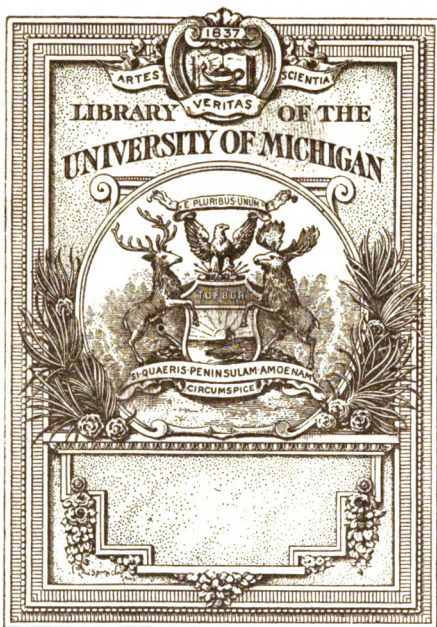


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THE
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M O N A R C H Y ;

As it more particularly regards the
E N G L I S H C O N S T I T U T I O N .

Being a T R E A T I S E Written by
Sir *John Fortescue*, Kt.
Lord Chief Justice, and Lord High Chancellor
of *England*, under King *Henry VI*.

Faithfully Transcribed from the MS. Copy in the
Bodleian Library, and Collated with three other MSS.

Publish'd with some R E M A R K S by
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of the *Inner-Temple*, Esq; F. R. S.

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TO THE
 RIGHT HONOURABLE
Sir Thomas Parker, Kt.

Lord Chief Justice of *England* ;
And one of Her Majesty's most Honourable Privy Council.

MY LORD,



HIS Treatise
 seems so naturally to belong
 to *Your Lordship's* Patronage, that should

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The Dedication
The Dedication

I think of any other, the World would charge me, with being absurd, as well as ungrateful.

I am apt to hope, it cannot be unpleasing to *Your Lordship*, to see an ancient Piece of *Your Lordship's* great Predecessor, Sir *John Fortescue*, endeavouring to shelter it self under *Your Lordship's* Protection, at a time especially, when it is most generous to afford it, when the Author cannot speak for himself.

If that good Man, long since in his Grave, could be sensible what a worthy Patron

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tron I had obtain'd for him, I am persuaded, he would not think amiss of my Conduct, in choosing the only one, who ever was, or is ever likely to be his Equal.

Henry the Sixth, a good and pious Prince, observing the sound Learning, and great Abilities of our Author, did him the Honour to call him to *Your Lordship's* High Station. And after he had, with great Sufficiency and exact Integrity, discharg'd that Office for the space of about twenty Years, in Reward of his inflexible Loyalty, and firm

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Adherence to the Crown, his Master advanc'd him to the most exalted Post of Honour in the Law, making him Lord High Chancellor of *England*; and at the same time committed to him the Care and Tuition of his only Son, the Prince of *Wales*.

The Subject of this Piece is the most excellent and curious Part of the Law, the English Constitution. And our Author was so great a Lover and Vindicator of it, and had so exact a Knowledge in all the Parts thereof, that I could not but think, that the bringing such a work to
light,

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light, would be not only acceptable to *Your Lordship*, but serviceable also to the Publick; since it cannot be doubted but that what he lays down, concerning the Liberties of the Subjects of *England*, must have the more Weight, and stronger Influence, when it is consider'd that it comes from one, who perfectly understood all the Points of Prerogative, who was a great Courtier, and in high Esteem and Favour with his Prince. No Power was able to bend his Integrity, nor could the Smiles of the Court, draw him into the

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least Neglect of any of the Duties of that great Office.

To be a Judge over the People of *England*, is indeed a High Station. It is the Office of the King of Kings, delegated to Man: He is the Support of the Prerogative, and Refuge of the People; he is Guardian of the Laws and Liberties of *England*, and Mediator between the Prince and the Subject.

Judges in absolute Governments have in them too much of the Advocate, and are generally, as it were retain'd, on the Side of the Rights Crown:

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Crown. They have Power indeed to determine as to the Rights of the Subject, but they are not entrusted with the Rights of the Prince: So that, in effect, they are but half Judges, and in Cases of the Crown, rather not at all such; for he that determines on one Side only, has parted with the Character of a Judge, and is become a Party.

How happy is it then for Prince as well as People, when an even Hand, by both entrusted, holds steadily the Scales of Justice, and impartially decides the Rights

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Rights of *Cæsar*, and his Subject, as the Balance turns.

Such was the Choice, *My Lord*, and such was the universal Expectation from it, when, added to the many Illustrious Marks of *Her Majesty's* profound Wisdom, She was graciously pleas'd to give that finishing Evidence, of the most consummate Caution for the Rights of the Crown, and the truest Tenderness for the just Liberties of Her Subjects, by advancing *Your Lordship*, of Her Own Choice, to sit in Her Own Court, SUPREME JUSTICIARY.

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But as universal as the Joy was, on that Occasion, there was yet no one who wonder'd at the Promotion. The World was too well prepar'd from the known Judgment, Integrity, Temper, and universal Learning of the Person promoted, to receive the welcome News, with any manner of Surprize; there was found no Equal, and therefore *Your Lordship* had no Competitor.

Difficult and nice Times might come, when the Integrity of a *Hales*, the Learning of a *Bacon*, the Law of a *Littleton*, and the Courage
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of a *Gascoin*, all which so happily center in *Your Lordship*, might be as requisite, as useful.

Cowardise in a Judge, is but another Name for Corruption. They differ only as the Act, and Habit. Bribery is Corruption in the Act; but Cowardise is habitual Corruption.

That *Your Lordship* now appears with such a Lustre, is, in some Measure, owing to Your High Station, tho' the latent Cause existed long before: So the Sun it self, when rising, shines only to the *East*; but is the same with

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with that, which, when elevated to the Meridian, enlightens the whole Hemisphere.

The diligent and attentive Student, the well read Barrister, and the learned Serjeant, all resort to Your Court, as to an Academy; where, together with the Laws of their Country, they learn all Arts and Sciences; and by the most prevailing Argument, which is Example, they learn Humanity and Goodness too. Where, all Decisions are given and pronounced, with so much Clearness and Clemency, that e-

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ven the Loser goes away convinc'd, if not satisfied.

Nor could so just a Method, and such Exactness flow from any other Fountain, than that noble, and perhaps only Science, the Mathematicks, in which *Your Lordship* so eminently excels.

But tho' we see *Your Lordship* endow'd with the greatest Abilities, and plac'd in the midst of Honours, yet Your steady Contemplation upon Virtue and Religion, has elevated *Your Lordship* to such a Greatness of Mind, that you look down
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on all Circumstances of Life and Fortune, with Serenity and Indifference; and from thence proceed Your Generous Disdain of Riches, and Profusion of Charities, which consummate *Your Lordship's* Character, and complete *Cicero's* Great Man; *Maximeque admirantur eum qui pecunia non movetur.*

Publick Officers should be Philosophers, affected with a general Contempt of external Things, and plac'd in an immutable Tranquillity of Mind; which would deliver them from all Anxiety of Thought, which may
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at any time happen from the
Perplexity of Publick Af-
fairs, and establish them in
a Life of Security and Ho-
nour.

Thus does *Your Lordship*
lead a serene and steady
Life, having nothing at Heart,
but the Service of the King
of Kings, the Honour of the
Best of Queens, and the
Good and Welfare of all Her
Subjects. I am,

MY LORD,

*Your Lordship's most Dutiful,
and Devoted Servant,*

John Fortescue-Aland.



TO

Sir John Holland, Bart.

SIR,



THE Grand Division of Law, is into the Divine Law, and the Law of Nature; so that the Study of Law in general is the Business of Men and Angels. Angels may desire to look into both the one and the other; but they will never be able to fathom the Depths of either. Nothing but infinite Wisdom it self, can comprehend that Law, by which the infinitely wise Architect at first created, and now directs and governs the whole Universe. By this Law, every thing lives, and moves, and has its Being. By this Law, every thing is beautifully produced, in Number, Weight, and Measure. 'Tis by this Law, that the

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vast Bodies, which compose our solar System, by constant and uniform Revolutions, keep in perpetual Motion; and 'tis by this Law, that the Planets and Comets support each other; being endued with the surprizing Power of Attraction, implanted by the Almighty Hand, and constantly supplied by an Almighty Care; as is clearly demonstrated by that Prince of Mathematicians, Sir Isaac Newton, who is an Honour to our Nation, the Glory of the Age, and the Pride of the whole Species.

And as the infinitely wise Author of all things, has set a Rule or Law to the Motions of irrational Beings; so he has made a Law to regulate the Actions, and govern the Affections of Mankind; and has set up a Light in every Man's Breast, sufficient to demonstrate to him the Being of his glorious Creator and Benefactor, and to enable him to choose the True Religion from the False; and thereby to guide him thro' a Vale of Miseries, to eternal Rest.

Now as there is no Motion given, by the Hand of infinite Power to any Body, but what answers the End of that Being, and is useful to it; so there is no Law given to Man by our great Creator, tho' of never so restrictive a Quality, but what is entirely beneficial

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that to him, and tends to the Preservation of his Being, or Continuance of his Happiness: So that the true Nature of every Law is, that it tends to the Support and Preservation of that Being, which is to be directed and govern'd by it. How good a Master therefore does Man serve, and how happy is Man under such a Law, as is set over his Actions, for no other Purpose but to secure his Happiness. From hence the great Princes of the Earth, may learn to govern, after the great Example of the King of Kings. And from hence, as a true Corollary and Consequence, it follows, that Laws instituted upon the Foundations of Arbitrary Power, to oppress and destroy the Subject, are against Nature, and eternal Justice, subverting the very End and Purpose for which all Laws were made.

Now of all the Laws by which the Kingdoms of the Earth are governed, no Law comes so near this Law of Nature and the divine Pattern, as the Law of England; a System of Laws, so comprehensive, so wise; so favourable to the Subject, and yet so strongly guarding the Prerogatives of the Prince, that no Nation does enjoy the like. The Law of England is really to us who live under it, the

Foundation of all our Happiness; it secures to us our Estates, our Liberties, and our Lives, and all that is dear to us in this Life; and not only so, but by securing our Religion, it secures to us the means of attaining Everlasting Happiness too. By this Law, we not only enjoy the Pleasures of this World, but even God himself, in his true Worship and Devotion. So that it may be said with Justice, that we owe our Beings to God, and under him, our Well-beings to the Law.

But however admirable this Law is allow'd to be; yet some, not sufficiently acquainted therewith, have set themselves to lessen the Honour thereof upon pretence of the Uncertainty and Novelty of it; as though it were not capable of being reduced to any Degree of Certainty, and that we had it but of late; and that from a neighbouring Country, called Normandy. But these, Sir, when well consider'd, are Objections, that really have no just Foundation.

As to the Certainty of them, it might suffice, to say, that most of our Laws are founded on the Laws of Nature; and Nations; and so far, they are as certain as any other whatsoever. And as to the rest, they consist either of Laws fairly deduced from those

those Principles, or of particular Municipal Laws and Customs peculiarly adapted to the Circumstances of the Nation, and Deductions and Inferences therefrom; and the best Laws that are extant have no other Composition.

