, and who directed, that after the decease of his

wife Alice, his estates and the *hospicium in quo apprentice ad legem habitare solebant* should be sold in order to maintain a chaplain, who was to pray for his soul and that of his spouse:—"Ego Johannes Tavie armiger, &c. lego animam meam Deo, &c. Item lego omnia tenementa mea, cum omnibus suis pertinentiis, quæ habeo in parte australi, in parochiâ S. Andreae, &c. Aliciæ, uxori meæ, ad terminum vitæ suæ: et quod post decessum prædictæ Aliciæ, totum illud hospicium, in quo apprentice ad legem habitare solebant, per executores meos, si superstites fuerint, una cum executoribus prædictæ Aliciæ, vendatur, et quod de pecuniâ inde perceptâ unus capellanus idoneus pro animâ meâ et animâ prædictæ Aliciæ inveniat, &c."

This John Taive in 1348 left a very considerable estate to the support of St. Andrew's church in Holborn; the value of which has so much accumulated, that, from the profits of it, the present church is reported to have been principally rebuilt in 1670.

In the reign of Edward VI. one Gregory Nicholls, citizen and mercer of London, being possessed by inheritance of the property of this mansion, granted it in the fourth year of the same prince to the benchers of Lincoln's Inn for the use of students of the law; which society soon afterwards constituted it one of their inns of chancery, and vested the government in a principal and fellows, who were to pay as an acknowledgment to the mother house, the annual rent of 3*l.* 6*s.* 4*d.*

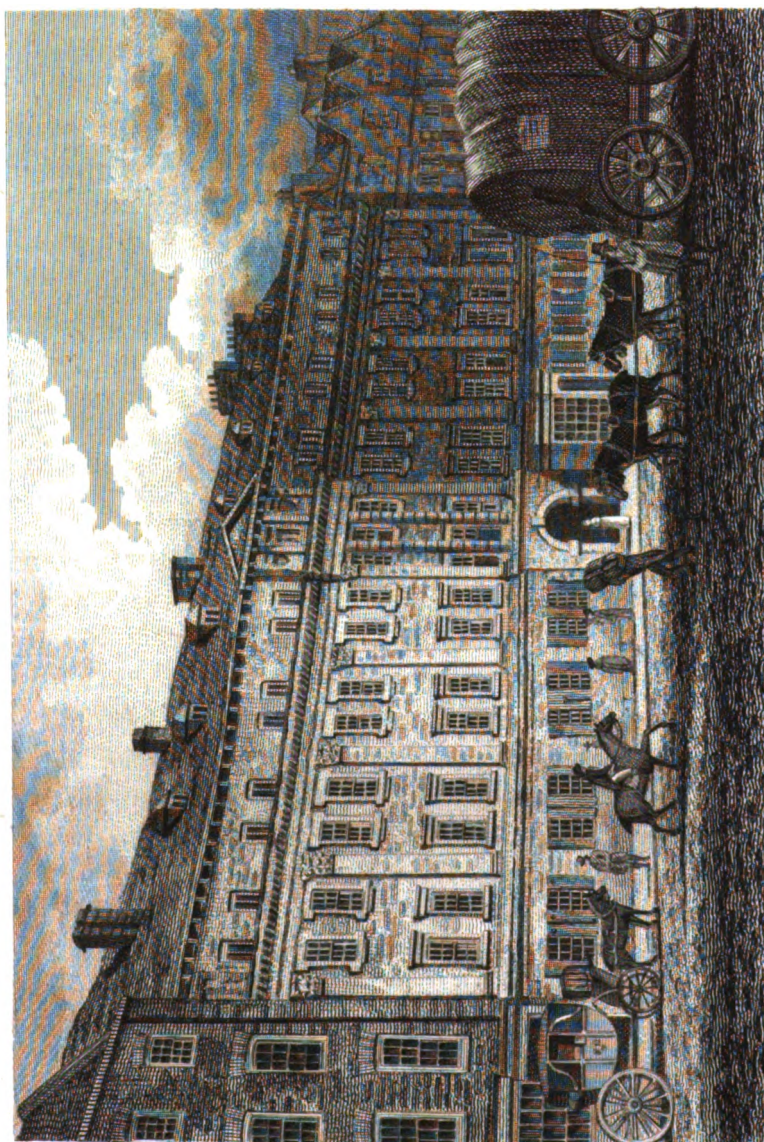
By the ancient orders of this society, the members

of Thaive's Inn were to be ten days in commons in *issuable* terms, and in the rest of the terms a week, and were allowed the same privileges for the admission of students into Lincoln's Inn as were enjoyed by the members of Furnival's Inn.

FURNIVAL'S INN.

Furnival's Inn is first noticed as a law seminary in its steward's account-book, written about the ninth of king Henry IV. and derives its name, like most of the other inns, from its original occupants, who were the lords *Furnival*. This noble family was extinct in the male line in 6 Ric. II. ; some time before which period this inn was demised to the students of the law, as is evident from the above circumstance ; but the precise date of its establishment as a school of legal education, is, like that of all the other inns, involved in obscurity.

By Joan, the daughter and heir to William lord Furnival, in the time of the former monarch (Henry IV.), the inheritance of Furnival's Inn came to Thomas Nevill, younger brother to Raph earl of Westmorland ; and by Maude, sole daughter and heir to the said Thomas and Joan, it afterwards descended to John Talbot earl of Shrewsbury. In this line it continued till Francis earl of Shrewsbury, in consideration of 120*l.* by his deed, bearing date the 16th day of December, 1 Edw. VI. sold it to Edward Gryffin, esq. then solicitor-general to the king, William Ropere, and Richard Heydone, esqs. and their



FURNIVAL'S INN
(Hildern)

London: Published by W. G. & A. Smith, 11, Strand, 1841. Price 1s. 6d. per copy. Coloured from the original.

heirs, to the use of the society of Lincoln's Inn : which sum of 120*l.* (the purchase-money) was paid out of the treasury of that society, and is entered in their register.

The principal and fellows of Furnival's Inn, to whom a lease was granted by the society of Lincoln's Inn, were to pay yearly 3*l.* 6*s.* 4*d.* as appears by the accounts of that house, and by special orders there made, they were allowed several privileges as follows:

First, in the 10 Eliz. it was ordered, that the utter barristers of Furnival's Inn, of a year's continuance, and so certified and allowed by the benchers of Lincoln's Inn, should pay no more than four marks apiece for their admittance into that society.

The following year a like order was made, that every fellow of this inn, who had been allowed an utter barrister here, and that had mooted here two vacations at the utter bar, should pay no more for their admissions into the society of Lincoln's Inn than 13*s.* 4*d.* ; though all utter barristers of any other inn of chancery, excepting Thaive's Inn, should pay 20*s.* ; and that every inner barrister of this house, who had mooted here one vacation at the inner bar, should pay for his admission into this house, but 20*s.* ; those of other houses (excepting Thaive's Inn) paying 26*s.* 8*d.*

Also, when by an order made at Lincoln's Inn, in 27 Eliz. the admission of the gentlemen of this house and Thaive's Inn into that society, was raised to 40*s.* those of other inns of chancery were strained to five marks ; and in 36 Eliz. those of this house had so much farther favour, that they might, after their ad-

mittance into Lincoln's Inn, stay two years in this inn of chancery, paying their pensions during those two years ; and that they should be discharged of casting into commons, and of all vacations and charges of Christmas, during the time of their stay here for those first two years.

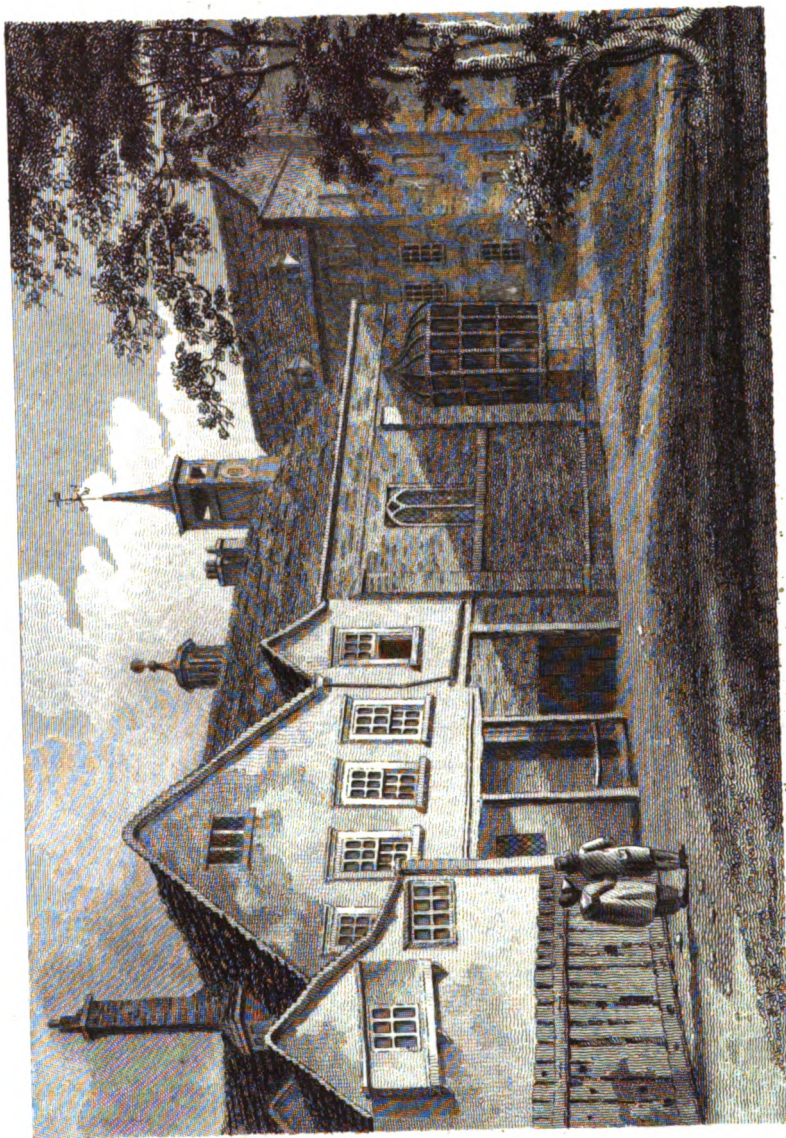
Amongst other rules and orders hung up in the buttery of Lincoln's Inn, were the following respecting the ancient mootings of this society, and those of Thave's Inn:

“ In the Reading.

“ Mootes in Furnivall's Inne, every Munday, Tuesday, and Thursday ; and in Thavye's Inne, every Tuesday, Thursday, and Saturday, during the reading ; but no exercise after the reader's feast.”

This inn of chancery is situated in Holborn between Brook Street and Leather Lane : it occupies a very considerable plot of ground, and is divided into two squares or courts. The first towards Holborn is of a good width, but shallow, and built round on the four sides. The second or *inner* court extends the depth of great part of Brook Street, and has chambers on one side only : the buildings of both are in a sad state of decay, and appear to be very much neglected.

The date of this inn, that is to say, of the buildings, is not very ancient, though it has greater claims in point of age than most of the other inns of chancery : but whatever it may gain in this respect, it most certainly loses in neatness and convenience ; for



(FETTERVALLS INN.)
(from the Inner Square)

London Published Map is sold by Farns & Field, 15, St. James Street, London

it is, without exception, the most dirty and desolate in its appearance of the whole.

The street front is an uncommonly fine specimen of brick-work, being adorned with pilasters, mouldings, and various other ornaments, and extends a considerable length. It contains a range of very good chambers, and beneath a handsome arched gateway leading to the interior parts of the inn. It appears to have been erected about the time of Charles II.

The hall is seen on entering the gateway ; but its aspect is by no means calculated to make a favourable impression on the spectator. It is a low plain brick building, with a small turret, and two large projecting bow windows at the west end, and is, like the rest of the inn, in a most neglected state. The north side of it, on passing through the passage or entrance to the inner court, with a small range of old chambers that adjoins, and whose fronts are plastered in the cottage style, have a singularly rustic appearance, and bear a much greater resemblance to a country village than a London inn of chancery.

The interior of this hall is the best ; and, if not handsome, has at least some pretensions to antiquity ; a circumstance which, combined with the probability of its being soon destroyed, has made it thought worth preserving by a plate. Its dimensions are 40 feet by 24. The roof is of timber, arched, and divided into pannels by ribs springing from the sides ; but it is very plain and poor, compared with others of a similar kind. The floor at the upper end of the hall is raised a step for the principals, as at the Middle

Temple, &c. It has in like manner a fire-place in the midst, and the same disposition of tables and benches; but they have no appearance, nor the hall itself, of being often used.

In the windows of this room are a few armorial bearings: it likewise contains portraits of lords Raymond and Pengelly.