But the Certainty and Uncertainty of Law, deserves to be a little more particularly considered, both in general, and with particular Regard to our own Constitution. And as to the Nature of Law in general, and in regard of the Subject Matter of it, I can't but think it capable of as great Certainty, as any Science, or Profession whatsoever, (that noble, and perhaps only Science, Mathematicks, excepted.) Nor do I foresee any Absurdity in saying, that Law is capable of the best Certainty, even Demonstration it self. 'Tis hard to say, the Ideas of Quantity are only capable of Demonstration, and that this Study, so useful and necessary to Mankind, should not be so. The Subject of Law is Moral Beings, which are a Combination or Set of Ideas taken from the Moral Actions of Mankind, and from the Habitues, Correspondencies, and Relations, which they bear to each other; and consequently exist only in the Mind and Understanding, being put together there; and have no other Being or Nature, but what the Mind gives them. The

Result of which is, we may exactly know the several Ideas that go to make each Law-term, and so their real Nature and Essence may be known, and consequently the Congruity or Incongruity of the things themselves be perfectly discover'd, in which consists real Knowledge, or Demonstration. If every complicated Idea, of Right and Wrong, were well settled and agreed upon, with distinct Names to each of them, forming exact Definitions, and those constantly used and kept to; the Deductions therefrom would be as true, and as certain, and the Connexion be as distinct and clearly perceived, as Mathematical Beings themselves. For those Beings are formed in the same manner, and exist no where but in the Understanding; there being no such thing really in Nature, and materially existing, exactly according to their Definitions, as a Square, a Triangle or a Circle, but exist only in the Mind first, and then are set down in the Definitions given of them; nor does that Science require, there should be any such Beings materially existing in the World.

So that in the Nature of Ideas, Legal Beings, as I may call them, are as capable of Demonstration, as Mathematical ones; but only in the Case of Mathematicks, in comparing the Equality and

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and Excess of any Quantity, they do it by Numbers or Measures, which have every the least Difference very clear, and the Ideas themselves are more capable of being fix'd in the Mind by perceptible Diagrams, and so more distinctly represented to the Senses, whereas the others have only Names and Words, and such as sometimes are unconstantly used, and so the precise Combination of Ideas is lost; but when those just Collections of Ideas, are exactly noted down, and tied together as it were in Bundles or Sorts, with Names annexed to them, and exactly kept to throughout the Argument; the Inference and Reasoning therefrom, is as strong and true, as in Mathematical Cases.

This is Mr. Lock's Notion concerning Morality, the Nature of Law being the same, the Argument will equally conclude to both. The want of Application has been partly the Cause, why learn'd Men have thought nothing but Mathematicks demonstrable; and therefore it was formerly thought that the Being of a God, tho' many Ways to be proved, yet that it wanted that highest of Proof, Demonstration; but of late we have had many noble Demonstrations thereof, by many learned Hands, and none of the learn-

ed World now doubt, but that, a Supreme Being, the first Cause of all Things, infinite in Power, Goodness, and Wisdom, is as demonstrable as any Proposition in Geometry; and indeed a Man may more Philosophically doubt, that there is a Sun at Noon-day, than that there is a God in Heaven.

And this is the first Step towards Legal Demonstration: For this being laid down as the first Principle, if we then allow as a Postulatum, or take it for granted, that we have an intuitive Knowledge of our own selves, (as no Man that will consider can doubt) and that we are dependent on, and subsisted by this first Cause; these things duly consider'd, and well pursued, will lay a good Foundation whereon to build a System of Moral Laws, and those, a Foundation for all Municipal Laws whatsoever. But there is yet another Reason why Men have not thought Matters of Law so demonstrable as other things; because Property, Power, and Pleasure, things so much contended for, are here disputed, and in such Cases, Passion and Prejudice take Place, which in Mathematicks have none; no Man thinking himself any way concern'd in Interest, whether the three Angles of a Triangle are equal to two
or

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of four right Angles: Else I do not see why Demonstrations should not succeed as well here as in Geometry. Whoever will look into our Books of Law, will find in the first Place, that Care is taken in giving proper and clear Meanings, or Definitions of the Terms of our Law; from thence our Law proceeds to Axioms, and in legal Demonstrations positive Laws, settled either by known Customs, or express Statutes, take the Place of Axioms, which are always steadily kept to. That a Conveyance of Land to a Man and his Heirs, gives him a Fee simple, or an Inheritance wholly at his Disposal: That to kill a Man, with a malicious Design so to do, is Murther: That whoever has a Right by Law, has a Remedy, to come at that Right; these are Principles and Axioms in our Law, as certain as any in Euclid.

*Now, Sir, in reasoning and making Deductions from these general Propositions, or Axioms, supposing the Facts, on which the Case arises, to be certain; the Correspondence of any other Idea with them, will be as clearly conceived, and there will be as much Certainty, as in other Propositions of never so abstracted a Nature: So that the Uncertainty lies neither in the Terms; for
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the Law defines them to be so, and that gives them their Nature; nor in the Maxims of the Law, for they are Axioms not to be disputed; nor in the Deductions therefrom, which are certain and logical: It can lie then only in the Facts, to which the Terms and the Axioms are to be applied, which depend on the Uncertainty of human Testimony, which for ever must be liable to Uncertainty, as not being in their Nature capable of Demonstration.

This as to Law in general: To descend then to our particular Laws; see what Care is taken for a Discovery of the Truth in matters of Fact; and for that Purpose a Jury of twelve upright and substantial Men is by the Law, to be summon'd from those Parts where the Fact is suppos'd to be done, who judge and determine thereupon according to the Evidence given them, and bring in their Verdict pursuant to the Direction of a learned Judge in Point of Law; and that they may have the most exact and certain Testimony, the Law admits of no written Depositions but in Cases of Necessity, where the Person is not to be had, but the Witnesses are to come in Person, and to be examin'd, viva voce, both by Judge and Council; which Method

that of investigating Truth, in the Nature of it, is greatly preferable to that of other Nations, where the written Depositions of the Witnesses are allow'd for Proof. For it is not possible to foresee at once, what Interrogatories will be proper, unless a Man could precisely what Answer the Witness would give; and therefore it is often in Experience found, that after a matter of Fact on the written Testimony of the Witnesses has appear'd to be one Way, on Examination of the same Witnesses, viva voce, the Truth has come out to be clearly the quite contrary. The Mien and Behaviour of a Witness, his Countenance, and the Passions of his Mind, oftentimes discover those Truths which are never to be found out from a dead Deposition.

In other Nations, Sir, every Lawyer's Opinion goes for Law, but it is not so with us; nor is our Law rack'd and tortur'd with such voluminous Comments and Glosses, which make Disputes endless, and eat out the very Heart of the Law. Nothing passes with us for Authority or Law, but the mature weighty, and deliberate Judgment of a whole Court, consisting of four learned and experienced Judges, after solemn Argument, cautious Debate, and serious Consideration.

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In our Law, the Judges are bound by a sacred Oath, to determine according to the known Laws and ancient Customs of the Realm, set down in the Judicial Decisions and Resolutions of great Numbers of learned, wise and upright Judges, upon Variety of particular Facts and Cases. They do not judge, and that is our Happiness, as the plausible Phrase is, secundum Æquum & Justum, which in other words signifies no more, than according to their Princes, or their own arbitrary Will and Pleasure; but they judge according to the settled and establish'd Rules, and ancient Customs of the Nation, approv'd for many Successions of Ages.

To have no Rule to decide Controversies, but the Rule of Equity, is to begin the World again, and to make a Choice of that Rule, which out of mere Necessity was made use of, in the Infancy of the State, and Indigency of Laws; and to set up this Rule, after Laws are establish'd, to relieve hard Cases, and leave the Matter at large, is it not rather unravelling, by unperceiv'd Degrees, the fine and close Texture of the Law, which has been so many hundred Years a making? These, Sir, are some of the Provisions in the Law of England, to attain that Certainty which our Law

in its Nature is capable of; and if they at any time fall by being perverted, it is owing to Passion and Interest, and not to the Misapplication of the Law.

*Now as to the Antiquity of the English Laws, I am apt to think it is not very difficult to make out, that they are as ancient as the Laws of most Countries in the World; nor can I be brought to think, but that a very satisfactory Account may be given touching their Original, notwithstanding what some have said to the contrary. Indeed to discover the Original of every particular Law, or Caput Legis among us, when it begun particularly, and by whom, and how introduced; I readily agree is morally impossible, nor can any Nation in the World do it, that was not of Yesterday; nor was it ever attempted by any one in the Laws of any Country, and if it could be done, it would be of no great Moment. But I am persuaded, it is not difficult in this Nation to shew, from whence the Bulk, main Body, and Generality of our English Laws came. And if the Foundations, the main Pillars, and Corner Stones of this ancient, noble Building are still standing, tho' it should happen to be fitted up and adorn'd with other Materials now, yet it will bear
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the Name of the old Fabrick, and properly to account the same Identical Building.

To argue from the Nature of Laws in general, that the Original of ours is not to be found; is to say, the Original of the Laws of no Nation can be found; and that is to condemn not only some of our own greatest Lawyers and Historians; but all those learn'd and great Men of foreign Nations, who have wrote singly of the Antiquity of their Laws; which make a great Body of Men, and their Volumes a considerable Figure in the learn'd World. And as to the Monuments of the English Antiquities, and the original Foundation of the English Nation, we have as certain and clear Proofs of those, as in most Countries in Europe. And tho' we have no Transcripts of all our Laws, nor can't give so good Proof, or go so high as the Jews, it does not follow from thence, that we have no Proof, and can find no Original.

But then 'tis said, if such Original could be found out, it would not be of moment or material, because the Obligation is the same when once the Law is fixed, whether it be old or new, or from whence soever derived. What! Is the Antiquity of the Laws of the English Nation, which is the Honour

Honour of it, of no moment? And is not Honour of the English Nation to be disregarded? Are we to be placed behind all the Kingdoms of Europe, when they think it worth while in endless Volumes to contend for the first Rank in Antiquity? Besides, the Laws themselves gain Strength and Authority, by the Antiquity of their Profession. The longer any Laws continue in Use and Practice, the stronger and more forcible is the Argument for their Goodness and Excellence. And should we allow our Laws to have an uncertain Original, I fear that some People would of themselves fix their Original from William the First, and if that should be taken for granted, I don't know what ill use, the Champions of Absolute Monarchy may be inclined to make, of such a Concession; that our Laws began in a Conqueror's Time, and consequently were given by a Conqueror. Our Author, who lived many Years ago, and so might have a better View of Antiquity, says, in his Book de Laud. Leg. Angl. that neither the Roman nor Venetian Laws, which are esteem'd very ancient, can claim so great Antiquity as ours, which, says he, in Substance are still the same, as they were originally. 'Tis a trivial Question, says Selden, made by those who would say some-
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thing against the Laws of England, if they could; when and how began your common Laws? But the Answer is ready; in the same manner as the Laws of all other Kingdoms, i. e. when there was first a Civilized State in the Land. Every Nation, unless it borrows Laws from other Countries, must first begin with the Laws of Nature, and thereupon are introduced positive Institutions, and municipal Laws for the Policy of the Government; afterwards, in Process of time, Customs are created, and then are laid judicial Determinations and Resolutions, on those first Foundations, and so a Body of Laws is composed.

Now as to that part of the Law of England, which subsists and is founded on the Law of Nature, and which is no small part thereof, every one must agree, such of our Laws are as ancient as any; because Nature is the same in all Laws, and in regard of this, all Laws founded upon Nature are equally ancient. And as to the other part of our Laws, consisting of positive Institutions for the Well-government of the People, and the Customs and Usages amongst us, it cannot be doubted, but that we may have some, tho' perhaps not many, that participate even of the

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the Roman and British Policy; for when we were first a Nation, we certainly had Laws to govern us, tho' perhaps very few. And 'tis plain by the Account we have of the Britains, and of their barbarous Customs and Manners, that even after the Romans were here, they were so far from being polish'd by them, that the Romans had made no sensible Alteration among them, neither in their Laws, Language, nor Policy. But when we come to the time of the Saxons, we find a very great Alteration, a new Language introduced, never before heard of, and Volumes of Laws both Ecclesiastical and Civil.

The first Saxon Laws, after Austin the Monk was sent hither, by Gregory the Great, for the Conversion of this Nation, were made by Æthelbert the first Christian King, who began his Reign in 561, about four Years after the Death of Justinian, and died in 616.

Venerable Bede says, these Laws were made, according to the Example of the Romans, and Snotena gepeates, with the Thought, or Advice of his Wise-men; and the King commanded them to be wrote and published in English. And tho', says he, the Laws of the Saxons have undergone some Variations, thro' time and age, which change every thing, yet they con-

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tinue in the main to this Day. For it seems every Saxon King did, one after another, confirm most part of the Laws of his Predecessor; tho' by the Advice of his Parliament, he made some new ones, as is now done in every Reign.

King Alfred indeed, who began his Reign in 871, is call'd Magnus Juris Anglicani Conditor, The Great Founder of the English Laws; but what is meant by that Expression, is not, that those Laws were first made in his Time, for there were Saxon Laws then in being, which had been made for above three hundred Tears before his Reign; but the Meaning was this only, that he, being the first sole Monarch after the Heptarchy, collected the Substance of the Laws of all the former Saxon Kings, from King Æthelbert to his Time, who were Kings only of Parts of the Land, into one Body, and so form'd one entire Codex or Book of Laws.

*This appears plainly from the Preface of King Alfred's Laws, which says, That King Alfred made a Collection of all the Laws then in being, those which he liked, he chose, and those which he liked not, he rejected; and this was done *his wite gepeate*, with the Thought, *i. e.* Advice of his Wife-men, or
Parliament;*

Parliament; for he durst not, as 'tis said, mix any of his own, for fear Posterity should not like them; and therefore he collected out of the Laws of King Ina, King Offa, and Æthelbert, the first Christian King, who were his Predecessors, such as were the best, and the rest he rejected; and this Collection, so made with the Advice of his Parliament, he thought fit to confirm and establish; and enacted them to be observed throughout the Kingdom.

Now this Codex, being made up of such a Variety of different Laws, enacted by the several Saxon Kings, reigning over distinct Parts of the Kingdom; and these several Laws, which then affected only Parts of the English Nation, being now reduced into one Body, and made to extend equally to the whole Nation, it was very proper to call it, The Common Law of England; because those Laws were now first of all made Common, to the whole English Nation. And therefore it is said, in the Life of this great King, that, this was done, ut in Jus Commune totius Gentis transfiret. Now this is very natural, if it be farther considered, that he made this Collection of Laws just upon subduing the other Saxon and Danish Kings, and there-

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by became sole Monarch of England.

Now I find this Jus Commune, Jus Publicum, or Common Law, was soon after call'd in Saxon, the Folc-right, or People's Right; which in all the subsequent Laws of the Saxons, is mention'd and confirm'd, by all the succeeding Saxon Kings. And it is not very unlikely, but that this Collection of Laws, thus made by King Alfred, and set down in one Codex, might be the same with the Dom-ber, or Doom-book, which is referr'd to in all the subsequent Laws of the Saxon Kings, and was the Book of Laws, or Statute Book, that they determin'd Causes by; for before this King's Reign, that is, King Alfred's, I no where find any mention made, either of Folc-right, or Dome-book. But in the next Reign, you find King Edward the Elder commanding all his Judges to give right Domar, right or just Judgments, to all the People of England, to the best of their Skill and Understanding, swa hit on þære Dom-ber stant, as it stands in the Dome-book, or Book of Laws; and farther commands, that nothing make them afraid to declare and administer the Folc-right, that is, the Common Law of England, to all his loving Subjects.

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Æthelstan, the next Saxon King, confirm'd the same Laws, and commands the Folc-right to be preserved to all his Subjects, and refers to the Dome-book as the former King did. Hereby it appears, each Saxon King, by the Advice of his Prelates, Peers, and his Wisemen, did make new Laws; yet the old ones were first of all confirm'd and establish'd, except such as for particular Reasons were thought fit to be repeal'd. So King Edgar, in the Beginning of his Reign, proposes several new Laws, but first of all confirms the Laws of Holy Church; and then commands, that every Man both rich and poor, ry Folc-pihter pypð, should be thought worthy of his Folc-right, that is, to enjoy his Birth-right, the Common Law of England; and that his Judges should, piht Domar beme, give right Judgments, that is, do Justice to every one whatsoever, according to the Dome-book, or Law then establish'd. And the same you will find in the Laws of King Canutus or Knute, in as exprefs Terms as in former Reigns.

From this Original, Sir, it is, that our common Law came, and it is very probable this Dome-book was compiled by King Alfred; and therein was contain'd that Collection of Laws which some have called, a Book of Judgments,

ments, or Resolutions, given by the Saxon Judges, or in modern Phrase, the Reports of those Times.

From hence also I would observe, that it is from this ancient Origin, that our common Law Judges fetch that excellent Usage, of determining Causes according to the settled and establish'd Rules of Law, and that they have acted up to this Rule for about eight hundred Years together, and, to their great Honour, continue so to do to this very Day.

These Laws indeed, in the Reigns of Harold the First, and Hardicanute, were not much observed, nor could it be expected they should, because they were Usurpers, and of the Danish Race; besides, their Reigns were very short, both of them not exceeding seven Years: But in the Time of Edward the Confessor, he being one of the Saxon Race, all these Laws were revived and restored. Some Historians indeed say, that these Laws were buried in Oblivion, and out of Use, from the Time of King Edgar to Edward the Confessor's Time; but surely, there can be no Foundation for that; because the Laws of the two next Saxon Kings, after Edgar, viz. King Ethelred and Canutus, which are now extant, do confirm and establish the Fole-right; and King Canutus expressly

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pressly confirms all the precedent Laws both of Church and State; nay some of the very same Laws are to be found among King Canutus and Ethelred's Laws, and used in their Times, that were in force in King Edgar's Reign, and extant among his Laws; as may be seen by any one, who will take the pains to compare those Laws now extant in the Saxon Tongue.

It is also affirmed by some, that King Edward the Confessor, perceiving this Kingdom to be govern'd by a threefold Law, that is, the Dane-laga, Saxon-laga, and Mercen-laga, and that Mulcts and Fines were to be set differently upon his Subjects, according to those Laws, reduced them all to one, and called it the common Law of England. This also seems to be a Mistake, tho' several, one after another, have repeated the same thing; for, not to insist that this Account betrays its Want of Accuracy, in not taking notice of another Species of Law to be found among the Saxon Laws, called Engla-laga, it is pretty plain, that those Laws could not be at that time consolidated and thrown into one Body of Laws; because each of those Species of Laws were in force after, and are to be found not only in Edward the Confessor's, but all over William

the Firſt's Laws. And not only Mulcts and Fines ſet, according to the Dane-laga, Saxon-laga, and Mercen-laga, but Customs and Uſages ſet out to be obſerved according to thoſe different Laws. Which ſhews, that this could not be the Original of the Common Law: becauſe theſe Laws were ſtill in being, and were ſeverally obſerved in ſeveral Places; in the ſame manner, as at this day ſeveral particular Customs are, which are peculiar to ſome particular Countries and Places; and yet that does not hinder them from being call'd part of the common Law of England. So that it muſt be meant only, that Edward the Confeſſor made a Collection out of thoſe Laws then extant, as Alfred did before him, and then ordering thoſe to be obſerved, which had not been obſerved in the ſhort Reigns of Harold and Hardicanute, he may well enough be call'd the Reſtorer of the Engliſh Laws.

From hence it ſeems pretty clear, that the common Law of England, had a much Ancienter Original than that of Edward the Confeſſor; and that it really was form'd and eſtabliſh'd by King Alfred, and had the Name of Folc-right, that is, Jus publicum, or Commune Jus, which, when the Language came to be alter'd, was call'd the Common Law of England.

land. *For it is plain, it could not have that Name in Edward the Confessor's Time, for then they spoke Saxon; nor in William the Conqueror's Time, for then they spoke French: So that it can't be true that the Term, Common Law, came from Edward the Confessor, for the Term is probably not so old; but the Thing it self really and truly, under the name of Folc-right, was in being long before. And as those Laws were then call'd the Folc-right, and really the Common Law of England: So the present Common Law is in Substance the same, tho' it hath undergone divers Alterations.*

He that will look into the Saxon Laws, and read them in their native Tongue, will find as clearly as can be, the Foundation and principal Materials of this noble Building; he will find the Peace of God, and holy Church, in the first Place provided for, and the true Religion secured; and for that Purpose, Laws are made for keeping the Sabbath, for the Payment of Tythes, First Fruits, and other Church Duties; and then follow Laws for the Security of the State, as against Treason, Murder, Manslaughter, Se defendendo, Chance Medley, Robbery, Theft, Burglary, Witchcraft, Sorcery, Perjury, Adultery, Slander, Usury,

Usury, and many other Crimes. Here you will also find Laws concerning fraudulent Sales, Warranty, just Weights and Measures, Repairs of High Ways, Bridges, Waging of Law, Outlawry, Trespasses, Batteries, Affrays, Trial by Juries, Court Leets, Court Barons, View of Frank-Pledge, Hundred Courts, County Courts, Sheriffs Turns, Herriots, Copyhold, Freehold, and many other Matters too tedious to enumerate.

The Normans, who invaded the Saxons, did not so much alter the Substance, as the Names of Things. And notwithstanding the pretended Conquest of William I. these Laws of good King Edward were not abolish'd by him; for when King William published those Laws, he expressly mentions them to be Edward the Confessor's Laws, and publishes them as such, and confirms and proclaims them to be the Laws of England, to be kept and observed under grievous Penalties. Besides, upon such Confirmation, he took an Oath to keep inviolable, the good and approv'd ancient Laws of the Realm, which the holy and pious Kings of England his Ancestors, and especially King Edward, had enacted, and set forth; so that the English Laws were plainly then in use, and not abrogated by William I. Now these

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these Laws of Edward the Confessor, were not only such as Edward the Confessor himself framed, and were enacted in his time; but the Substance of all the Laws made, not only in his Grandfather King Edgar's time, but in the Reign of other Saxon Kings, his Ancestors, for many hundred Years before him, that is, the whole Body of Saxon Laws. And this will appear to be so, upon Examination, even from the Laws themselves, which is an Evidence that cannot lie; for many of the Laws of Edward the Confessor, are the very same as in former Saxon Kings; and many Expressions and Words, and most of the Terms, in William I. Laws, are mere Saxon, and derived from that Language, but put into Norman French; insomuch that any Man will find it difficult to understand those Laws perfectly well, unless he has some Knowledge of the Saxon Language. And from thence it is, that the Translator of the Laws of William I. in some Places, puts the French words, in the Latin Translation, where he is at a loss for the true meaning of the Saxon term, disguised in a Norman dress.