Thomas Fiddell, of Furnival's Inn, gent. one of the attornies of the court of common pleas, was author of a book, entitled, "A perfect Guide for a studious young Lawyer, being Precedents for Conveyancing." The first edition, containing his portrait, was published in 4to. 1654.

This society were governed by a principal and twelve ancients; and the members of the house, according to the old constitutions, were to be in commons a fortnight in every term, or pay two shillings per week if absent.

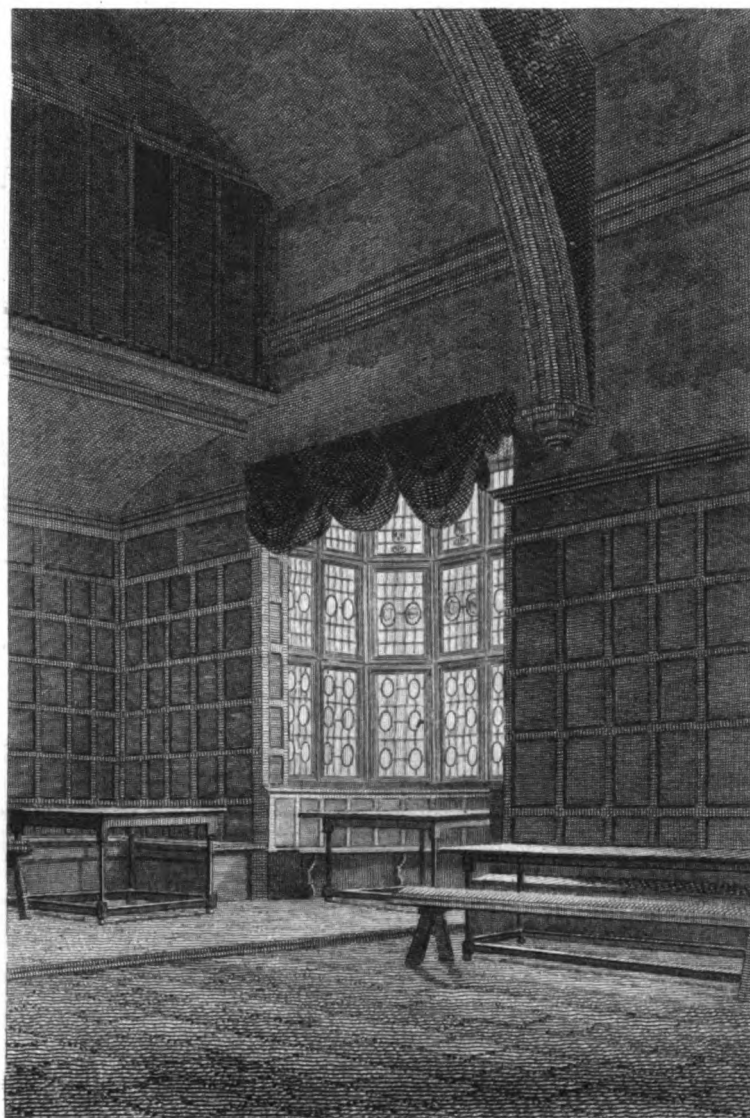
Their arms are, argent a bend between six martlets, gules within a border of the second.

The whole of this inn, it is reported, is soon to be pulled down.

CHAP. VII.

GRAY'S INN.

GRAY'S INN, the fourth and last inn of court, stands on the north side of Holborn, nearly opposite the end of Chancery Lane, from which it extends, but enveloped by houses, to Gray's Inn Lane, a very considerable distance eastward.



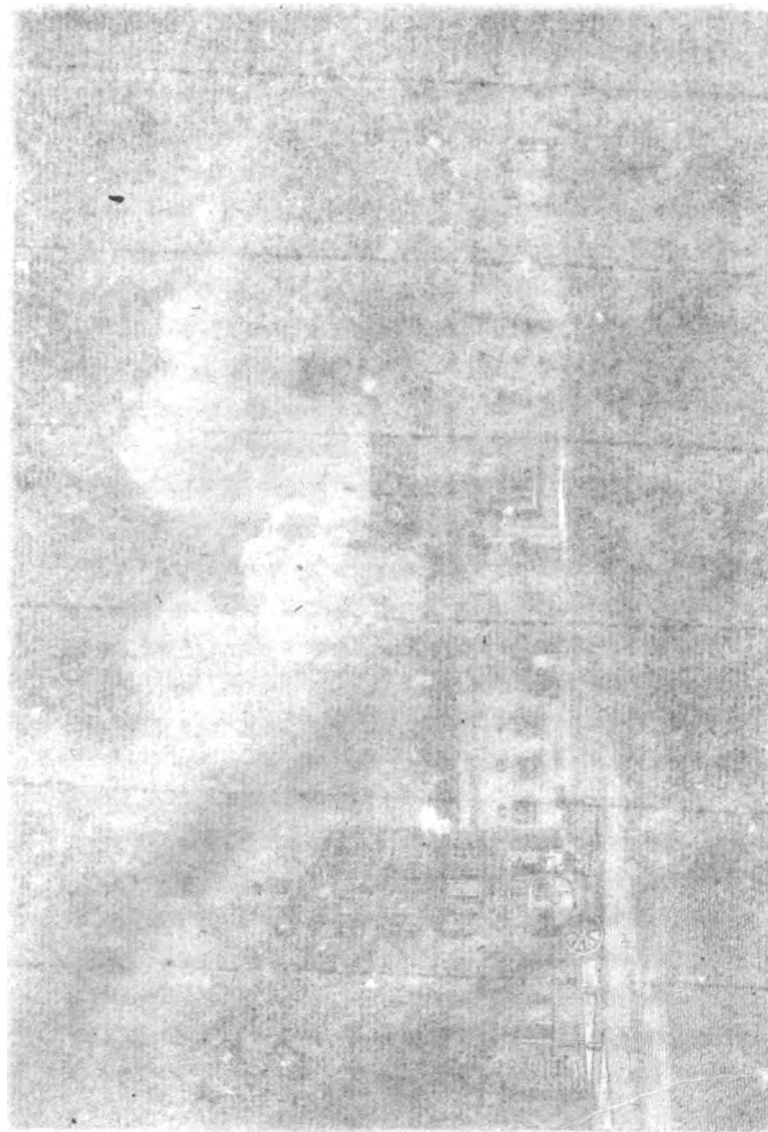
Interior of
FURNIVAL'S INN HALL.

Journal of Public Health Management and Practice, 1998, 4(2), 103-108



GRAY'S INN HALL, & CHAPEL
(from the Great Square.)

Engraved by W. G. Smith & Co. from a drawing by J. G. Smith. Published by W. G. Smith, 15, Abchurch Lane, London.



It derives its name from the lords Gray of Wilton, whose residence it originally was, and one of whom, John, the son of Reginald de Gray, in the year 1315, obtained a license¹ from the king, "to grant xxx acres of land, two acres of meadow, and ten shillings rent, with the appurtenances, lying in *Kentish Town* near *London*, and in the parish of *St. Andrew's*, in *Holborn*, without the barr of the old *Temple*, unto the prior and convent of *St. Bartholomew's* in *Smithfield*, to furnish a certaine chaplain to celebrate divine service every day in the chapel of *Pourtpole* without the barrs (that being the chapel to this house), for the soul of the said John, and for the souls of his ancestors, and all the faithful deceased for ever."

About the latter end of the reign of Henry VII. viz. Aug. 12, 1505, Edmund lord Gray of Wilton, by indenture of bargain and sale, passed to Hugh Denny, esq. his heirs and assigns, the manor of Portpoole, otherwise called Gray's Inn, four messuages, four gardens, the site of a windmill, eight acres of land, ten shillings of free rent, and the advowson of the chantry of Portpoole aforesaid.

This bargain and sale was afterwards confirmed by a release, dated the 15th of February, 22 Hen. VII.², from the said Edmund lord Gray, Richard Gray, clerk, and John Gray brother of the said Edmund, sons to sir John Gray of Wilton, deceased, made unto the said Hugh Dennys, esq. and Mary his wife, Edmund Dudley, esq. Roger Lupton, clerk, Godfery

¹ Pat. 8 E. 2. p. 2. m. 10.

² Claus. 22 H. 7. p. 2. m. 42.

Toppes, Edward Chamberleyn, William Stafford, John Emley, Thomas Pigot, Richard Broke, William Tey, and Michael Fisher, to the use of the said Hugh and Mary his wife, and the heirs of the said Hugh.

About eight years afterwards the prior and convent of Shene (Richmond in Surry), in consequence of the royal license granted to them 20 Edw. IV. to purchase lands in mortmain to the value of 100*l.* per annum, obtained leave of Henry VIII., that the said Thomas Pigot and Richard Broke, serjeants at law, John Heron, esq. Roger Lupton, clerk, Godfrey Toppys, and Thomas Arture (some of the feoffees before mentioned), might grant "the said mannour of Portpole, with the appurtenances, four messuages, four gardens, one croft, eight acres of land, and *x**s.* rent with the appurtenances, with the advouson of the same chanteries, unto the said manor belonging, unto the said prior and covent of Shene; to have and to hold to them and their successors, in part of satisfaction for that *C**l.* per annum land, which they had license from king Edw. IV. to purchase, as aforesaid."

The prior and convent of Shene being thus possessed of the premises, demised them to the students of the law for the annual rent of 6*l.* 13*s.* 4*d.*; at which rent they were held of that monastery till the dissolution, when, becoming the property of the crown, a grant was made by the king in *fee-farm*, as is evident from the treasurer's accounts, 18 Nov. 32 Hen. VIII. where entry is made of the above-

mentioned rent being paid to the king's use. The property still continues vested in the crown.

The orders for learning and government being in this society very similar to those of the other inns, we shall only notice a few of the more curious.

At a *pension* (meeting) held in the first of James I. in consequence of the royal pleasure, signified by the judges, that none but *gentlemen of descent* should be admitted of the society, the names of candidates were ordered first to be delivered in to the bench, that consideration might be had of their quality.

Readers.]—In temp. Ed. VI. it was ordered, that double readers were to have in commons but *two* servants, and single readers *one*. Readers elected and refusing to serve were to forfeit 10*l*. The reader was to be allowed 35*s*. for a hogshead of wine: and in 16 Eliz. it was specially ordered, that the reader should have a hogshead of wine, “be the price more or less:” he was also to have allowance and commons for eight persons. No reader was to have allowance, either of reward, or any other allowances, in respect of *venison*, for above the number of *twenty* brace of bucks, and a *lease* of stags, and the same to be spent in the house: and in 28 Eliz. (6 Junii) the reader for that summer was allowed for every week *ten* bucks and no more.

In 34 Eliz. (22 Nov.) Mr. Ellys, the then reader of this house for autumn, was amerced at ten pounds for breaking the judge's order, in reading so short; and in twenty nobles for calling eight utter barristers,

whereas by the rules of this house he was to have called but four.

In 9 Jac. I. it was ordered, that thenceforth no wine should be provided for the reader's table at the general charge. Three years afterwards the house allowed the then two readers 2 hogsheads of wine, 30 bushels of flower, 30 *lb.* of pepper, and a "reward for 30 bucks and 2 stags, which were to be equally divided between them." But the *grotes* (groats) of the gentlemen in commons, and the allowance for eight gentlemen coming to the reader's table, 36*s.* 8*d.* was wholly allowed to the then reader elect, on account of the election of three serjeants out of the society, every gentleman giving 3*s.* 4*d.*

Commons.—In 3 & 4 Ph. & M. (21 Oct.) it was ordered, that allowance at the accounts should be made by the auditors to the steward for every mess, as follows, viz. for every mess of a *roster in beef*, six-pence; for every loin of mutton, six-pence; and for every *boyler in beef*, a mess *iid.* And in 19 Eliz. (8 Maii), that every fellow of this house should thenceforth pay for every repast taken at dinner viii*d.*; and for every repast at supper viii*d.*

In 23 Eliz. (7 Maii) there was an agreement at the cupboard, by Mr. Attorney of the Dutchy, and all the readers then present, that the dinner on Good Friday, which had been accustomed to be made at the costs and charges of the chief cook, should thenceforth be made at the costs of the house, with like provision as it had been before that time. And likewise whereas they had used to have *eggs and green*

sauce on Easter day, after service and communion, for those gentlemen who came to breakfast, should in like manner be provided by the house, and no *calves heads* were to be provided by the cook.

In 40 Eliz. (30 Jan.) it was farther ordered, that, to avoid disturbance and confusion of service, every gentleman of this house, not being of the third table, who should thenceforth go down to the dresser either to fetch his own meat, or change the same; or not presently to sit down to his meat, when the servitors have messed him, or take meat *by strong hand* from such as should serve them, to be put out of *commons ipso facto*.