*Henry I. promises to observe the same Laws of good King Edward, and grants to his People, *legem Edwardi Regis*; but yet afterwards he imposed*

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imposed some new Laws, which were a Medley out of the Salic, Ripuarian, and other Foreign Laws, with some Pieces out of Knute's Laws; but these were but a small time observed. Afterwards King Stephen, Henry II. and Richard I. confirm the same Laws of King Edward. And King John, after much struggle with his Barons, swears to restore the good Laws of his Ancestors, and especially the Laws of King Edward; and confirms these Laws by way of Schedule or Charter, which is the same in Substance as Magna Charta, confirmed afterwards by Henry III. And to make the same more effectual, this great Charter rais'd on this Basis, is by Act of Parliament in Edward I. Time, commanded to be allowed by the Justices, in their Judgments and Resolutions as the Common Law of England.

Thus, Sir, we find, the Stream of the Laws of Edward the Confessor, flowing from a Saxon Fountain, and containing the Substance of our present Laws and Liberties, sometimes running freely, sometimes weakly, and sometimes stopped in its Course; but at last, breaking thro' all Obstructions, hath mixed and incorporated it self, with the great Charter of our English Liberties, whose true Source the Saxon Laws are, and are still in being, and still the Fountain

Fountain of the Common Law. Therefore it was a very just Observation of my Lord Coke, who says, that Magna Charta, was but a Confirmation, or Restitution of the Common Law of England; so that the Common Law really is an Extract of the very best of the Laws of the Saxons; and where my Lord Coke says, that an Act of Parliament made against Magna Charta is void, he is not to be understood of every part of it, but it is meant only of the moral part of it, which is as immutable as Nature it self; for no Act of Parliament can alter the Nature of Things, and make Virtue Vice, or Vice Vertue.

*The Laws of Edward the Confessor are mention'd to be observed in the ancient Oath of the Kings of England, usually taken at their Coronations; now this would be not only a superfluous, but an impious Vanity, for the Kings of England to take this Oath, if there were no such Laws in being to be observed; for he swears to keep the ancient Laws and Customs, and especially the Laws, Customs and Liberties, granted by the glorious King Edward, to the Clergy and People: So that from hence it plainly appears, that even Magna Charta it self, that contains the substantial part of the Laws and Liberties of England, and which supports the main
Pillars*

Pillars of our Law, is a great Branch sprung from a Saxon Root, and was raised and collected out of the great King Edward's Laws, who culled and chose them, out of the best of the Laws of the Saxon Kings his Predecessors.

*But if occasion were, one might carry some of the English Laws much higher, in their Antiquity. Hugo Grotius says, that as of old the Grecian Laws, so after the German Nation had over-run all Europe, then the German Laws, and Institutions, were almost every where received. And as the Lombards, Burgundians, Franks, Swevians and Vandals, and other the Brothers and Kinsmen of the Saxons, seated themselves in Italy, France, and Spain, and spread their Laws in all the Places which they over-ran; so did the Jutes, Angles, and Saxons, plant themselves and Customs here. Nor is it to be wonder'd that these Nations, so poured out of Germany, should retain something of the Ceremonies, Rites, Terms, and Language of their own Country, and all participate of the same Manners; and from thence it comes to pass, that there is such a Similitude and Agreement, between us and the Germans, French, Italians, Spaniards and Sicilians, both in the Canon of the ancient Laws, and
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in the Names of Magistrates, Officers and Ministers of State, as by a little Observation and Comparison we may find there is to this Day.

Let them brag that will, says Spelman, of the Antiquity of their Municipal Laws, Germany will be found to be the common Mother of most Laws in the Western parts of Europe. The Terms of Art of some of these Nations got as far as Constantinople among the Greeks, where we may find, Δρῦταγοῦ stand for a Captain, from Δρῦτος a Throng, Βυκελλάδοῦ, he that holds by Knight's Service, from Bucella, a Morfel; and Bucellarius is so used among the Wise-Goths, or Western Goths of Spain. Ἐπιτίξιον signifies Homage, γῆλων is Gelt, Rent, Tribute, &c. from the Saxon word Gild, or Geld; Βίλλῶ a Bill, Schedule; and many more; which Meursius, in his Græco barbara, has collected. This by the way serves to shew, that there are barbarous Words, used as well in Greek, by the Lawyers of other Countries, as in Latin with us.

The most ancient Laws of all these People, are the Salic Laws, nay, some say they are the most ancient of any now in being. These Laws were made by the Franks, who were of Germany, and the Laws were

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so named from the River Sala in Germany, near which they were made. Hence comes the Name of the Salic-book, called, Salbuch, like our Dooms-day-book in England, and is still extant in Germany to this Day. These Laws were made in the third Year of Pharamond, King of the German Franks, which was One hundred and five Years before Justinian the Emperor, who published the Imperial Laws. The Author, where he has no Latin, puts in his Franco-Germanick, of the Latin fashion. In these Salic Laws are to be found several Names of Officers, and many Terms of Law which are used in our Laws to this Day, as among many others, Forresta, Forrestarius, and Marcha. There is also Grafio, and Comes, which was the same with the Saxon Earl, and he appears to be a Judge, and to have had much the same Authority; nec placitum Comes habeat, nisi Jejunus. Among those Laws you will read of several Manners of Trial, such as were used in the Time of the Saxons, as the Trial by Fire Ordeal, by nine red hot Plowshares; there you will find also the Custom of compounding for Manslaughter, by a Payment in Money called the Veragelt; from which no Body can doubt, but our Saxon Ancestors had their Weregild. Nay, in the

Laws

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Laws of Henry I. you will find many things, in Substance taken from the Salic Laws; and some Laws, word for word, the same with the Salic, and some others from the Ripuarian Laws. These Laws went with Pharamond eight Years after into France, and became the Laws, and in process of time, the Customs there. And some time after, those of the Western Goths went into Spain.

The Lex Almannorum, Bawariorum, & Francorum (other than the Salic) were instituted by Theoderic, the Son of Clodove, who first became Christian, corrected by Childebert and Clothair, and perfected by Dagobert. After follows the Law of the Lombards, who were a Colony of the German Saxons, and at last settled in Italy, and now make Laws, according to the Saxon Institutions; and from thence it is, that there is such a Similitude of Laws, Customs, Rites, and Words, between their Laws and ours, as may be seen by a very little labour in comparing the Laws of both Nations. It was from these Germans, that we learnt to call our Customs and Usages, which have been time out of mind, the Lex non scripta, which was usual among those People; several of their Laws being in use, and practis'd long before they were written.

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Now of this Body of the English Laws, our Author has chose to treat of the most sublime and excellent Part, that is, the Government, and what we now call by the Name of the Constitution; upon which depends, and from which naturally flow, all other our municipal Laws, which concern Religion, Life, Liberty, or Property. Every Body, at first sight, must perceive our Government is not absolute or despotic: Nor are our Laws calculated for Slavery; for as my Lord Clarendon says, more miserable Circumstances this Kingdom cannot be in, than under absolute Government and Popery. But tho' our Government be not absolute, yet it is as truly Monarchical, and as powerful and great, as the most arbitrary Kingdom whatsoever. And it is a most certain Truth, that a Monarch of England at the Head of a Parliament, is the Greatest, most Potent, and Happiest Prince in the World.

Our Scheme of Government is, without doubt, the noblest, the most just, and most exact, that perhaps ever was contrived; for it provides for the Security and Happiness of every Individual, tho' never so inferior, and yet at the same time establishes the Glory of the Prince; it secures the Liberty of the People,
and

and yet strengthens the Power and Majesty of the King. And it is certainly true, what the same noble Lord says, in his History of the Civil Wars, that our Constitution is one of the plainest things in the World, and such as every Body must needs see and feel, if we would make but an honest Use of our Understanding; yet out of what Principle I will not say, it is often most miserably mistaken, or at least misrepresented.

Therefore that this happy Constitution might not be forgot, I thought it a piece of Service to my Country, to make this Treatise publick; and I have no Reason to doubt but it will live, as long as the Protestant Religion, our Liberties, and the Laws continue and have a Being; and longer than that, no wise and religious Man need to be concern'd. And if any of the Enemies of our Constitution should at any time have Power to alter this happy Scheme; I am apt to think it would be, as Sir William Temple says, like a Pyramid reversed, it might stand for a time, but could never have any long Continuance, but upon its own firm and natural Basis. And the Reader has reason to expect here a just account of our Constitution, since the most celebrated Writers of all Sides, have appealed to this Treatise by their Citations;

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and have allowed the Exactness and Authority of the Author, and his Work, in labouring to have him thought of their Side. I believe therefore, it will be agreeable to you, Sir, in particular, who have ever had a just Esteem for our happy Constitution, and to every one that has a concern for his Country, and desires to preserve its Constitution, to judge for himself, and to take a full View of the Whole Mind and Disposition of so great an Author: and then he will easily judge whether the Inferences made from him be just and genuine, which are by some Persons pretended to be drawn, from particular Passages of his Books and of his Life, and with what Candour and Sincerity he is appealed to.

The first Copy of this Piece I saw at Oxford, some Years ago, in the Bodleian Library, among the MSS. of Mr. Selden; and being taken with the Excellency of the Subject, I procur'd a Transcript of it, which I carefully examin'd my self in Oxford, and collated the same with three other MS. Copies; two of which I found in the same Library, among the MSS. of Archbishop Laud, and Sir Kenelm Digby, and the third I found in the Cotton Library: But this Copy is the fairest, most perfect and complete of them all, and was transcrib'd

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transcrib'd by Sir Adrian Fortescue's own Hand, who was a Descendant from our Author, and lived in the Reign of King Henry the Eighth; for I find written upon this Copy, these Words, Iste Liber pertinet Adriano Fortescue Militi manu propria scriptus, Anno Domini 1532, & Anno Regis H. VIII. 24. But Archbishop Laud's Copy seems to be the most ancient, for therein are to be found several Saxon Characters, in several places, and some very old Words different from those in this Copy; but all the various Readings which are material for the curious Antiquary, I have noted in the Margin of this Book.

As to the Language, it is the English of those Times, participating very much of the Nature of the Saxon Tongue; for it has in it many Words, and Terminations of Words, as also many Phrases, purely Saxon: And I chose to publish it in its own Native Dress, not only as it is a curious Piece of Antiquity, but that every Man may be Judge for himself, of the true Sense and Meaning of our Author, and lay no Imputation on the Publisher, of altering the Sense, in attempting to give it a more modern Dress. The Antiquity of this Piece is a great Addition to its Value and Worth; for we have the Happiness, Sir, to live in

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a Kingdom, where our Laws are not spun out of Mens Brains, pro re nata, but are consider'd, debated, tried, and practis'd; and if after long Use and Experience, they are found good and serviceable to the Kingdom, they are deliver'd down to Posterity; and when they have been thus in use, and practis'd time out of mind, then they commence, and are esteem'd part of the Common Law of the Kingdom: for tho' all the Lawyers and Statesmen, now living, should agree in the same Sentiment with our Author, it would not have the same Authority; for 'tis nothing but length of Time, Time immemorial, can make any thing Part of our Constitution.

That Sir John Fortescue was the Author of this Piece cannot be doubted; this MS. being taken notice of by Mr. Selden and several other Antiquaries, and being so long preserved in the Family; besides, there are several Copies of it extant in several Hands, and allow'd by all learned Men to be genuine.

He was made a Serjeant in Michaelmas Term, in the Eighth Tear of King Henry VI. and some time afterwards was made King's Serjeant, and in the Twentieth Tear of the same King, he was made Lord Chief Justice of England: In which Place he dispenc'd Justice for almost

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almost twenty Years, with great Integrity and admirable Abilities. All good Men, and Lovers of the English Constitution, speak of him with Honour; and he still lives, in the Opinion of all true English Men, in as high Esteem and Reputation as any Judge that ever sat in Westminster-hall. He was a Man acquainted with all sorts of Learning, besides his Knowledge in the Law, in which he was exceeded by none, as will appear by the many learned Judgments he gave when on the Bench, in the Year Book of Henry VI. His Character in History, is that of Pious, Loyal, and Learned; and he had the Honour to be call'd the Chief Counsellor of the King: He was a great Courtier, and yet a great Lover of his Country.

He had extraordinary Favours shewn him from his Prince; for besides the usual Salary of a Chief Justice, he had granted him an Augmentation of it two several Times, by two several Annuities; the last of which was an Annuity of 180 Marks out of the Hamper, (a great Sum in those Days) that he might, Statum suum, decentius manutenerere, as the Record says; and with that, was granted the Sum of 116 s. 11 d. $\frac{1}{2}$. percipiendum singulis Annis ad Festum Natalis Domini,

pro una Roba, & Furrura pro eadem, erga idem Festum; & 66 s. 6 d. singulis Annis, ad Festum Pentecostes, pro una Roba, & Linura pro eadem erga idem Festum; *the like Favour, as Mr. Selden observes, having never been granted to any Judge before.*

As to his Pedigree, he was the third Son of Henry Fortescue, Lord Chief Justice of Ireland; who was Son and Heir to Sir John Fortescue Knight, Captain of Meaux Castle, and Governor of the Province of Brie in France, under King Henry V. which Sir John was second Son of William Fortescue of Wimston, in the County of Devon, Esq; whose lineal Ancestor, Sir Richard Fortescue Knight, the Heralds say, came into England with William the Conqueror. He purchased a small Estate, call'd Ebrighton, about 400 l. per Annum, within three Miles of Cambden in Gloucestershire, which has continued in the Family ever since, and is now enjoy'd by the Publisher's Cousen German, Hugh Fortescue of Filleigh in the County of Devon, Esq; who is his Heir at Law and lineally descended from him. He now lies buried in Cambden Church, and has a handsome Monument erected to his Memory.

Besides

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Besides the Treatise, De Laudibus Legum Angliæ, which was reprinted with Notes by the learn'd Antiquary Mr. Selden, and this Treatise, he was the Author of several other Pieces, one of which, I believe, Mr. Selden never saw, and which I have; and perhaps some time or other may see light.

Having been something acquainted with the Saxon Tongue, and finding in the Style of our Author so much of the Saxon Phrase and Ideom, and indeed so many Words entirely Saxon, I could not forbear making some Remarks on the Language; which I the rather have done, to rescue our Author from the Ignorance of some, and Malice of others, who are apt to take many of these old Ideoms, for the Mistakes of the Author, or pretend to object them as such. And it will not perhaps be disagreeable to the English Reader, to have the Obscurities cleared up to him, and at the same time, to observe the great Affinity between our Language and the Saxon, and to be thereby put into a Way to trace the Original of the English Tongue. The Instances I have made use of, are generally such as are most useful; and the Translation of my Saxon Quotations, I have purposely render'd, not the most elegant, but such as do most exactly express

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press the Sense, and agree with the Saxon Tongue, for the Encouragement of such young Gentlemen as may think it worth their while to look into that Language.

As to the Words I have glossed, I have not taken them on trust from others, but have search'd the Originals my self in almost every Language, from whence I have derived them. And in making such Gloss, I had a farther View, which was to recommend the Study of the Saxon Language, which I must beg leave to say, is not only Ornamental, but Useful, nay necessary to some Persons and Studies.

'Tis enough, in order to recommend it to all curious Men and Philologists, to say, it is the Mother of our English Tongue, and consequently to have a complete Knowledge of it, the Saxon must certainly be very useful. A Man can't tell twenty, or name the Days of the Week, but he must speak Saxon; and it seems not becoming a Man of Learning to do that, and daily to do it; and not to know what Language he speaks.

This Language will help him to Multitudes of Etymologies, which he cannot learn from any other, and such as are useful in Conversation and Business. There is no Nation that

that has had the least Taste of Learning, but what have dealt in Etymologies, which contain in their Nature, as well as Name, the true Reason of fixing such particular Notions and Ideas, to such particular Terms; and where genuine, give a more comprehensive Idea of the thing, and help Men to a greater Compass of Thought, and furnish out Matter for Argument. But tho' an Etymology, strictly speaking, is no more than a Derivation of the Word or Name; yet Etymologies from a Saxon Original, will often present you with the Definition of the Thing, in the Reason of the Name. For the Saxons often in their Names express the Nature of the Thing; as in the Word Parist, in the Saxon, it is Ppœort-ryne, which signifies, the Precinct of which the Priest had the Care; in English, Priest-shire. So, Ealþonnan-ryne, is the Division or Precinct over which the Earl heretofore, as now the Sheriff, had Dominion or Jurisdiction, which we now call a County; in English, the Alderman's or Earl's-shire. Throne in Saxon, is expressed by the compound Word Dnyrn-ryttel, that is, the Seat of Majesty. A Lunatick is call'd Monað-ryec, that is, one who is sick every Month, or Moensick; and
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one possess'd with a Devil, is call'd, Deoſel-
reoc, or Devil-sick.

The Saxon Word, Eopð-gemet, Earth-mete, or Earth-measure, signifies just the same as the Greek Word Geometria, Geometry, and is a Compound of the like Words; for Eopð, signifies Earth, and Gemet, Mensura, or Measure. And had we not lost this old English Saxon Word, Eopð-gemet, and taken into its place the Word Geometry, from the Greeks, People could never have been so silly as to say, as is usually said of a nice Piece of Architecture, that it hangs by Geometry; for the common People, in those Days, knew what was meant by the Word then used, as well as the best Grecian, by that which is substituted in its place.

From hence, one might be tempted to think that the common People, in the Time of the Saxons, understood more than the common People now, or at least were less expos'd to Mistake; because the Words of their Mother Tongue were more comprehensive and scientific, and less liable to give them wrong Ideas. So the Saxon Word Gemm-cnæftig, expresses an Arithmetician, as well as the Greek Αριθμητικός, or Latin Arithmeticus; indeed, it expres-
ses

ses it more fully, for Γεινιμ, signifies Number, and κρητις is crafty, or knowing, that is, one knowing, skilled, or skilful in Numbers; whereas the Greek imports only a Numberer, or one that has some Relation or other to Numbers; and this was understood by every Saxon Teoman, without the Assistance of any other Tongue. Now this shews, that we had no necessity of taking in these Greek Words into our Language, to express the Idea, which was as well express'd before, but only out of Delicacy, because they seem'd to have a better Sound. When the Words which stood for Arithmetick, Geometry, Astronomy, Rhetorick, and Grammar, were spoke among the Saxons, every one understood them; but now having substituted Greek Works in their places, they are not understood by any but the learn'd, tho' every Body would understand them, had they been continued in our own Language. So an Astronomer, Rhetorician, and Grammarian, in that Language, are expressed by, Tungol-κρητις, δρηακ-κρητις, and σταρ-κρητις; Tungol is a Star, δρηακ is Speech, and σταρ is a Letter. Now these express the Ideas more fully than the Greek; importing one skilful, or skill'd, in Stars, in Speech, and in Letters. Hence it is that the
learn'd

learn'd Isaac Casaubon says, this Language is a great Imitator of the Greek.

This Observation of the Saxon Compounds directly overthrows that vulgar Error, that the Saxon Language consists mostly of Monosyllables. It is true indeed, that most of our English Monosyllables come from the Saxons, but they have a vast Variety of compound Words, and some of seven or eight Syllables; and often compound into one single Word, three or four Words used in Latin, or modern English, to express the same thing; as, the Diocess of the Bishop of London, in Latin, Præfectura Episcopi Londinensis, is express'd by one Word in the Saxon, London-cearpen-byrcop-jettele, the Bishop of London's Seat or See. So, Cantpapa-byrg-cýpica, in one Word, signifies the Church of the City of Canterbury; in Latin, Ecclesia Cantuariensis. Un-gelyfendlic, signifies not to be believed; un-gepeatenlice, without Forethought; un-geþnigenlice, without Punishment, or Scotfree. So that in Compounds this Language is very happy, wherein are express'd the Qualities, Relations, and Affections of things, conspicuously and elegantly. Death is express'd by Gart-gebal, which word for word, signifies the Separation of the Soul from the Body, or Soul-Separation; Gart, signifying

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nifying Ghost, or Soul, and Troale, Separation.

What sad Work does a vulgar Capacity make of the hard Words, Orthodox, and Heretick; when, should you have spoke the same things in the Saxon Language, wherein Orthodox is express'd by rih-t-geleap-full, one who was full of, or had a right Belief; and Heretick by Dpol-man, one who dwells in Error, the plainest Saxon Churl would have understood you; nor could he here have understood the Terms without the Thing; nor was there need of School-Learning to understand those Terms. How handsome is the Word Pharisees express'd among the Saxons, who call'd them, runson-halgena, or separate-holy; Men holy apart by themselves, of a Holiness whereby they were separated and distinguish'd from others; runson, signifying apart, and halgena, holy.

This is the Language in which the earliest Royal Progenitors, of our most pious and excellent Queen, founded the true Religion among us; in this Language they received the Christian Religion, and the joyful Tidings of the Saviour of the World. In this Language, the Ancient Fathers of our Country, the pious Saxon Kings, laid the happy
Founda-

Foundations of our Liberties and our Laws. Here you may see how they guarded their Religion by their Laws. They prohibited by an express Law, not only to exercise any Calling, but to do or transact any worldly Business, on the Sabbath-day; and this Law not being ever repeal'd, as we know of, nor (as is to be hoped) ever grown into such universal Disuse as to induce a Probability of a Repeal, why should it not be the Common Law of England? So strict were our pious Ancestors in keeping this Day holy; that they made a Law, that if a Villain or Slave did work on the Sabbath-day, if it was by his Master's Command, he thereby became free; and the Lord was to forfeit 30 s. which was then near as much in Quantity as 5 l. now; but if such Work were done of his own Head, without his Master's Knowledge, the Villain or Slave was then to be whip'd: And if a Servant who was free, broke the Sabbath without his Master's Command, he thereby became a Slave, or else was to forfeit 60 s. a vast Penalty for a Servant in those Days. And in case a Priest did offend in this Nature, he always was by their Law (in this case, as indeed in all other) to forfeit double what a Layman was to forfeit; because they thought he

he was more inexcusable, as knowing his Duty better; and the Example would do double the Mischief. The Ten Commandments were made part of their Law, and consequently were once part of the Law of England; so that to break any of the Ten Commandments, was then esteem'd a Breach of the Common Law of England; and why it is not so now, perhaps it may be difficult to give a good reason.