No gentlemen were to be served out of rank or course. No gentlemen were to go down to the dresser in dinner or supper time to fetch or change any mess of meat, or to take any meat from any gentleman or officer, but be orderly served at their several places, upon pain to forfeit five shillings for every such offence, presently the same week to be cast into *commons*.

Banquets and suppers, on account of the great excess they caused, were forbidden, under a penalty of five pounds. It was likewise ordered, 12 Jac. I. "that thenceforth, neither in term nor vacation, there should be other beer taken in, then after the rate of *six shillings the barrell*."

Apparel.]—The 16th of Eliz. an order was made, that every man of this society should frame and reform himself for the manner of his *apparel*, accord-

ing to the proclamation then last set forth, and within the time therein limited ; else not to be accounted of this house : and that none of this society should wear any gown, doublet, hose, or other outward garment, of any *light colour*, upon penalty of expulsion : and within ten days following, it was also ordered, that none should wear any *white doublet* in the house after Michaelmas term ensuing.

In 27 Eliz. it was farther ordered, that whosoever, being a fellow of this house, did thenceforth wear any hat in the hall, at dinner or supper time, he should forfeit for every time of such his offending 3*s.* 4*d.* to be cast into commons at the next accompt, to the use of the house, without any remission.

So also in 42 Eliz. that no gentlemen of this society do come into the hall, to any meal, with their hats, boots or spurs, but with their caps, decently and orderly, according to the ancient orders of this house, upon pain for every offence to forfeit 3*s.* 4*d.* and for the third offence expulsion. Likewise, that no gentleman of this society do go into the city or suburbs, or to walk in the fields, otherwise than in his gown, according to the ancient usage of the gentlemen of the inns of court, upon penalty of 3*s.* 4*d.* for every offence ; and for the third expulsion, and loss of his chamber.

In 7 Jac. (27 Nov.) there was an order made, that all the gentlemen of this society, except the master of the requests, and the king's solicitor, should

thenceforth wear caps in the hall, both in term-time and vacation, except in the twelve days at Christmas, upon penalty of 12*d.* for every default; and the butlers to present such defaults: also, that no gentleman of this society should thenceforth come into the hall in term-time, or vacation, in boots, upon penalty of 12*d.* for each default; and the butlers to present such default. And in 8 Jac. (24 Oct.) that if any gentleman of this society should come into the common hall of this house to breakfast, dinner, or supper, or to hear any exercise of learning, being booted; that then he should be out of commons *ipso facto*, and not to come into commons again until they had done their *conges*.

It was afterwards ordered, that every gentleman of this society should conform himself to wear a cap in the hall, at dinner and supper time, upon penalty of 12*d.* for every default, according to the ancient orders of this house.

Sports and Pastimes.]—At a pension held here in Michaelmas term, 21 Hen. VIII. there was an order made, that all the fellows of this house, who should be present upon any Saturday at supper, betwixt the feasts of All Saints and the Purification of our Lady; or upon any other day, at dinner or supper, when there are *revels*, should not depart out of the hall until the said *revels* were ended, upon the penalty of 12*d.*

In 4 Edw. VI. (17 Nov.) it was also ordered, that thenceforth there should be no comedies, called *interludes*, in this house, out of term times, but when

the feast of the Nativity of our Lord is solemnly observed: and that when there shall be any such comedies, then all the society at that time in commons to bear the charge of the apparel.

And in 28 Eliz. (26 Nov.) that no gentleman of this society, nor any other by the appointment, choice, or assent of any gentleman of this house, should in time of Christmas, or any other time, take upon him, or use the name, place, or commandment of *Lord*, or any such other like, or break open any chamber, or disorderly molest or abuse any fellows or officer of this house, within the precinct of the same, upon pain to be expelled for the abuse or disorder against any such fellow, and being put out of commons for abuse of any officer.

In the 10th of king James the gentlemen of this house were, together with those of the other inns of court, actors in the great mask at Whitehall, given in honour of the marriage of the princess Elizabeth with the Count Palatine. The expense incurred by the society for this entertainment was defrayed by an assessment of 4*l.* each for the readers, the ancients 2*l.* 10*s.*, the barristers 2*l.*, and the students 20*s.*

An order was afterwards made, that the gentlemen who were actors in that mask should bring in all their *masking apparel*, so provided at the charge of the house.

And in 4 Car. I. (17 Nov.) that all playing at dice, cards, or otherwise, in the hall, buttery, or butler's chamber, should be thenceforth barred, and forbidden at all times of the year, the twenty days in Christmas only excepted.

In the reign of Elizabeth there was an order made, that no laundresses, nor women called victuallers, should thenceforth come into the gentlemen's chambers of this society, unless they were *full forty years of age*; nor send their maid-servants, of what age soever, into the said gentlemen's chambers; upon penalty, for the first offence, of him that should admit of any such, to be put out of commons; for the second to be expelled the house.

In 29 Elizabeth, for the better relief of the poor in Gray's Inn Lane, it was ordered that the third butler should be at the carrying forth from the buttery, and also at the distribution of the alms, thrice by the week at *Gray's Inn gate*; to see that due consideration be had to the poorer sort of aged and impotent persons, according as in former time he had used to do. And whereas the panyer-man and under-cook did challenge to have a *corrody* of the broken bread; it was likewise ordered, that for those days that the said alms were given, they should have each of them a cast of bread (three loaves apiece, in lieu thereof); to the end the whole broken bread, and the alms-basket, might go to the relief of the poor.

Among the other ancient constitutions of the society were the following: That no officer of this house should keep or enjoy his office longer than he shall keep himself sole and *unmarried*, excepting the steward, the chief butler, and the chief cook.

That civility and due respect be used by every fellow of the society to the readers and ancients, and others his seniors, upon pain of americiament.

X X

That such fellows of the society as come to commons in the hall, or to exercises, or to pension, come in their gowns, or be amerced.

That no fellow of the society pass up or down the hall, or from place to place there, with his hat on his head, when the society is met at meals or exercises, or other public occasions.

That no fellow of the society *stand with his back to the fire.*

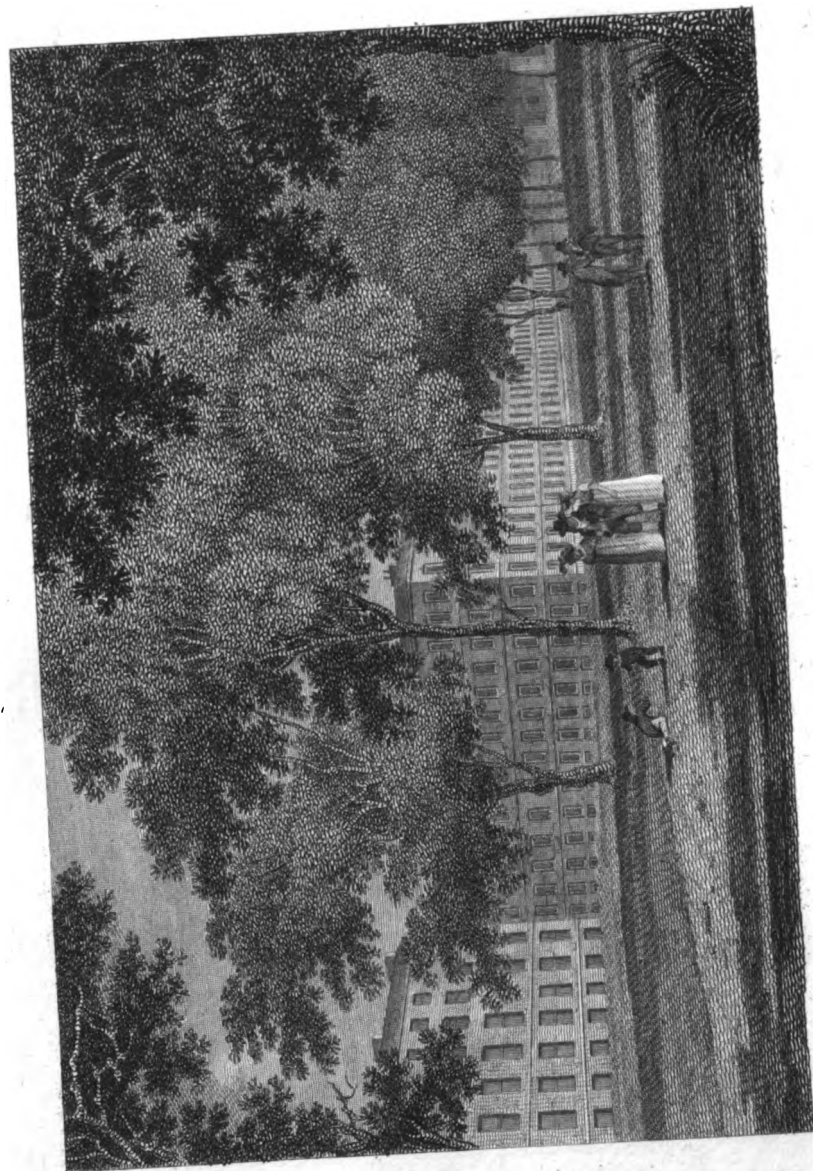
That no fellow of the society make any *rude noise* in the hall, at exercises or at meal-times.

That no fellow of the society, under the degree of an ancient, keep on his hat at readings or moots, or cases assigned.

That if any fellow of the society, being summoned to attend the pension, to answer to any matter laid to his charge, shall wilfully refuse to come, he is to be amerced for his first offence, and for the second offence expelled.

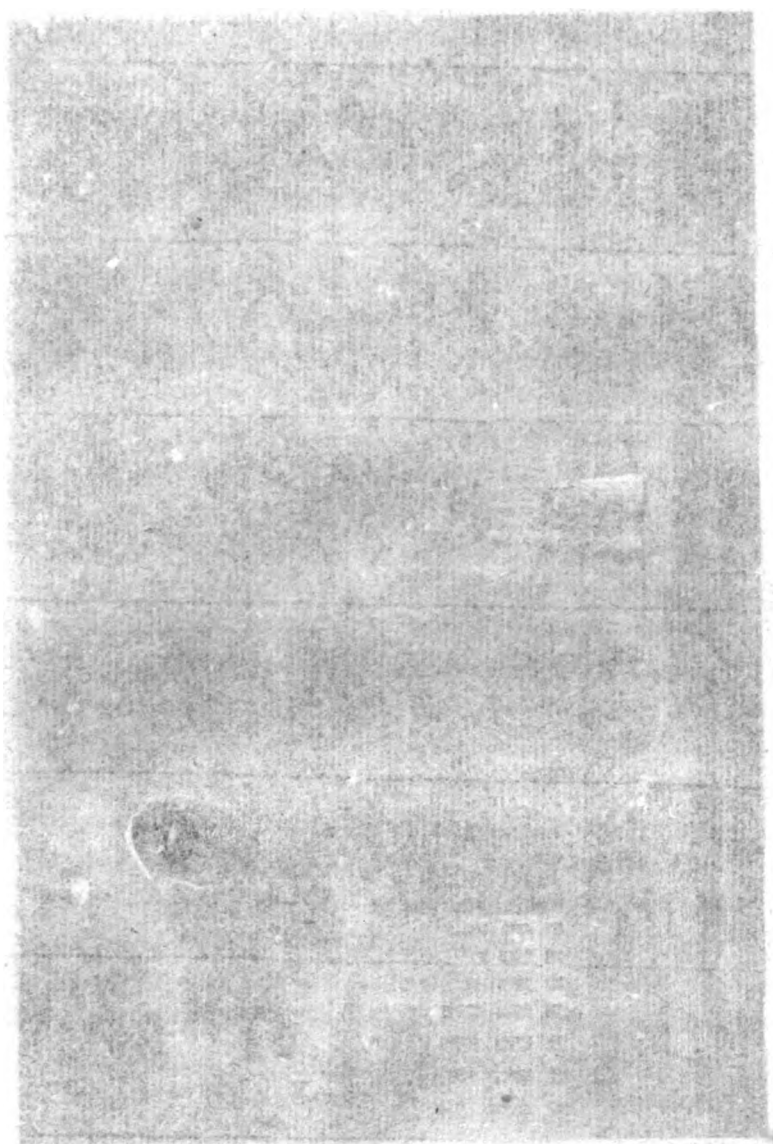
That in all cases of wilful contempts by any fellow of the society, against the orders of the house, and of opposition to execution of the penalties, the punishments are, as the case shall require, amercia-ment ; screening his name ; coming in with congees ; loss of chamber ; prosecution by pension writ ; prosecution by warrant from the judges ; suit upon his bond ; expulsion.

That if any laundress, or other servant, empty any stools, or cast any ashes, filth, or dirt, in any of the courts ; or empty chamber-pots out of windows ; the master is to be amerced for such offence.