To a Lawyer, even a Practicer at the Bar, this Language cannot but be of great Use; since the very Elements and Foundations of our Laws, are laid in this Tongue; and for want of it the very Terms of our Law are sometimes mistaken, and often not thoroughly understood: for we have many Law Terms which seem to be French, yet are only disguised in a Norman Dress, and really have a Saxon Original. As to instance in one Word, instead of many; we read in the Common Law many things concerning Name, Nami, Naam, sometimes Namps and Nams, signifying a Distress, which in the barbarous Latin, is Namium; and from thence comes Namatio, and the Verb namare, to distraign. All which are plainly Saxon Words turn'd into French and Latin, and come from the Saxon Verb niman, capere, to take; which, when understood, serves very

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much

2. Inst.
140.

much to clear up all that intricate and abstruse Learning, de Namio, and to put an End to the Disputes about the Difference between Vetito Namio and Withernam; about which many, as my Lord Coke says, have erred, thinking they were the same. Now he, to shew the Difference, appeals to the Etymology of the Word Withernam, and says it comes from the two Saxon Words Weder, and Naam; Weder, says he, which common Speech has turn'd to Oder, or Other; and Naam, which comes from the Saxon nemmem, or nammem, to take hold on, or distraïn. Now they who are acquainted with the Saxon Tongue, know that there are no such Words as these in that Language; yet this is to be reckoned Vitium Sæculi only, and not to be imputed to that great Man, but to the want of Books and other Helps to the Understanding that Tongue: However the Meaning of those Words, which my Lord Coke suppos'd to be true Saxon, being much the same with the true Saxon, his Argument remains as strong and forcible; and at the same time the Error argues a strong Necessity of understanding this Language, to clear up such Difficulties.

For the true Derivation of Withernam is from the Saxon Words pipen, wither, which signifies
contra

contra, contrary; and nam, or nam, captio, or taking; that is, contra captio, contrary taking, or taking by way of Reprisal, which is the true Meaning of this Word, and to search for any other Original is in vain. This clearly explains what is meant, by taking Goods in Withernam, which is no more than to take other Goods of John a Stiles, in lieu of Goods which he took under colour of distress, and will not deliver when required by Law. So in the Case of the Writ, called de Homine replegiando, which issues to deliver up the Person of another, when he is detain'd against Law; if he who had the Custody of him, has disposed of him elsewhere, so as that he is not deliver'd according to the Command of that Writ, another Writ goes out which is called a Capias in Withernam, which is to take his Body by way of Reprisal. This Word Withernam also signifies Reprisals taken at Sea, by Letters of Mart-ships.

The Words naam, nam, and nim come from the Saxon Verb niman, capere, to take; and strictly signify taking, but figuratively the thing taken; and thence it is, that Namps and Namium come to signify a Distress: as where mention is made of those who hold Plea de vetito Namio, the Meaning is, holding Plea of Distresses taken and forbid to be replevied.

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This Instance shews how precarious it is, to borrow Etymologies from others, and to trust to Translations for the very Terms of our Laws. 'Tis too common an Opinion among those who study the Law, that the Knowledge of Law French, as they call it, is sufficient for making themselves Masters of their Profession; whereas 'tis plain, that having Recourse to the Saxon Originals is of great Use, not to say Necessity, to a perfect Knowledge of the true Reason of the Law, which for want thereof is so often and so grossly mistaken. Indeed, without being acquainted with the Law French, wherein so much of our Law, yet in force, is written, a Man cannot pretend to the Name of a Lawyer; but by adding the Saxon to it, both the French, and the Laws therein wrote will be much better and more clearly understood.

And here I cannot but observe, that while the Saxon is totally neglected, some, not content to learn the Law French for what is already wrote in it, seem fond of the Use of it, and of writing new things in it; but for what reason I am at a Loss, and at a greater yet, why any Lawyer should write Reports in that Tongue. The best Law French is that which we find in the old Statutes
and

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and Tear Books, which is suppos'd to be that Tongue which the French spake about the Time of William the First, and some time after: That is to say, it is the Speech which the French themselves have laid aside as impure for above five hundred Years. So that Law French is nothing but the barbarous unpolish'd Beginning, or Chaos of the modern French; and seems, in my Opinion, to serve for little else, but to cramp good Sense, and confine the best Reasoning, within the narrow Limits of a Tongue form'd in the Ignorance of Times. And can any Englishman, whose native Tongue far exceeds the French after all its Refinement, value himself upon writing in that which is the Refuse of the French Language? But if we consider the present State of Law French, as used by some modern Reporters, wherein all the antiquated true French is lost, and instead thereof English Words substituted with French Terminations tack'd to them; this still makes it worse, and thereby it is become even the Corruption of an imperfect and barbarous Speech, understood by no Foreigner, not even by the French themselves, serving only as a Mark of our Subjection to the Normans, and for the use of which the French despise us.

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Nay,

Nay, can any Englishman write in this Tongue, and not bring to mind that slavish Design of William the First, totally to extinguish and abolish the noble English Language; for which Purpose he made a Law, that all Pleadings in Court, and Arguments at the Bar, and on the Bench should be in French? But the Design fail'd; for tho' this might stop the Progress of our Language, it could not extirpate it, altho' that Law continued till 36. E. III. when a Law was made by that great King, for the Restoration of the English Tongue. The true Reason of that Statute, is given in the Preamble; That in foreign Countries, Justice was always observed to be best done, where their Laws were studied and practis'd in their own Language. I shall then leave it to be considered by those who publish Reports in Law French; Whether it is not a Dishonour to our Nation, an Affront to our Language, infinitely preferable to that of the French, and a Compliment paid even to the Barbarity of that People? Whether it is not doing Injustice, to every eloquent Judge upon the Bench, and to every good Speaker at the Bar, and miserably enervating the Arguments of every handsome Reasoner? It is not in the Power of that Language, even in its Purity and

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and highest Improvement, to represent a good Masculine English Speech; and, were it never so good a Language, a Translation can never come up to the Original; and writing Reports in French is nothing but presenting the World with Translations, instead of Originals.

But to return to the Use of the Saxon Tongue; a Lawyer has this farther Advantage, from the Knowledge thereof; for it will bring him acquainted with a Body of Laws, made under our Saxon Kings, for the Space of about five hundred Years, as yet extant in this Language, and most of them printed and translated by Mr. Lambard, tho' to great Disadvantage. But, for the Benefit of the Professors of the Law, and other Lovers of Antiquity, the reverend and learned Mr. Edstob designs to publish a more compleat, and more correct Edition of those Laws; from whom, as he is Master of the Language wherein they are wrote, and of the other Northern Tongues, as well as skilled in History and Antiquities, the World may expect a very exact, and very useful Piece.

In this new Collection of Saxon Laws, there will be added King Ethelbert's Laws, who was the first Christian King of the Saxons, never before published in any Volume of Laws. In this, Lambard's Translation of what he published,

liberally, with the rectified, and the true Sense and Spirit of the Acts preserved throughout; together with learned References and Observations thereupon. And these Laws, give me leave to say, Sir, tho' of so great Antiquity, will appear upon an impartial Perusal of them, to be neither so short, nor so rude, but that they will endure a Comparison, with the best Specimens of this kind to be met with, in the early Laws of neighbouring Nations, tho' of a much later date than those; and I doubt not will be highly acceptable to all Lovers of Antiquity, and particularly useful to the English Lawyers, who, I hope, will find both Pleasure and Instruction therein, and that none will think he has finished his Studies of the Common Law, without a diligent Perusal of them, in the Tongue wherein they were wrote, tho' he make use of the Translation to assist him in so doing. A Foreigner would be surprized, should he hear that such a Body of our Laws was wrote in a Language, which was the Mother of the English Tongue, and that our English Lawyers did neglect the Original, and thereby were forced to stoop to Translations. To quote Lambard's Translation of the Saxon Laws, is like quoting of Dacier, for a Verse in Horace; or L'Étrange, for a Passage in Tully's Offices. In

which

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which the Authority is really attributed to the Translator, and not to the Author; for in the one case you quote Lambard, and not the Saxon Laws, and in the other L'Estrange, and not Cicero.

*'Tis endless to recount the Mistakes of great Lawyers, Historians, Geographers, Lexicographers and Antiquaries, for want of some Knowledge in this Tongue. The mention of some few of them may be of use, to incite young Gentlemen to study a Language, the want whereof has betray'd some great Men into Mistakes; and for that End only, and not out of any Vanity of shewing their Failings, but with all due Regard to their Characters, I beg leave to hint some few of them. This Language was very little known in my Lord Coke's Time, who had little Assistance therein, and few Opportunities of being acquainted therewith, without spending more time than it was possible for him to spare from his more necessary Studies, else his Etymologies would have been much more exact. He says in his first Institutes, that the Word Heriot comes from the Saxon Heregeat, that is, from Here, Lord, and geat, best, as much as to say, the Lord's best; but this is very wide of the true Derivation, for Heregeat, by the Saxons wrote thus, Depegeat,
among*

*among them signified Bellicus apparatus, Armour, Weapons, or Provision for War, from the Saxon Word Bepe, or here, which signifies an Army, and geat, or geot, fufus, effufus, quasi fuerit quid in Exercitum erogatum, and was a Tribute of old given to the Lord of a Mannor, for his better Preparation towards War; and therefore at their first Institution, they were paid in Arms and Habiliments of War, as you will fee among the *Lexus of King Canutus*: One of the King's Thanes was to pay for his Heriot; four Horses, two of them equipped, two Swords, four Spears, and as many Shields, a Helmet, and a Coat of Mail.*

So that it seems this Heriot was so far from being the best Beast, that it was rather the best Arms. And indeed, this was an Invention of King Canutus, to supply the Want of his Danish Army, which he had disbanded at the Importunity of his Subjects, by procuring great Part of the Arms of his Kingdom to be given to him, and to Lords of Mannors under him, as a Tribute. This shews likewise how this Service of a Heriot, differs from that of a Relief, which is confounded by many Writers with the Heriot, as tho' they were the same; but we never read of any such thing as a Relief among the Saxons. In Process of Time,
this

this Heriot came to be paid in Goods, and now very often in Money.

So my Lord Coke brings the Word Hustling, from two Saxon Words Hus, a House, and Ding, Thing; whereas the Word is a pure Saxon Word, wrote thus, Dyrtinge, and in that Language signifies Conciliam, any Council in general; or a Court. And therefore it was applyed to the supreme Court of the City of London, called The Court of Hustings, which is of Saxon Extract, and heretofore was held every Monday. In this Sense you find the Word used in Cron. Sax. An. 1012. Genation þa pone Birceop. 7 lætten hine to hiora Dyrting; They took the Bishop, that is, Elphegus, and led him to their Council.

It is said by my Lord Chief Justice Holt, in Keyling's Reports, in the case of the Queen and Matwgridge, that Murder was a Term, no where used but in this Island, and was a Word framed in the Reign of King Canutus, upon a particular Occasion; and for that, he quotes a Law of Edward the Confessor, in the following Words, Murdra quidem inventa fuerunt in diebus Canuti Regis. But this Word Murder, is a Saxon Word, and to be found in several Places in the ancient Saxon Laws, and is of a very ancient Date, probably as old as the

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The Saxon Tongue itself, which is about five Hundred Years older than Canutus's Time. We frequently in Saxon Authors find the Words Mordun, Mordun, and Mordun, Murther, or Murder, and these come from the ancient Saxon Word Mord, which signifies a violent Death, or sudden Destruction, and sometimes signifies Murder in the present Sense of our common Lawyers. From hence comes the barbarous Latin Term Mordrum, and Murdrum, and the Verbs Mordrare, Murdrare, and Mordridare, which are of much greater Antiquity than King Canutus, who began his Reign but in 1016. Sometimes Murder among the Saxons, is express'd by Mord-bæd, and Mord-peonc, a deadly Work, or baneful Deed. So Mord-plaga, is a Murderer, in barbarous Latin Murdrator, and Mord-plage, a killing, or murdering. In Teutonic Word, signifies Death, from thence you have Mordertie, a violent Death, Homicidium, Trucidatio, vulgo Murdrum, in French Meurdre, in Spanish Muerte, in English Murder. From thence the Teutonic Verb Morden, is Murdrare with them, and from thence comes the Adverb Mordellicks, insidiose, more Sicarii, vulgo Mordrice. In Islandick it is Mord, which signifies Homicidium occultatum, and Mordings stands for Sicarius, an Assassin. In Gothick it is Maurther;

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Maurther; *in many Places in the Gospel you'll find this Word signifying wilful Murder*, Mar. 15. 7. Thaei in Antigodau *Maurther* Gatawideaun, *in English*, Who had committed Murder also in the Infurrection. *John* 8. 44. Gains Manna *Maurtherga* was fram frumistga, *that is*, He was a Murderer from the beginning. *Upon this Occasion Mareſcal ſays*, Com-
 plures interim viri fummi, jam olim obſervaverint, maximos quoſque Septentriones Legiſtatores mordyi & murdyi, vocabula variè (pro ratione nimium ſibi peculiaris dialecti) in Legibus Latinis adhibuiſſe; unde poſtea plures quoque Europæ ivoces eaſdem deprompſiſſe atque in vernaculum ſibi ſermonem tranſtulſiſſe judicantur.
From hence it ſeems pretty plain, that this Term was not only uſed in foreign Countries, but is of very great Antiquity among them, and common to almoſt all the Northern Nations.

Gloſſar. Gotbicum.

And as the Term Murder was frequent among the Saxons, ſo from them we had our Law Word Manſlaughter, which manifeſtly comes from the Saxon Word Manlyhte; and among King Ina's Laws, there is a Title of Laws called, Be Manlyhte, de Homicidio; and the Crime there mention'd is Manſlaughter only, in the Senſe of our Laws. They had al-

Int. Leg. Ine. 33. 34.

ſo

So a Term call'd Doop-ryhte, or Thieflaughter, which was, when a Man slew a Thief just upon doing the Act; in which Case, to shew that it was not wilful Murder, he was to swear; that he kill'd him flying as a Thief, and immediately upon the Fact being done.

Nor is it difficult, in my poor Apprehension, to make it appear that there were the same Distinctions among the Saxons, between Murder and Manslaughter, as now are used in our Law to this Day; and so is the Saxon Law of King Canutus to be understood, where 'tis said, For open monð peopþ þ Man ry amýpnebe, &c. That if an open and notorious Death be brought about, so as that a Man be murdered; let such a one be given up to the Relations of the slain; and if he be accused of killing the Man, and upon his Tryal the Fact be proved on him, but not in what manner, as that it was wilful; let the Bishop judge him.

*Int. Leg.
Canut.
53. 61.*

There is another Law runs thus; House-breaking, burning of Houses, open Theft, that is, Robbery, and open and notorious killing, call'd Sebep-Monð, or Murder, are boteles, that is, unexpiable.

And with a little Enquiry it will be found that these Distinctions, together with the Word Murder, were in use in other Nations before

before ours, from whence, in all Probability, we had them; and are still in use in several Parts of Europe to this Day. In many of the Laws in the Codex Legum Antiquarum, secret Homicide is called Murder, not according to the common Notion that some Lawyers have had of an Homicide done between two Persons, and no one present; but as done with Marks of intended Secrecy and labour'd Privacy, which necessarily infers Malice premeditate, which is Murder at Common Law. The Ba-^{Int. Leg.} Int. Leg. ^{Bawario-} rian Law calls this Species of Homicide, ^{rum, Tit.} Murder. Si quis liberum occiderit furtivo mo-^{18. Sect.} do, & in flumine ejecerit, quod Bawarii ^{mur-} ^{2, 3-} drido dicunt, &c. So in another Place, Si quis furtivo modo, occisus fuerit, & ita abscondus quod gamurdrit dicunt; such Offences were capital, and the Offenders were to be subject to their whole Weregild, which was Pretium Capitis. So inter Leges Frisonum, there is a Title ^{de} ^{Int. Leg.} Mordrido, which is the same as our Murder, ^{Frisonum,} ^{ca. 20.} and a distinct Title, de Homicidiis. So among the Longobard Laws we read, ^{Int. Leg.} Quicumque ^{Longo-} veneficio seu quolibet modo furtivæ mortis per- ^{barâ.} emerit, aut consentiens fuerit, mortis sententiam ^{Tit. 9.} incurrat, omniumque suarum rerum mobilium ^{Sect. 39.} & immobilium facultatem amittat. Among the Wisogoths there is this Law, Quicumq; nesciens hominem

Int. Leg. Wisigoth. Li. 6. Tit. 5. Sect. 1. *hominem occiderit, & nullum contra eum odium habuerit, reus mortis non erit, non enim iustum ut postea percuciat quem voluntas homicidii non cruentat. One who kills another, as the same Law say, in case vel indiscrete ex improvise ictu, because it was not committed, disposito malicie spiritu, non homicidii voluntate, was not esteem'd guilty of the Infamy of Murder, quia mortuum voluntarie non occidit. This answers to our Homicide per infortunium, or Chancemedley. And the same Laws say, that Accessories in Murder are Principals. So in several Places in the Longobard Laws, we read of the several Species of Homicide, call'd in our Law, Homicide ex necessitate, and se defendendo; as also Tryals by Battle, Fire and Water Ordeal, such as was among the Saxons; and many other Instances might be given of the like nature if it were not too tedious for a Preface.*

Int. Leg. Long. Tit. 9. Sect. 2. 14. 1.

The Lawyer will find a farther Use of the Saxon Tongue, in reading ancient Grants and Charters of Princes, Foundations of Churches, and Bishops Sees, the Bounds and Limits of Counties, Towns and other Precincts, which are not well to be understood without the Assistance of this Language. The first Charter of the City of London, which is extant

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extant is wrote in the Saxon Tongue, ^{manuscript} by the then Bishop of London from William the First; but is no where, that I know of, well translated.

How lame are all our Law Dictionaries in respect of the Saxon Etymologies? It is frequent to find not only one Letter for another, but sometimes one Word for another, and oftentimes Words set down for Saxon; never heard of before; and not understanding this Language they transcribe one from another, so that the Editions, instead of being better, are worse and worse, and the last Edition becomes more corrupt than the first.

There was once a Dispute in a Court of Justice upon a Lease, wherein there was a Reservation of Rent half yearly at Rudmas-day: This Rudmas-day puzzled the Counsel grievously, and they knew not what to make of it: they had never heard of St. Rudmas, nor could find any such Saint in all the Calendar; at last when it was unfolded that Robe signified a Cross, and Masse-day or Messe-day signified a Feast-day; then the Matter was plain, the Expression signifying Holy-cross-day, or the Feast of the Holy-cross, and the half yearly Reservation at Rudmasse-day referred to the two Feasts of the Holy-cross;

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the one whereof is the third of May, which is call'd the Invention of the Cross, and the other is the Exaltation of the Cross, which is the fourteenth day of September, and known to this day to all concerned about Venison, by the Name of Holy-rood-day.

In the Case of the Queen and Serjeant Whittaker, which was in the Queen's Bench, Trin. Term in the fourth year of this Queen, on a Mandamus to restore the Defendent to the Place of Recorder of Ipswich: If the Force of the Saxon Word ꝥic, Wic, and the manner of speaking, familiar amongst our Ancestors, had been thoroughly consider'd, there would not have been such a long Dispute, whether there was a Variance between Villa de Gippo, & Villa de Gippo Vico. For in Saxon the Word ꝥic, in English Wich, signifies a Town, but is oftentimes in that Language made also a Termination to the Name of a Town, which yet is a complete Name without it, and so signifies only emphatically, and not any thing different from the Name of the Town; as Lunden-ꝥic, Lunden-Wic, that is, London-Town, is the same as London, and signifies no more tho' London be the complete Name, and without the Word Wic, would still have been the same. So the Shire or County of Devon,

von,

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von, in the old way of Speaking would, or might at least, be called the County of Devonshire, which is the constant Expression in old Deeds, and signifies the same thing tho' it be tautologous; nor did any one ever imagine that the County of Devon, and the County of Devonshire were two different Counties, altho' Shire here has just the same Relation, as Wic in the other Case: So that the most that can be made of it is, that it amounts to a Tautology anciently very familiar, but can't be a Variance, or signify a different thing.

I did not think of being so particular in this Matter; but I take Satisfaction in doing it, for the sake of the young Students and Barristers at Law, many of which I have the Honour to know, and from whose early Genius, good Learning, and great Industry, the World may be in hopes of seeing as good a System of Laws as any whatsoever. I am persuaded the Law of England is capable of such an Improvement, was there the same Encouragement as in other Countries to do it: And were such a Work encourag'd by the Publick, which would be to the Honour of the Nation, I doubt not but there would be found among our Lawyers, Men of Learning and Abilities, equal to such a useful Work. Sir Matthew

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Hale's Analysis has shewn what of this nature may be done, if such a thing were thoroughly encourag'd, tho' perhaps the Foundation should be laid a little deeper.

Nor is the Knowledge, Sir, of this Language unuseful even to the Divine, or indeed to any such as have a mind to study the Antiquities of the best constituted Church in the World, the Church of England. By the ancient Saxon Monuments we are able to demonstrate, that the Faith, Worship, and Discipline of our holy Church, is in great Measure the same with that of the primitive Saxons, and that she is reform'd only from the Corruptions of the Church of Rome, the Novelty of many whereof, these will enable us to discover. Here we find the Government of the Church, constantly under Bishops, to be as ancient as the Christian Religion with us, and that in the earliest Times their Power and Authority exceeded even that of the Temporal Lords.

Here you'll find no Supremacy claimed by Rome, and St. Paul oftentimes declared equal, and sometimes superiour to St. Peter; for he has sometimes the Name of supreme Teacher in holy Church given to him: *Saint Popel þe is þe hegerz loppeop þe is habbað in hægig*

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holy King, *Saint Paul*, who is the highest Teacher which we have in holy Church: Possibly Rome had not then resolved to derive her Supremacy from *St. Peter*, nor did our Ancestors it seems allow that Title, since *St. Peter* was not esteem'd so high as his Brother Apostle *St. Paul*.