GRAY'S INN GARDENS

Engraved by W. B. from a drawing by J. G. & J. H. from a sketch by J. G.



That search be made every term for *lewd* and *dangerous* persons ; that no such be suffered to lodge in the house.

Buildings.]—The ancient buildings of Gray's Inn are spoken of by a contemporary writer as possessing very little beauty or uniformity, being erected by different persons, and the structure of the more ancient not only very mean, but of so slender capacity, says he, that even the ancients of the house were necessitated to lodge double : for, at a pension held here 9th July, 21 Henry VIII. John Hales, then one of the barons of the exchequer, produced a letter directed to him from sir Thomas Nevile, which was to request him to acquaint the society, that he would accept of Mr. Attorney-general (viz. sir Christopher Hales) to be his bedfellow in his chamber here ; and that entry might be made of the same in the book of their rules.

In the year 1592, the sum of 100*l.* 3*s.* 4*d.* was contributed by different members of the society towards building a *gate* in Holborn ; which was soon afterwards erected.

The gardens, for which this inn of court is still celebrated, and which are very large and beautiful, were planted about the 40th year of the reign of Elizabeth, at which period Mr. Bacon, afterwards lord Verulam, in his account, as treasurer of the society, allowed the sum of 7*l.* 6*s.* 8*d.* for planting elm-trees in them. Of these elms some, however, died ; for at a pension, held afterwards, an order was made for a present supply of more young elms, in the places of such as were decayed : and that a new rail and quickset

x x 2

hedges should be set upon the upper long walk, at the discretion of the same Mr. Bacon and Mr. Wilbraham; which being done, amounted to 60*l.* 6*s.* 8*d.* "as by the said Mr. Bacon's account, allowed 20th April, 42 Eliz. appeareth."

Gray's Inn at present consists of two principal squares or courts, besides a third or smaller one facing the principal entrance to the gardens. Of these the larger court, which is entered from Gray's Inn Lane, is the handsomest, the chambers being roomy and commodious, and the exterior of the buildings, though in no respect remarkable either for antiquity or beauty, respectable and uniform.

The hall and chapel occupy the south side of this larger court. The former is not so fine or spacious a room as that of the Middle Temple; but it exceeds both in beauty and size the hall of any of the other inns of court, and is a well-proportioned and magnificent apartment, having a very elegant timber roof, little inferior to that of the Middle Temple hall, and its windows being as richly decorated with armorial bearings.

The old hall was, in the reign of Edward VI. ceiled with fifty-four yards of wainscot, at 2*s.* a yard; but this reparation being found insufficient to preserve it from decay, the foundations of the present hall were laid in 3 & 4 Philip and Mary. Every fellow of the house, possessed of a chamber, was obliged, under penalty of losing it, to contribute towards this work, which was finished in the second year of the



INTERIOR OF GRAY'S INN HALL.

London. Published May 15, 1851, by Varner & Hand, Printers, J. Street, B. J. George, Chapel Street, Birmingham.

reign of queen Elizabeth, in the treasurership of sir Gilbert Gerard, knight, and cost 863*l.* 10*s.* 8*d.*

The present chapel of Gray's Inn is a very neat little edifice, and appears of modern erection. It stands on the site of the ancient religious structure before described, by the name of the chapel of Portpole. In this latter chapel was a chauntry of one chaplain, founded in the 8th of Edward II. to celebrate divine service daily for the soul of John the son of Reginald de Gray, for which certain lands were then granted to the prior and convent of St. Bartholomew's, in Smithfield. And, at the expense of the latter, divine service in succeeding ages was here performed, on the behalf of the students, and other members of this society, as is evident from a decree made in the augmentation court, 10th Nov. 33 Henry VIII. This decree farther expresses, that the said prior and convent, and their predecessors, were yearly charged with the pension of 7*l.* 13*s.* 4*d.* for the salary or stipend of the said chaplain: and that the said house of St. Bartholomew being then dissolved, this society, in recompense thereof, should receive of the king's highness, for finding of the said chaplain, during the king's pleasure, the sum of 6*l.* 13*s.* 4*d.* sterling, yearly, to be paid by the hands of the treasurer of the said court of augmentation, at the feasts of the Nativity of St. John Baptist and St. Michael the Archangel, by even portions.

In the reign of Edward VI. on a reformation in religion taking place, certain utensils belonging to the Romish worship, and then in this chapel, were

ordered to be sold for the benefit of the society, viz. one vestment, with a cross of red velvet; a holy water stock of brass; two candlesticks; a little bell of brass; a vestment of silk, specked with gold; and a pair of organs. Which being accordingly sold, there then remained a chalice; a surplice; a bible of the largest volume; a psalter; a book of service; an altar-cloth; a table; a lantern of glass; and a chist.

In 1 Mary, the Romish religion being restored, there was a new altar set up, and ornaments, &c. provided as follows: *s. d.*

For nine ells of Holland, for three altar-cloths	12	6
For seven ells and a quarter of lockram, for an albe	-	-
For three quarters of an ell, for a corporas	0	3
For five pieces, for the albe and ephode	-	1 8
Tape for the ephode and the girdle	-	0 2
Two cruets	-	1 8
For a super-altar	-	1 8
For making of the albe, ephode, towels, and corporas	-	1 2
For one hundred and four feet of oaken board, for the altar	-	3 8
For six double quarters	-	2 0
For nails	-	0 5
For carriage	-	0 6
For making the altar	-	2 8
For a painted cloth to hang before the altar	-	1 8
For hemming the altar-cloths	-	0 4
For a desk	-	1 0

In 11 Elizabeth (13 June), it was ordered, that a pulpit be prepared in the chapel; and that the partition in the said chapel should be removed, and stalls made, according to the discretion of the dean of the chapel.

The divinity reader at this chapel, by an order made in the reign of the above queen, was to be a man unmarried, and having no ecclesiastical living, other than a prebend, without cure of souls or readership in any other place, and that he should keep the same place during his continuance unmarried, and not being preferred to any ecclesiastical living or readership, and no longer.

In 42 Eliz. (11 February), it was ordered that all gentlemen of this society should usually and regularly frequent the chapel as well at service as sermons, and every term yearly receive the communion, if they be in commons, or lie in the house, upon pain for every default in receiving the communion to forfeit 3*s.* 4*d.* and if not once every year, then to be expelled.

In 21 Jac. (30 Oct.), there was an order that all *women* should be barred from the chapel at sermons, and all persons strangers, but such as were brought in by some of the society; as also that all gentlemen should go out of the chapel bare-headed, in a decent manner.

Women and boys were not suffered to come within any part of the chapel, at any time; "nor any stranger before the bell hath done ringing, except he be brought in by a reader or gentleman of the house."

Eminent Men.]—Sir Nicholas Bacon and sir Francis Bacon were two of the most eminent members of Gray's Inn.

Sir Nicholas, the father, was born in 1510, at Chiselhurst, Kent, and studied at Corpus Christi college, Cambridge, previous to his entering himself a member of this society. He was in high favour with Henry VIII. who granted him, on the dissolution of St. Edmundsbury monastery, in the 36th year of his reign, the manors of Redgrave, Botesdale, and Gillingham, with the park of Redgrave, and six acres of land in Wortham; as also the tithes of Redgrave, to hold *in capite*, by knight's service.

In the 38th of the same monarch he was made attorney of the court of wards, was elected treasurer of Gray's Inn in 1552, and knighted by queen Elizabeth; and, on the 22d of December 1558, had the great seal delivered to him, with the title of lord keeper, and was made a privy counsellor.

His great parts and great preferments were far from raising him in his own opinion, as appears from the modest answer he gave to queen Elizabeth, when she told him his house at Redgrave was too little for him; "*Not so,*" returned he; "*but your majesty has made me too great for my house.*" Yet to shew his respect for her majesty's judgment, he afterwards added wings to it. Towards the latter end of his life he became very corpulent, which made the queen merrily say, that "*Sir Nicholas's soul lodged well.*" To himself, however, his bulk was very cumbersome, insomuch that, after walking from Westminster hall

to the star-chamber, which was but a very little way, he was usually so much out of breath, that the lawyers forbore speaking at the bar till he recovered himself; and gave them notice of it, by knocking with his staff¹.

Sir Nicholas Bacon had much of that penetrating genius, solidity of judgment, persuasive eloquence, and comprehensive knowledge of law and equity, which afterwards shone forth with so great a lustre in his son, who was as much inferior to his father in point of prudence and integrity, as his father was to him in literary accomplishments. He was the first lord keeper who ranked as chancellor.

His death is reported to have happened through a cold, caught from having fallen asleep with his window open, after having been under the hands of his barber. Ob. 20 Feb. 1579.

"Sir Francis Bacon," says a late writer, "will live in his works as long as books endure, and will as long remain a monument of strength of mind and imbecility of character." This great man's history is familiar: the successive dignities he attained were but the just reward of his great merit and learning, and had they come unsolicited, and not been the consequence of mean compliances, they would have reflected lustre on him instead of disgrace. His character is nervously portrayed by Mrs. Macauley: "Thus ignominious," says she, speaking of his degradation, "was the fall of the famous Bacon, despicable in all the active part of life, and only glorious in the con-

¹ Betham's Baronetage.

templative. Him the rays of science served but to embellish, not enlighten; and philosophy herself was degraded by a conjunction with his mean soul². He did not survive above five years this disgrace. We are told that he often lamented that ambition and false glory had diverted him from spending his whole time in the manner worthy his extensive genius; but there is too much reason to believe, from his conduct, that these sentiments arose from the weight of his mortifications, and not from the conviction of his judgment. He retained, through the favour of James, and in consequence of many supplications, a nominal pension of 1800*l.* a year; but, through the deficiency of its payment, languished out the remainder of his life in indigent circumstances³. It is needless for an historian to describe the strength or extent of his genius; his precious bequests to posterity paint them stronger than can any other pen."

David Jenkins, the patriotic and honest Welsh judge, in the reign of Charles I. was a member of

² During the time he had the seals, he received a number of letters from Buckingham, in favour of different persons who had causes depending in chancery. There is great reason to believe that every one of these mandates was implicitly obeyed by the submissive chancellor. These letters are in a collection published by Dr. Birch.

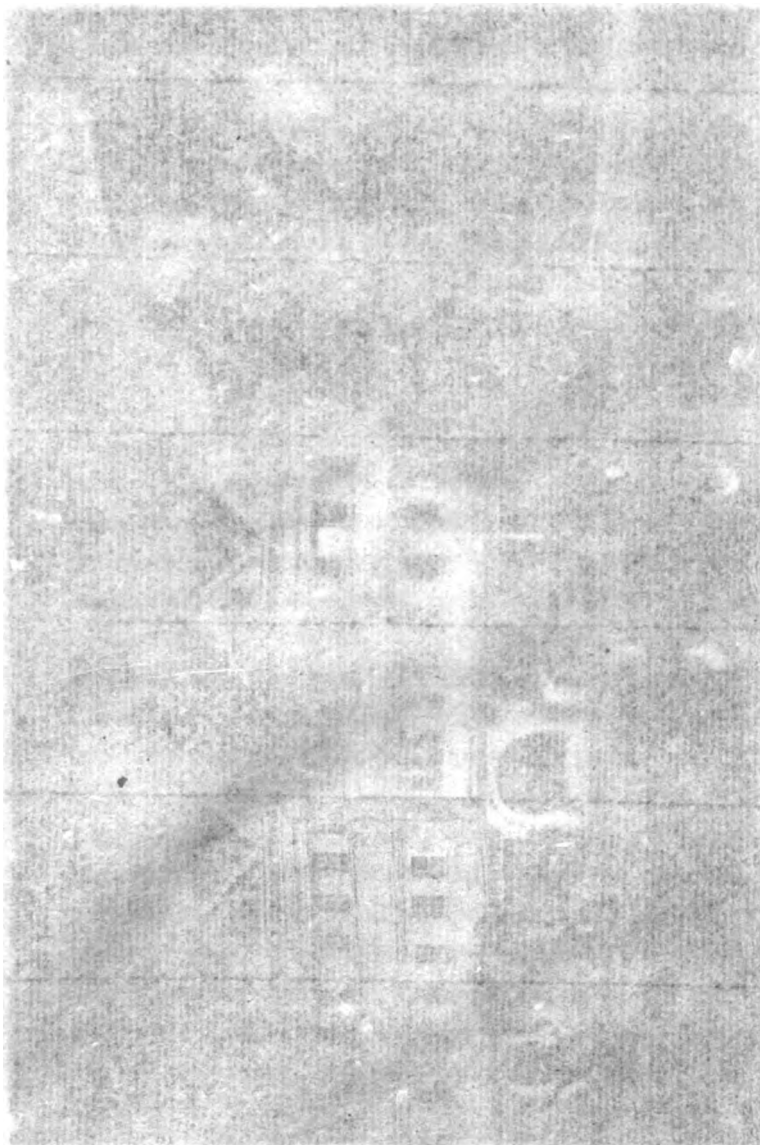
³ He complains, in Dr. Birch's letters, that the pension of 1800*l.* a year, which he enjoyed during his prosperity, was stopped, and that there was 800*l.* in arrears due upon it. Among the many petitions he preferred to Buckingham for a subsistence, he descended to ask the proctorship of Eton school, and was denied. York house and his manor of Goramby were sold to pay his debts; and, at last, he was induced to take up with a lodging in *Gray's Inn*, which he inhabited while he was a practical lawyer.



STAPLE'S INN,
(Hobart.)

London. Published by W. & A. Groom, 15, Abchurch Lane, London. / Printed by W. & A. Groom, 15, Abchurch Lane, London.

... of the ...
... of the ...
... of the ...



this society. He had imprisoned and condemned several persons bearing arms against the king, and courageously disowned the usurped jurisdiction of the commons, when brought to their bar. "Expecting daily to be hanged, he came to a resolution to suffer with the Bible under one arm and Magna Charta under the other. His vindication of himself, and other occasional pieces of his writing, were printed in 12mo. 1648, with his head, by Marshal. Ob. 1663, æt. circ. 84⁴."

CHAP. VIII.

INNS OF CHANCERY BELONGING TO GRAY'S INN.

STAPLE INN.

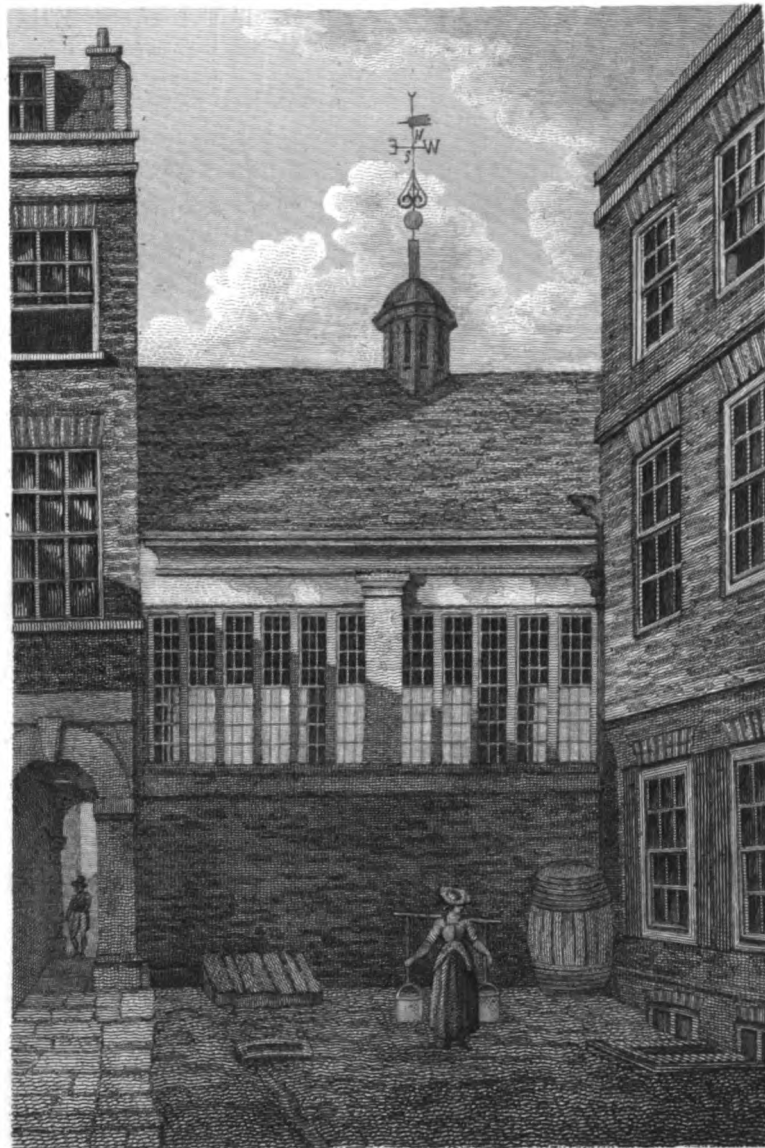
STAPLE INN is traditionally reported to have been called "*Staple Hall*," and to have been anciently a sort of exchange or meeting-place for the wool-merchants, or staplers.

In the reign of Henry V. however, and probably before, it had become an inn of chancery, the society still possessing a manuscript of the orders and constitutions made at that period. It was then held by lease (for the first grant of the inheritance of it to the ancients of Gray's Inn, from John Knighton and Alice his wife, daughter of John Chapwood, was by indenture of bargain and sale, dated 10 November, 20 Henry VIII.) ; after which there were other feoffments made. For, upon the 4th day of June, 20 Jac. I. sir Francis Bacon, knight, then lord Veru-

⁴ Granger's Biog. Hist. Eng.

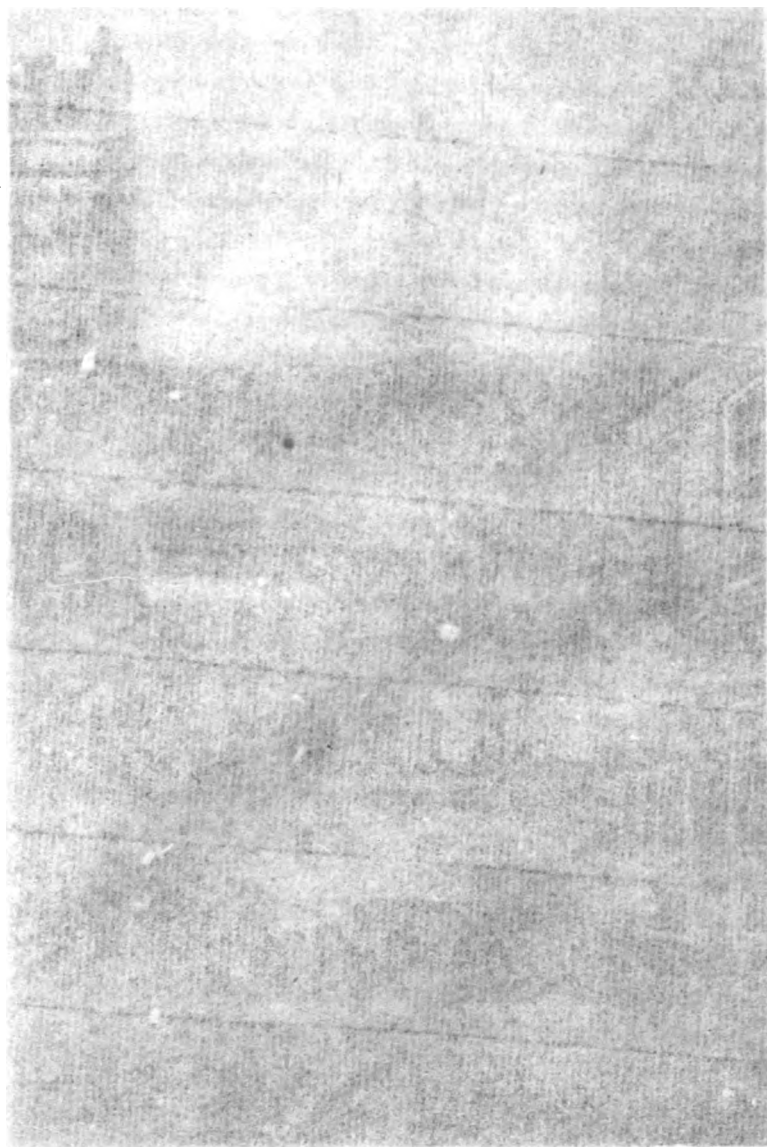
lam, and viscount St. Alban, did enfeoff sir Edward Moseley, knight, attorney of the dutchy of Lancaster, sir Henry Yelverton, and others, the ancients of Gray's Inn, of this seminary, by the name of "All the messuage or inn of chancery commonly called Staple Inne, and one garden thereunto adjoyning, with all and singular their appurtenances, in times past belonging to John Knighton, gentleman, and Alice his wife, situate in the parish of St. Andrew's, Holberne, in the suburbs of London; which messuage, &c. the said Francis lord Verulam lately had, together with John Brograve, esq. attorney to queen Elizabeth, of the dutchy of Lancaster, Richard Munger, William Whyskins, and others, then deceased, of feoffment of sir Gilbert Gerard, knight, then master of the rolls, Ralph Brereton, esq. and William Porter, gentleman, as by their said deed, dated 18 Maii, 32 Elizabeth, more fully appeareth, to have and to hold to the said sir Edward Moseley, and others, their heirs and assigns, to the only use and behoof of the same Edward, Henry, and their heirs and assigns for ever."

This inn stands on the south side of Holborn, nearly opposite Gray's Inn Lane, and is one of the two inns of chancery belonging to Gray's Inn. It consists of two large courts surrounded with buildings. Great part of the second court was rebuilt in the early part of the last century, and contains a small garden, pleasantly laid out. The first court, adjoining Holborn, and particularly the street front, is of a much greater age. The latter extends a consider-



BERNARD'S INN.

London, Published Map & View by J. Smith, 1780. From a Drawing by J. Smith, 1780. Original in the possession of the Trustees of the British Museum.



able length, and has a very antique but decayed appearance. From the fashion of the stone-framed windows at the back of the building, it must at least be as old as the time of queen Elizabeth, and may possibly have been built much earlier.

The hall of this inn, which divides the two squares, is a modern erection, at least it does not appear equally ancient with some of the other buildings. It contains, on the outside, a clock and a small turret. The interior forms a large handsome room, and is neatly kept.

In the windows are a few coats of arms of former members or benefactors. The hall likewise contains some portraits, of no particular interest, and casts of the twelve Cæsars, on brackets.

BERNARD'S INN.

Bernard's Inn is situated at a small distance from Staple Inn, in the same street. It likewise consists of two courts surrounded by chambers, but inferior to the latter in size. The buildings, however, are handsome and convenient: the whole having been but lately rebuilt.

The hall of this inn is a very small room. It contains a few portraits of eminent law characters, and two busts. The windows are likewise decorated with armorial bearings. In the second square is a small neat garden, railed round, and a thoroughfare to Fetter Lane.

Bernard's Inn was anciently called Mackworth Inn, and was given by Thomas Atkins, citizen of London,

one of the executors of John Mackworth, dean of Lincoln in 32 Henry VI. to the dean and chapter of Lincoln, and their successors for ever, to find a chaplain to celebrate divine service in the chapel of St. George, within the cathedral church of Lincoln, where the body of John Mackworth lies buried.

It is called in the record the *second* inn of chancery belonging to the above dean and chapter, and was founded by inquisition in the Guildhall of London, before J. Norman, mayor, the king's escheater: "The jury said, that it was not hurtful for the king to license Thomas Atkins, citizen of London, one of the executors of John Mackworth, dean of Lincoln, to give one messuage in Holborn, in London, with the appurtenances, called Mackworth's Inn, but then commonly known by the name of Bernard's Inn; but that the same might be given to the dean and chapter of Lincoln, to find one sufficient chaplain to celebrate divine service in the chapel of St. George, in the cathedral church of Lincoln, where the body of the said John is buried; to have and to hold the said messuage to the said dean and chapter, and to their successors for ever, in part of satisfaction of 20*l.* lands and rents, which Edward III. licensed the said dean and chapter to purchase to their own use, either of their own fee of tenure, or of any other, so the lands were holden of the king *in capite*."

There is additional evidence that it was an inn of chancery about this time, from a circumstance mentioned in Stowe's Annals. "In the 32d of Henry VI." says he, "a tumult betwixt the gentlemen of the

innes of courts and chancery, and the citizens of London, hapning in Fleet Street, in which some mischief was done ; the principals of Clifford's Inne, Furnivall's Inne, and Barnard's Inne, were sent prisoners to Hartford castle."

The government of Bernard's Inn was vested in a principal and twelve ancients, besides the gentlemen of the house, who were obliged to be in commons a fortnight, two terms, and ten days, the other terms, for which they paid five shillings per week if absent. Their dress in commons was like the rest of the inns, consisting of long robes and knit caps. Mootings were discontinued among them for some time before they were left off by the other inns.

The armorial ensigns of this inn are, *Party per pale indented ermin, and sable a chevron frettee or and gules.*

CHAP. IX.

SERJEANTS' INNS.

BESIDES the inns of court and chancery, there have been from very remote antiquity other inns, or *hostels*, as they were called, appropriated to the use of the judges of the king's bench, common pleas, barons of the exchequer, and serjeants at law. Two of these are still remaining, the one situate in Chancery Lane, the other in Fleet Street. A third Serjeants' Inn stood in Holborn, called Scroop's Inn, which has been long destroyed. Of these, as a sort of ap-

pendages to the other inns, a few brief notices are necessary, as well as some account of the dignity of *serjeant at law* itself.

SERJEANTS' INN, CHANCERY LANE.

This inn consists of two small courts, surrounded by the judges' chambers, which are spacious and handsome rooms. The principal entrance is from Chancery Lane, and fronts the hall: the second court communicates with Clifford's Inn, by means of a small passage. The whole of the buildings are modern, and the work of the last century: the only parts of them that merit notice are, the hall and the chapel.

The ascent to the hall is by a very handsome flight of stone steps and ballustrade. It is built of brick, with stone cornices, and ornamented in front with a handsome pediment, surmounted by a turret and clock. The inside is not large, but forms a well-proportioned apartment; and the windows, like those of most of the other halls, are decorated with armorial bearings in stained glass. The chapel is a small neat edifice, with seats for the judges, but is no ways remarkable.

This inn did not attain its present appellation of "Serjeants' Inn" till about the year 1484; previous to which it was called "Faryngdon's Inn, in Chancellor's Lane;" and still earlier, viz. in the 17th of Ric. II. it was mentioned by the name of "*Tenementum domini Joh. Skarle.*" It was at this period



SERJEANT'S INN.
(Chancery Lane.)

London: Published May 15, 1845, by T. Agnew & Sons, Piccadilly. J. Smith & J. Green, Chancery Street, opposite the

let by the bishop of Ely's appointment, whose estate it was, to one of the clerks of the chancery, as appears by the bailiff's account to the then bishop. In 1401 it is called *Hospicium domini Joh. Skarle*. About three years afterwards, viz. in 1404, in another account it is thus noticed :

Dominus Rob. Faryndon, clericus dom. regis habet pensionem sibi concessam ab episcopo de vil. xiiis. iiiid. per annum percipiendam de redditu hospicii domini in Chancelers Lane, et ad occasione tenet idem hospicium. In the accompt of 7 Hen. IV. it is said, *hospicium. nuper Faryngdon in Chancelers Lane, extitit vacuum per dimidium anni ad decasum iiii. vis. viiid. ;* and in 8 Hen. IV. *Hospicium domini Joh. Skarle conceditur cuidam clerico cancellariæ per præceptum domini ;* but in 1411 it was called *Faryndon Inne*.

It is probable that the serjeants at law had lodgings here at this time ; for within three years afterwards, viz. in 1414, the bishop's bailiff accounts for the repair of Askham's chamber, by which it seems that the lodgings were let apart : soon after, however, the whole house was entirely demised to the judges and others learned in the law ; for in 1416 there is accounted to the bishop *vil. xiiis. iiiid. pro Faryndon's Inn in Chancellors Lane dimisso Rogero Horton et Willielmo Cheney justiciariis, et Waltero Askham apprentisio legis.*

Besides this Walter Askham, there was about this time one Robert Askham, serjeant at law, who was of council to the bishop of Ely, and had *xls.* per annum pension for the same.

It seems that the judges and serjeants were not constant tenants to the bishop in those days for this house; for in 1425, these are the words of the account; *Hospicium in Chancelers Lane stetit inoccupatum per totum annum circa reparationem ejusdem et contra annum sequentem dimittitur J. Martin, et Jacobo Strangwiz, et T. Rolf, justiciariis ad v. lib.*; and then soon after (viz. 1430) it had the name of *Hospicium Justiciariorum*.

In an. 1440 it was again demised "*Joh. Hody et aliis servientibus legis*," for the rent of *vi. per an.* In 1474 it was let to sir Robert Danby, knight, then chief justice of the court of common pleas, and other the judges of that time, at *iiii. l. per an.* And two years after, in 1476, to sir Thomas Grey, knight, at the like rent of *iiii. l. per an.*; which rent from him the said sir Thomas Grey is accounted for from that time till the year 1481 inclusive. And in 1484 the same sir Thomas Grey had a new lease thereof by the name of *Hospicium vocatum Serjeants Inne in Chancelers Lane*, at *iiii. l. per an.* doing all repairs; which rent he paid till the year 1490; how much longer does not appear; for in 1492 it was in the bishop's hand for lack of a tenant: but after this it was but a while out of the judges' and serjeants' tenancy: for in 1508 (which was the last year of the reign of king Henry VII.) it was demised by indenture by the name of *Hospicium in Chancelers Lane vocatum Serjeants Inne* to John Mordaunt and Humphery Coningsby (then two of the king's serjeants at law), at the rent of *iiii. l. per annum*, keeping all repairs.

In 2 Ed. VI. T. Goodrick, then bishop of Ely, by a lease bearing date 17 Dec. demised it to Chr. Fulnetty, his brother-in-law, for lxxxi years; which lease coming by mean assignment to sir Anth. Ashley, knight, and then by surrender to bishop Felton, that bishop granted it to the said Anthony for three lives (viz. of Philippa, then his wife, afterwards married to Carey Rawley, esq. and two of his servants).

SERJEANTS' INN, FLEET STREET.

This inn retains its ancient name, but is at present little more than a mere private court, having been deserted by the judges on the buildings of the old inn falling to decay. It adjoins the north-east corner of the Temple, with which it has a communication by means of a narrow passage; but the principal entrance is from Fleet Street, where there are handsome iron gates, and was formerly a lodge, and a porter kept.

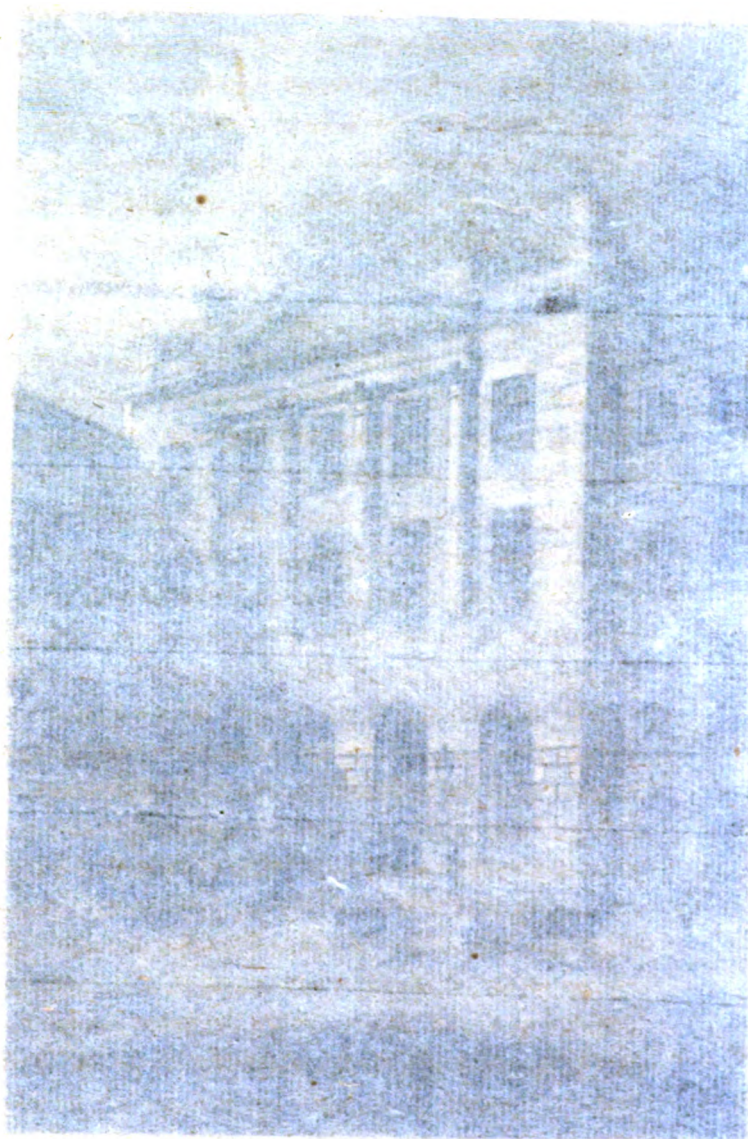
This place was a residence of the serjeants at law, at least as early as the reign of Henry VI. and apparently before; for in the year 1442 it is demised under the following "*law Latin* description" of *unum messuagium cum gardino, in parochia S. Dunstani in Fleet Street, in suburbio civitatis Lond. quod nuper fuit Johannis Rote, et in quo Joh. Ellerhor, et alii servientes ad legem nuper inhabitant.*

The above lease was granted by the dean and chapter of York, whose estate it then was (and possibly now is), to one William Antrous, citizen and

taylor of London, for eighty years, at the rent of ten marks a year. This person is supposed to have been a sort of steward to the judges, and to have occupied some part of the mansion himself; for in a second lease, afterwards made to John Wykes by the same dean and chapter (viz. in 1474) for the like rent and term, it is expressly stated, that the said John Wykes inhabited therein.

In the 15th of Henry VIII. this inn was by a third lease, bearing date the 20th of June, demised by the said dean and chapter directly to sir Lewes Pollard, knight, then one of the justices of the court of common pleas, Robert Norwich and Tho. Inglefield, the king's serjeants at law, John Newdigate, William Rudhale, Humphrey Browne, William Shelly, and Tho. Willoughby, serjeants at the law, and William Walwyn, the king's auditor in the south for his dutchy of Lancaster, for the term of thirty-one years, at the rent of 53*s.* payable half yearly.

The ancient inn having been burnt down in the fire of London, on the lease being renewed by the dean and chapter in 1670, the whole was rebuilt by a voluntary subscription of the serjeants; which subscription was to be repaid by a particular mode agreed on among themselves. The chapel, hall, and kitchen, were erected with the overplus of a sum of money deposited by seventeen new-created serjeants, after deducting about 400*l.* for their feast. The other buildings were finished at the expense of lord chief justice Kelynge, and sir Thomas Twysden, sir Christopher Turner, sir Thomas Tyrrel, and sir William





SERJEANTS INN.
(Fleet Street.)

Engraved by J. Smith & J. G. Cox, 15, Abchurch Lane, London.

Wilde, judges of the court of king's bench; and the following ten serjeants at law, Brome, Hollaway, Ellis, and Willimot, who built the east side, and serjeants Goddard, Turnor, Barton, Brampston, Goodfellow, and Powys, who built the western side. The whole inn has been again rebuilt within these few years; and on the site of the ancient hall (which was long used as a chapel), the Amicable Society have lately erected a very elegant building for the transaction of their business, which is a great ornament to the place.

SCROOPE'S INN.

Scroope's Inn was an inn for serjeants at the law in the time of Richard III. ¹. It took its name from having been once the town house of one of the lords Scroope of Bolton, as appears by the ancient accounts of the bailiffs to the bishops of Ely (whose palace it adjoined): "*Mansio domini Scroope de Bolton, modo vocata le Serjeants Place* ²."

¹ In an. 1483, 2 Rich. 3. penès Matheum Elien. an. 1640.

² "Without Oldbourn bridge, on the right-hand is *Gold Lane*, and up higher on the hill be certain innes and other fair buildings, amongst the which (of old time) was a messuage called Scroope's Inn; for so I find the same recorded in the 37th of Hen. 6.

"This house was sometimes letten out to serjeants at the lawe, as appeareth, and was found by inquisition taken in the Guildhall of London, before William Purchase, maior and escheator for king Henry the Seventh, in the 14th of his reigne, after the death of John lord Scroope; that he died seized in his demesne of fee, by the feofment of Guy Fairfax, knight, one of the king's justices, made in the 9th of the same king unto an esquire, the sayde John Scroope, knight, lord Scroope of Bolton, and Robert Wingfield, of one house or tene-

By an inquisition taken the 13 Oct. 14 Hen. VII. it appears, that sir Guy Fairfax, knight, a judge of the king's bench, and then deceased, was seised of the same by the name of one messuage or tenement, called Serjeants' Inn, situate in Holborn, opposite to St. Andrew's church, with two gardens and two cottages thereto adjoining; and being so seised, by his deed indented, bearing date the 8th Feb. 9 Hen. VII. did pass the same to sir John Scrope, knight, lord Scrope of Bolton, and others, to the use of the said John, his heirs and assigns for ever.

The site of this inn is now called "*Scroope's Court.*"

CHAP. X.

OF THE ANTIQUITY AND DIGNITY OF SERJEANT AT LAW.

SERJEANTS AT LAW, called in Latin "*Narratores*," and in French "*Countors*," are of very great antiquity, and by some authors the dignity is asserted to be prior to the conquest. They are expressly mentioned in a statute of Edward I.; at which period Thomas de Weylaund, John de Mettingham, John de Cobbeham, and Elias de Bekingham, being then

ment lately called Serjeants' Inne, situate against the church of St. Andrew in Oldbourn, in the citie of London, with two gardens and two messuages to the same tenement belonging, in the said city, to hold in burgage, valued by the yeere in all reprises 10s."—*Munday's Store.*

the king's serjeants, had pensions assigned them out of the exchequer³.

In the reign of Edward II. Roger de Scotre and Edmund Passelegh were, by special writ, assigned to be the king's serjeants—*Serjeants assignes as plees le roy et a ses besoiens*, says the record : and in the following reign their successors, Robert de Thorpe and Henry de Grene, were summoned to parliament, and sat with the justices of both benches. They were specially exempted from serving on trials of *grand assize*, except where there were no knights in the county, an evidence that they were esteemed of an equal rank ; and they precede, says sir Edward Coke, "those who sit on an high bench in Westminster Hall" (meaning the *masters in chancery*).

Judge Fortescue, in his treatise "*De Laudibus Legum Angliæ*," speaking of this dignity, says, "the lord chief justice is first to choose seven or eight of the discreetest persons, and most celebrated for their proficiency in legal studies ; and having presented their names to the lord chancellor, the latter, by virtue of the king's writ, shall charge every of the persons elect to be before the king at a day by him assigned to take upon him the state and degree of a serjeant at law, under a great penalty in the said writs limited.

"On their appearance at the day appointed, they shall be sworn upon the Holy Gospel to be ready at a

³ Of the same degree, about that time, was John de Lyte, owner of Lyte's Carey in com. Somerset, who was there buried, with his portraiture in a *coif*, and this epitaph: *John de Lyte, & Amy sa femme ; Pater noster Ave Amen.*

certain specified time to receive the state and degree aforesaid, and shall then give *gold* according to ancient custom.

“On their receiving of the *coif*, among other solemnities, they must keep a great dinner, similar to the feast of a king's coronation, which shall continue seven days. In this feast each serjeant shall spend at least 400 marks, so that the expense of the eight serjeants so made shall amount to 3200 marks.”

Rings of gold, to the value of at least 40*l.* were to be given away; and he adds, “I your chancellor (addressing himself to his royal pupil) well remember, on receiving this state and degree, that the rings I gave away cost me 50*l.*” Liveries of cloth, of one suit or colour, were to be given by the serjeants also, not only to their household, but to all who should attend on them.

“None (says he) shall be exalted to the bench without first taking on him the degree of serjeant; nor can he receive this degree without having studied the law at least sixteen years. And as a sign that all justices are thus graduate, every of them, whilst he sits in the king's court, shall wear a *white silk coif* (his peculiar badge of honour): and this coif neither justice nor serjeant shall ever put off, no, not in the king's presence ever, though he be in talk with his majesty.”

The following extracts, highly curious for their antiquity, contain a particular relation of the ceremonies formerly used in the creation of these great law officers:

“ The Maner or Order of makyng of neue Serjeauntys, create and made in Trynytie Terme, An. terciodecimo Regis Henrici Octavi; whois Names be Mr. Rudhale, Mr. Fitz-Jamys, Mr. Porte, Mr. Faierfax, Mr. Spilman, Mr. Broune, Mr. Shelley, Mr. Willughby, Mr. Norwich, and Mr. Inglefeld⁴.

“ In primis, in every howse of the fower innes of court, upone Fridaye affore ther creasions, abowte iii. of the clock at after noone, the companye assemblith, the new serjeaunts of every howse thene beyng in ther innes, in ther own chaumbers. And after that the companye is soo assembled in ther halle, thence comyth downe to theme the new serjeaunts: and after that the neue serjeaunts be soo come downe to the companye, thene all they stondynge togeder, the most auncyent of the company rehearsith the maner of lernynge and stody, gevyng lawde and preyce to theme that have well usid theme, shewenge what wurshipp and profite comythe and growith by reasone of the same, in proffe wheroffe those new serjaunts for ther konnyng, discrecione, and wysdome, be callide by the kyng's highnes, and his honorabill councele, to the gret promocyone and dignytie of the office of a serjaunt of the lawe: and thene he gevythe theme a lawde and preyce for ther gode conversacione, and peyne, and diligence, that they have takyne and used in ther stodye, present-

⁴ Ex vet. cartaceo MS. penès Ric. Smith Londinensem, an. 1661.

ynge to theme the rewarde of the howse, besechyng theme to be gode and kynde to the companye.

“ And thence, those newe serjeaunts geve onto the companye thanks, and preye the companye to be gode and kynde to theme, and they shall alweys owe their favors and love to theme; ageyne, gevyng a gret lawde onto the maners of the howse wher thorough they have atteynid to ther konnyng and promocyon. And after that doone, the newe serjaunts goo togedyr, oon of theme takyng anoder be the arme, and goo forth toward the place, whereas the serjaunts feest shall be kepte: and all the companye, as they be in auncyentie folow theme twoo and twoo togedyr: and when they come to the place wher as the serjaunt's feest shall be kepte; ther shall be redy to receyve theme at ther fyrst entryng into that place, the hie styward and countroller, which shalle convey theme into the place, where as they shalle have spiced bredde, comfeits and oder godely conceyts with ypo-cras. After which rekreatione, the new serjaunts goo to ther chaumbers, and the companye of court gooith home ageyne to ther places. And upone Satyrdaye thene next folowenge, alle the judges and olde serjaunts come frome Westminster to the place wher the newe serjaunts be to dyner; and when dyner is doone, thene alle the juges and olde serjaunts departe, except the chieff justice of the comyne place, which chieffe justice of the comyne place goith into a secrete chaumber with the chieff pronotare and the secund pronotare, and then the chieff justice of the comyne place causith the styward of the feste to speke

to the newe serjaunts to come before hyme in the seid secrete place; and ther he gevyth to theme a godely exortacione; after which exortacione doone, then the eldest serjaunt begynnyth after the maner of motyng to trete upone the writte, that he will trete and plede upone.

“ And then the next of the newe serjaunts in aun-
ciente make the defence, and axeth heryng of the
writte; and then the chieff pronotary redith that
wrytte: and then the seid secund newe serjaunt em-
parleth; and after that the secund newe serjaunt
doith in like maner, and the secund pronotary redith
the secund wrytte; and soo the thyrd and the fourthe
in like maner, &c.

“ And after all theis thyngs doone, the chieff jus-
tice of the comyne place departith home to his lodg-
yng, and the newe serjaunts to ther chaumbers, &c.

“ And upone Sondaye then next foloweng the
chieff justice of the comyne place, with all the oder
justices, and olde serjaunts, about ix. of the klok goo
to the chieff justice lodgyng of the kyng's benche;
and then all they togedyr in a godely order goo to
the place, wher as the newe serjaunts bee then a
waytyng upone them, the seid ii. pronotaries and the
wardeyne of the Flete with his servauntes, and the
marshall of the comyne place with all his criours, and
the olde serjaunts servauntes, and in the newe ser-
jaunts lyvere.

“ And then they goo into a grete chaumber wher
the companye of court assembleth: and ther all the
justices sett in a godely order, and the olde serjaunts

standing nygh to them in ane order, with the seid ii. pronotaries, then the seid styward of the feste, by the commaundement of the justice goith to the newe serjaunts to bryng them before them, which come in ane order ii. and ii. togeder, and every oone of them a servaunt with a scarlet hode one his arme, and a serjaunt's coiff in his hande.

“ And the newe serjaunts set them sylff in ane order, the oldest in the mydds stondyng arowe in newe blewe gownes close affore with hoolle sleves ; and soo stondyng in ane order, the chieff justice of the kyng's benche gevyth a godely exortacione.

“ And which doone, the seid newe serjaunts, and the seid ii. pronotaries use them sylff in declaracions and redyng of the seid writtes, in fourme affore rehersed.

“ And after that doone, the oldest newe serjaunt knelyth affore the chieff justice of the kyng's bench ; and all the oder newe serjaunts in ane order, knele downe affore the oder justices, and every justice puttith upone the new serjaunts soo knelyng ther coyffs, and ther scarlet hodes abowte ther nekks.

“ And that doone, they rise uppe, and make dewe curtesye, and departe ii. and ii. togeder to ther chaumbers : and then, all the justices goo downe into the hall to dyner ; and then come all the newe serjaunts with ther seid coiffes upone ther hedes, and ther seid hodes aboute ther nekks, and stonde arowe oone by anoder alonge affore the table on the sowth side in the hall. And then all the juges wasshe and sitt downe, and the chieff justice of the king's benche

commaundith all the newe serjaunts to wasshe, and sitt downe, which sitte downe in ane order oone a lytell distaunce from anoder, and ych of them hath a karvar stondyng before hym, and two of the newe serjaunts sitt at oone mese, and so dyne with sober countenance and lytell communycacion.

“ And after that they have dynyd they ryse up and goo affore the justices, and make dewe obedyence to them, and then stonde ageyne in lyke order as they did affore they satte downe.

“ And afterward the justices aryse and wasse and geff thanks onto the newe serjaunts for ther gode dyner.

“ And then the newe serjaunts make dewe curtesie, gevyng thanks onto the justices for ther peyne.

“ And then the justices departe home to ther lodgyngs, and the newe serjaunts to ther chaumbers, &c.

“ And upone Mondaye then next foloweng, the newe serjaunts goo soberly to Westminster aboute ix. of the klok affore noone, the eldest affore, and the next auncient foloweng, and soo to the yongest.

“ And affore the newe serjaunts, goo the wardeyne of the Flete, and the chieff marchall of the comyne place, and ther offycers and servaunts of ther lyverees.

“ And after the newe serjaunts, goo ther owne serveaunts in ther lyverees; and they goo fyrst thorough the kyng's streite to Seynt Edward, and ther offer.

“ And then they goo to ower *Lady of Pewe*, and

ther they offer; and then they come into the hall, and stonde severally with ther bakks to the tabyll affore the comyne place, affore the juges: and soo stondyng in ane order, the olde serjaunts goo to my lorde chaunceller; and then come with hym my lorde treasurer and my lorde privye seall into the comyne place with the judges of the kyng's benche, and all they with the juges of the comyne place sitt downe in the comyne place.

"And after that they be sette, the chieff justice of the comyne place comaundith ii. of the olde serjaunts to fetch the eldest of the newe serjaunts. And then those ii. olde serjaunts goo and take the eldest of the newe serjaunts by the armes bytwene them; and at the table comyng forward, they iii. togeder make a lowe curtesie, and ageyne in the myddis of the hall a lyke curtesie; and when they come to the barre, a lyke curtesie; and they come thorough a lane made mete and redy for them by the wardeine of the Flete, and the seid marchall, and ther offycers.

"And when they bee soo at the barre, the seid eldest new serjaunt soo brought to the barre seith after this maner: '*My lorde Brudenell, John at Styls, ad sue cye devaunt vous une breff de, &c. envers Robert Downe, & prid q'il soit demaunde.*'

"And then the chieff pronotare shall seye *cye per attorney.*

"And then the seid eldest newe serjaunt shall declare upone his writte.

"And after declaracion made, the eldest of the olde serjaunts shall make his defence and praye heryng

of the writte ; and then the seid chieff pronotare shall rede the writte ; and then the seid eldest of the olde serjaunts shall emparle.

“ And then he that dealith the ryngs for the eldest of the newe serjaunts shall ryse up as he sittyth amonge the offycers of the comyne place, and shall stonde upone the myddes of the borde of the comyne place, and ther make a lowe curtesie, and then he shall come and steppe unto the benche bytwene bothe the pronotaries, and ther he shall knele downe byfore my lord chaunceler ; and seye, that the seid eldest of the new serjaunts recomendith hym to his grace ; and sendith hym a tokyne of his creacione, and kysse it, and delyver it to hym : and in lyke maner he shall delyver a ryng to my lord treasurer : and another to my lord prive seall, and anoder to the chieff justice of the kyng's benche ; and anoder to the chieff justice of the comyne place ; and so forth to the oder justices, pronotaries, and oder officers of the place.

“ And then shall the secund and the third of the eldest of the olde serjaunts fetch the secund of the newe serjaunts, and demeane them sylff as the fyrst dyd ; and the secund pronotare shall rede the writte.

“ And then he that shall deale the ryngs for hym shall demeane hym sylff as the fyrst dealer dyd.

“ And after lyke maner, shall the residew of the eldest and newe serjaunts and ther dealers demeane them sylff.

“ And when all that is doone, then my lord chaun-

celler shall geff them thanks for ther ryngs, and a gret commendacion, and his soleme blyssing.

“ All which doone, my lord chaunceller and the seid juges, and olde serjaunts goo homward, to the fest.

“ And after them goo the seid newe serjaunts with ther officers, as they came forth.

“ And when those newe serjaunts come home, they goo to ther chaumbers to ther wyffs and freends, and ther have ther hooll servyces brought to them by ther clerks : and gentilmen of court serve ther that daye according to ther lotts, &c.

“ And when the seid newe serjaunts have dyned, then they goo in a sober maner with ther seid offycers and servaunts into London, oone the est side of Chepe Syde, oneto Seynt Thomas of Acres, and ther they offer, and then come downe one the west syde of Chepe Syde to Powles, and ther offer at the rode of north dore, and at Seynt Erkenwald's shrine, and then goo downe into the body of the chirche, and ther they be appoyntid to their pyllyrs by the styward and countroller of the feste, which brought them thidder with the oder officers.

“ And after that doone, they goo home ageyne to the place of the fest, &c.

“ And upone Tewesdaye, the seid newe serjeants goo ageyne in sober maner to Westminster with the seid wardeyne of the Flete and the marchall, and oder offycers affore them, and their servaunts after them in ther lyverees ; and goo thorough Westminster Hall, onto ower *Lady of Pewe* ; and after come

downe ageyne into Westminster Hall to the tabyll ageynst the comene place, and ther stondyng with ther bakkys ageynst the same tabyll, the seid officers take ther leve of the seid newe serjaunts.

“ And then, when the court is doone, the seid newe serjaunts goo home severally with ther owne servaunts, and no more with them, excepte such as lyst to speke with them for causis.

“ And then afterward the justices of the comyne place appoynte them a daye iiij. or v. dayes after that, to argue ther mater in lawe appoynted to them a sevenyght affore ther creacione, &c.”

These ceremonies in the creation of serjeants at law were observed for many years afterwards with very little variation. In the first of Edward VI. serjeants Whiddon, Coke, Pollard, &c. members of Lincoln's Inn, after having been to Westminster Hall, went “ from thens to our *Lady of Pewes* chappell, and thene came agene ineto Westminster Halle, and invited the lord chancellor and other lords and judges to dinnèr in the hall of that society, “ and thyther camme allso to dynner my lorde mayer of Londone, with certene aldermene and the sheriffes of the citie, and sum other men of worshyppe, and gentlemene besydes, which were biddene to the feaste (and but a fewe other), where they were all honorably resceyved, thouwhe their dynner was not epicu-ryous, nor verrey sumptuous, but yet moderately, discretely, and sufficiently ordered, with a wyse temperaunce, withoute greate excesse or superfluyte, as it was moste convenyent, and to learned lawyers, and

sobre and experte cownselors, was most decent and requisyte.

“ And whene dynner was solempnely finished, the lorde chauncelor, with the other lordes, departed frome Lincolnes Ynne about twoo of the clock in the after noone.

“ And withyn ane howre after the seid newe sergeaunts went to Paule’s and there eche of theme stode at their severall pillers in the body of the church, accordyng to the auncyent custome ine that case used, and frome thens they camme to Sergeaunt’s Ynne, every of theme to their severall chambers, and there remayned.

“ And thus ended this honorable sergeaunt’s feaste, with all the circumstances and proces moche to their prayse, woorshippe, and perpetuall fame, woorthy commendation.”

In the 19th of Elizabeth, Messrs. Francis Gawdye, Aunderson, and others, then created serjeants at law, kept their feast in the hall of the Middle Temple. In the morning of which day (being the first day of the sitting of the courts) they went to Westminster Hall, preceded by the warden of the Fleet, and their writs being shewn them, they “ stode a rowe in ancyenty, and the auncyent of them stode next to the kings benche, and then, after exhortation given to them by sir Nicholas Bacon, knight, lorde keeper of the greate seale of England, howe to behave themselves in their vocations, and howe they should be discreet; for out of their flock may come the judges of this realme, &c. And then they weare severally

sworne; and after that the ancyent of those seaven saide to the saide lorde keeper theise words, or other, in effect as do follow: *Yf it please yowe my lord keeper, by the ancyent order in this realme, yt hath been accustomed, that the newe sergeants at ther creation, should give to the king or quenes heighnes of this realme, for the time being, a ring of gold, in token of ther dueties and thancks to ther majesty. And also hathe byn the olde custome that the same serjaunts should humbly desire the lord chauncelor of this realme, or the lord keeper of the great seale of England for the tyme beinge, to receyve that ringe of them, and to deliver it to his or her majestie; therefore I and my brethren here most humblye beseeche your good lordshipp to take this ring, and to deliver the same accordinglie.*"

The lord keeper having the ring, kissed his hand, and promised to deliver it; the serjeants adjourned to the chambers of the chief justice of the common pleas (sir James Dyer, knight), "and ther the saide cheffe justice declared their vocation what the law is, and rehearsed Scripture, that the law was groundd cheeffely upon God, and that Mr. Fortescue saide, *Quod lex est sanctio sancta, jubens honesta et prohibens contraria*. And declared that all vertues byn conteyned in honestye: and he also rehearsed to them the effect of ther writts, and of the olde oth; and also did counsell them not to use delayes, nor to give deceyfull counsell to take away anye mans right by untrue vowchers, in *forme doones*; not to be captious one upon another, nor to mocke one ano-

ther; but to be discreete, to ride with six horses and ther sumpter in longe jorneyes; to weare ther habite most commonlye in all places at good assemblies; and to ride in a shorte gowne; to keepe the common place barre; he saide, *Melius, est modicum justo super divitias peccatorum multas, et injuste puni-entur; et semen impiorum peribit; justi autem hæreditabunt terram, &c.*"

After this exhortation, &c. they were permitted to depart, and on the following day, having met together in their chambers adjoining the Temple hall, and being habited in their blue gowns, their clerks bearing their scarlet hoods and coifs; they went, preceded by the warden of the Fleet, tipstaves, marshal of the common pleas, &c. to the hall, where the chief justice and other of the judges were, "and then the saide cheeffe justice made a godlye exhortation to them, sayinge, *Ambulate in vocatione in qua vocati estis, &c.* and then exhorted them to fidelytie and secretnesse, and then to circumspect prudence, and saide, *Mulum consilium est consultori pessimum;* and saide that their *quoyff* hath two things in it; videlicet, it is a *helmet* or *sallet*, that they should not feare, havinge that on, to speake bowldly the law, *et est sicut vestis candida et immaculata*, and they mighte weare it in place of justice before the king's presens; and ther *partye garment* and *hoodd* be-tokeneth prudence and temperancye. They were the olde collers used in this realme in judges in king Edward the Confessors tyme; and the *taberte* and *gowne* is close to their bodies, and girte, and not

open before ; that sheweth that they should be secret to their clyants, not discloseinge ther counsell : ther two *tongs* and ther *taberts* declarethe, that they should have one tonge for the poore, another for the riche ; and their *rings* that they give be of gold, which is one of the best mettells ; the same betokenethe ther bountifullnesse ; they be *round*, they have no end ; it sheweth ther integrity. The prophett sayethe, *Ambula coram me et sis integer*, that is, holle and sound in ther vocation ; and said, *Cavete de avaritiâ, ambitione, necligentid, et excessu ; et, discite cultum Dei, reverentiam superiori, fortitudinem in causa clientis, fidelitatem clienti, et misericordiam pauperi, &c.* And some cheeffe justice hath begune sayeinge, *Hortamur vos, ne gratiam hanc in vanum recipiatis* ; and declared what that grace was, and said, *Sepe aures tuas spinis, et linguam nequam noli audire ; ori tuo facite ostia, et seras auribus tuis.* And some other cheffe justice beganne sayinge, *Omne datum optimum et donum perfectum desursum est* ; and he expounded it, &c."

On the day of the feast, the new serjeants having put on their habit, and their *brown, blue, and scarlēt* hoods over " both their shoulders behind their necks," together with their coifs, stood in a row, each two yards asunder, their backs against the north table in the hall. " And then all the pryvye counsell and judges, &c. doo wash and sett down ; all the pryvye counsell and lords att the upper table ; the mayor of London and his bretheren att the southe heighe table ; all the judges, master of the rolls,

barons of th'exchequer, and the olde serjaunts, and the quenes attorney and soliciter, att a long table in the myddest of the haull; and the newe serjaunts at the saide northe table, one two yeards from another: and then the heyghe table was served by the steward, and comptrowler, marshall, and warden of the Fleete; and the younge gentlemen of that Myddle Temple: and then next the mayer, &c. was served; and after them the judges; and after the newe serjaunts, everie one of them a hole messe of meat: and after, the residue of the tables. And everie of the newe serjaunts had ther wives and friends dynd in ther chambers in that Temple; and then they were served: and everye of the newe serjaunts had a carver, cupp-bearer and sewer to him of the gentlemen of the house that he came from, standeing before him, and so they dyne with sober counteynaunces and little communication."

These serjeants' feasts were uncommonly expensive: Stowe mentions two held at Ely House, with very great state; the second was the grandest.

On Monday, which was their principal day, king Henry and queen Catharine dined there (but in two chambers), and the foregin ambassadors in a third chamber.

In the hall, at the high table, sat sir Nicholas Lambard, mayor of London, the judges, the barons of the exchequer, and the aldermen of the city.

At the board on the south side sat the master of the rolls, the masters of the chancery, and worshipful citizens: on the north side of the hall certain alder-

men began the board ; and then followed merchants of the city. In the cloistry, chapel, and gallery, knights, esquires, and gentlemen were placed ; and in the halls the crafts of London.

The serjeants at law, and their wives, kept in their own chambers ¹.

A feast afterwards given at the Inner Temple hall (1555), on the creation of seven serjeants, of the different inns, was upon a still grander scale ; and was attended not only by all the great law officers, but likewise by numbers of the nobility, officers of state, the lord mayor and aldermen, &c.

The new-elected serjeants sat all dinner-time on the *bench* side, distinct from each other ; and had

¹ The following were among the articles provided on this occasion, and are curious, as they shew the different prices at that time and the present day.

	£.	s.	d.	
“ There were brought to the slaughter-house				
twenty-four great beefes, at - - -	1	6	8	the piece.
“ From the shambles one carcass of an ox, at	1	4	0	
“ One hundred fat muttons, at - - -	0	2	10	a piece.
“ Fifty-one great veales, at - - -	0	4	8	a piece.
“ Thirty-four porkes - - -	0	3	3	a piece.
“ Ninety-one piggs - - -	0	0	6	a piece.
“ Capon of Grece, of one poulter (for they				
had three) ten dozen, at - - -	0	1	8	a piece.
“ Capons of Kent nine dozen and six, at	0	1	0	a piece.
“ Cocks of grose seaven dozen and nine, at	0	0	8	a piece.
“ Cocks course xiiii dozen, at 8d. and 3d. a piece.				
“ Pullets, the best - - -	0	0	2	ob.
“ Other pulleta - - -	0	0	2	
“ Pidgeons 37 dozens, at - - -	0	0	10	the dozen.
“ Swans xiiii dozen.				
“ Larkes 340 dozen, at 5d. the dozen.				
“ Edward Nevill was senescall or steward, Thomas Ratcliffe con-				
troller, Thomas Wilden clerk of the kitchen.”				

The lords of the council were first served in the hall.

Then the two chief justices, served with one full mess, who sat at a middle table ; the end of which table was equal with the upper end of the lord mayor's table, and the upper end of the new serjeants' table.

Then the aldermen of London.

Then the serjeants new elect, in their degrees of
ancienty. And lastly other tables, furnished with
guests of inferior quality.

* Between forty and fifty messes of meat were served in the great hall: of the articles composing each mess the following will serve as a specimen :

“ First Course.

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£. s. d.

" A shield of brawn for either mess	-	-	-	
" Boyled capons in white-broth, two to a mess	-	0	5	0
" Swans roasted two, each mess one	-	-	1	0
" Bustards two, for each mess one	-	-	1	0
" Chewet pies eight, to each mess four	-	-	-	
" Pikes four, to each mess two	-	-	0	10
" Capons roasted four, to each mess two	-	-	0	10
" Venison baked four large pasties, every mess two				
" Hern and bittern four, each mess two	-	-	0	16
" Pheasants roasted four, to each mess two	-	-	0	16
" Custards two	-	-	-	-

" Second Course.

" A standing dish of wax, to each mess one	-	-	4	0
" Jellyes planted, two dozen	-	-	-	-
" Cranes two, for each mess one	-	-	1	0
" Partridges twelve, for each mess six	-	-	0	16
" Red deer four pasties, to each mess two	-	-	0	16
" Certain large joules of sturgeon, to each mess one				
" In woodcocks and plovers, twelve each mess	-	-	0	6
" Quince pies, baked, eight, for each mess four	-	-	-	-
" Rabbet suckers twelve, each mess six	-	-	0	4
" Snipes, roasted, twelve, to each mess six	-	-	0	3
" Larkes three dozen, to each mess a dozen and a half	-	-	0	2
" March-panes two, for each mess one	-	-	0	6

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