The Popish Priests could not with so much Confidence charge us with a Crime, at least not with Novelty in having the Scripture in our Mother Tongue; did they know that the whole Bible was translated into Saxon, our Mother Tongue, above eight hundred Tears ago, by Priests, great Prelates, and celebrated Kings of England, to be seen great part thereof to this very day. King Alfred with his own Hand translated great part of the Bible into Saxon, which was then the vulgar Language, and first divided the Scripture into Portions to be read on Festivals. Nay the Saxon Kings not only permitted such Translations, and encourag'd them by their own pious and great Example, but made Laws for establishing thereof, and for teaching the Scriptures in their own Language. The People were so far from being enjoined to pray in an unknown Tongue, that severe Laws were laid on them, enacting, that every Man should learn

*Int. Leg. the Lord's Prayer, and the Apostles Creed, that
Canut. he might attain to the true Faith, and that
22. thereby he might be enabled to pray according
Lamb. to that Faith; and such as refused to learn
Canon. them were not to be admitted to the Sacra-
Ælfrici ment, while living; nor to Christian Burial,
23. when dead. And to that Purpose Canons
were also made; as in Ælfrick the Archbishop's
Time, which was above seven hundred Years
ago, a Canon was made which enjoins the
Priests on Sundays and Holy-days to teach the
true Sense of the Gospel to the People, in En-
glish, and also to teach them their Pater no-
ster and Creed. The Saxon Homilies, and other
Saxon Writings, will farther acquaint you
that the monstrous Doctrine of Transubstan-
tiation, destructive of all Science, and against
all common Sense, was not thought of in the
Days of our Saxon Ancestors.*

*This Language will help the Divine to
Councils, Canons, and Decrees of our En-
glish Church, whereby he may the more easily
refute the Calumny of the Papists, that we
have departed from the Faith of our Ance-
stors: where he may find that the Doctrine of
the Church concerning our Faith and the holy
Eucharist, was the same antiently as it is now,
and that Popery was then but an Infant, a
new*

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*new invented thing, which about the Conquest
refe to its hightb.*

*From the Ignorance of this Tongue, Men
have unawares been led into Prophaneness,
and have been tempted to ridicule a Transla-
tion of the sacred Scriptures, which tho' mis-
taken, ought, in regard to the Dignity of the
Original, to be preserved from being made
the Object of Jest. I my self have heard the
second Verse of the first Chapter of the singing
Psalms, treated by some with great Contempt,
calling it Nonsense and unintelligible: but the
Nonsense proceeded only from their Ignorance.
The Verse objected to, and that before it runs
thus: The Man is blest that hath not bent, to
wicked Read his Ear; now in the Word Read
or Rede was the Jest, which for their Lives
they could not understand; but had they con-
sulted the Original of their own Language,
they would soon have found, that Read, other-
wise Rede, as it is to be found in old Bibles,
in Saxon Ræpe, signified Counsel or Advice;
in which Meaning, I hope, it will be allow'd
to be very good Sense: So Ræpe-men, or
Redes-men, signifies Counsellors.*

*As to our Historians and Antiquaries, it
seems to be absolutely necessary for them to
have some Knowledge of this Tongue, if they*

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would give me a complete account of things before and some time after William the First. It should seem difficult to write accurately of those times, without the History and Antiquity is the Glass of Time; to know nothing before we were born, is to live like Children, and to understand nothing but what directly tends to the getting a Penny, is to live the Life of a sordid Mechanick.

And here give me leave to take notice of one Error, among many, committed by the Author of the Hereditary Right of the Crown of England, which, if he had compar'd with some Saxon Records, he could not have fallen into. Speaking of Maud the Empress, he says, That when she was in Possession, she never took upon her the Title of Queen, but either retain'd that of Empress, or else called herself *Domina Anglorum* the Lady of the English; and therefore concludes Dr. Higden mistaken in his Assentions about that matter. But that Author is himself mistaken, for Lady of the English was the Title of Queen. Among the ancient Franks, they had a Feminine deduced from the Masculine *Kuning* King, which was called *Kuningin*, I signifyng Queen; but among the English Saxons they had no such thing. They did not form any Feminine from their *Lýang*, or *Lýong*, signi-

Hereditary
Right.
p. 51.

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signifying King; but they used two other Words to signify the Queen, and those were Epen and Hlæprian. Epen, Ewen, originally signified the Wife of any one, but afterward, propter Excellenciam, it came to be applied to the Wife of the King only; and therefore the Queen was called ðær Eyniges Epen, the Wife of the King, and not Eynigenna, from Eynig, King. When Epen had obtain'd this Signification, it was yet expressed very often by Hlæprian, Hlæfdia, sometimes Hlæpzig, Hlæpza, Hlæudi, from whence comes our English Word Lady. In several Saxon Charters you'll find it so express'd; as in two of Queen Edith, which are in the Church of Wolls; ðær heo hlæwedi Eadpæges Kinger lefe gnet, &c. The other runs thus; Eadgyþ re hlæwige gnet hælols Epl min bropor, &c. Now as Epen signified among the Saxons, not only a Queen Consort, and Queen Dowager; but an absolute Queen upon the Throne; so Hlæprian, or Hlæpza, signified the same. In the Will of Brithric the Thane, you will find a Legacy given the Queen, and it is bequeath'd to her by the Name of ðære Hlæprian, Dominæ, the Lady. In Chron. Saxon. Eadgitha, King Ed-ward's Queen Dowager, is called Hlæpzig, and in the same Chronicle, Æthelreda Queen Regnant, is called so; Eþelreda Wýpna Hlæpzig, Æthel-

Disserta-
tio Epistol.
183.

Chron.
Saxon.
103, 183,

194.

Abolished Queen of the Mercians. For as *Blarog*, *from whence our English Word Lord comes, emphatically signified King; so* *Blarog* *signified Queen. And from thence it was that* *Maud the Empress, to whom all the Nobility in the Kingdom had sworn Allegiance, was received by the English as their Queen, according to the then Idiom of the English Tongue, by the Name of* *Blarog, Lady; who rightly distinguish'd her, by that Appellation, from* *Maud the Wife of King Stephen, who is called* *Linger Eten, the King's Queen. Many more Authorities to this Purpose may be found, but these are enough to shew how* *Lady* *came to signify Queen. And this is the concurrent Opinion of all learned Men that have considered this Matter.*

Brady's
Complete
Hist. of
England,
p. 283.
Co. 1.
Inst. p. 7.

Dr. Brady, in his Complete History of England, makes *Domina, in all the Passages out of* *Malsbury in relation to* *Maud the Empress, to signify Queen. My Lord Coke is of the same Opinion, he calls her Queen by the Name of* *Domina Anglorum; and on this Occasion he shews that some of our Kings, chuse to call themselves, Domini Hiberniæ, Lords of Ireland, when they were as much Kings of Ireland, as of England or France. And it is pretty remarkable, that from the time of King*
John

John in the twenty third Year of Henry VIII. now of our Kings, in all that Intermitt, thought fit to alter this ancient Style of Dominus, but were called Domini Hiberniæ, Lords of Ireland; tho' I suppose, no Body doubts but they had the Regal Power, and were Kings of Ireland in the same Sense as of England. Mr. Selden also acknowledges Maud the Empress to be Queen; he says, in his *Titles of Honour*, That as Kings with their Subjects of the greater Name, have been ever stiled by *Dominus*; so Queens have had, and used the Name of *Domina*; as Lady Maud called herself, Imperatrix Hen. Regis Filia, & Anglorum Domina. Dr. Hickes is also of the same Opinion, and in his *Dissertation on the Antiquities of the Laws of England*, says, That no Historian that ever he saw, but one, ever doubted that the English Nation received Maud the Empress for their Queen, under the Appellation of *Domina*, or Lady.

Selden's Titles of Honour, p. 36.

Dissertatio Epist. 52, 53.

As to the ancient Names of Cities, Towns, and Churches, Bishop's Sees, and great Seats in England, it is difficult, if not impossible, to give a good Account of their Original without this Language, because they are almost all Saxon, and but few French or Danish; and therefore Cambden has truly fetched most of his from
the

the Saxon Originals, tho' he fails in many Places for want of a more compleat Knowledge of that Tongue.

Now the Saxons did not, as the Ages since, name the Places of their Conquests after their own Names, being of short Continuance; but named them according to their Nature, or with relation to things natural, as Adam gave Names in Paradise: For instance, the Church of St. Mary's, situate upon the Banks of the River Thames, in Southwark, commonly called St. Mary Overs, in Latin Sancta Maria Ripensis, they named from the Saxon Word Ofe, or Ofpe, which signifies a Bank, which in the genitive Case is Ofeper or Ofper, Oferes or Ofres; so by turning the f into v the English Word is formed. So the Church of All Saints, situate on Tower-hill, London, commonly called Allhallows Berkin, comes from the Saxon Word Bepgen, so named from the Word Bepg, Berg, which signifies a Hill, that is, Allhallows upon the Hill: So Harrow o'the Hill takes its Name from the Saxon Word heape or hæpe, which signifies a Temple or Church.

If the great Selden had lived in an Age when this Tongue had been more known, no Man will deny, who understands this Language,

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guage, but his Works had been more perfect and complete; and any Man may plainly see; that with the Assistance of this Language, his Treatise of Titles of Honour, might have been made more exact and complete. Nor ^{Janus} *would be, I am persuaded, have given you a* ^{Angl.} *Title of Laws, as he has in his* ^{ca. 17.} *Janus Anglorum, concerning a Guft and a Hogenhyne; when really there are no such Words, either in Saxon, English, or French. The true Words, as they may be found in Edward the Confessor's Laws, are gert and agen-hine. So that the true Meaning of that Law was, if* ^{Int. Leg.} *a Man lodg'd one Night in another's House,* ^{Edv. Reg.} *he was uncuð, that is, unknown, or a Stranger; from whence comes our modern Word uncouth: If he lodg'd two Nights, he was gert, not guft, that is, a Guest; and if he remained three Nights, he was agen hine, which word for word, is Servus proprius, his own Servant, or one of his Family.*

In this Language you may find many anti-ent Histories, Epistles, Laws, Glossaries, Deeds, Wills, and Charters of all Sorts, Donations of Land, Emancipation of Slaves, Oaths of Princes and Coronation Oaths. In this you may read the Coronation Oath of King Æthelred, given by Archbishop Dunstan, which

is

lxxviii THE APREBENDICE.

is very remarkable, and by the way shows how ancient Germanic Quails are, and what is yet more valuable, with the Help of this Language the ancient Original of Parliaments is more thoroughly to be understood; for whoever carefully and skilfully reads the Saxon Laws, and the Prefates or Preambles to them, will find, that the Commons of England always in the Saxon Times, made part of that August Assembly.

As to Philologists also, this Language is not altogether unworthy of their Regard; for had the Editor of Chaucer understood it better; he would not have attributed the Saxon Words, and Dialect, so often to be found in Chaucer, almost in every Page and Line, to the peculiar manner of Chaucer's Writings, as tho' he wrote differently from other great Men, and from the Language of the Times. The first Instance he gives is, that Chaucer used wopenen, for did won, and loveden for did love; but this very thing I have taken notice of in some of my Saxon Remarks, and have shown them, as evidently they are, to be the proper Terminations of Saxon Words, and used very long after that, and not as yet worn out of our Language, and in Chaucer's Time, the proper English Saxon Dialect. He farther

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farther observes, but much out of the Way, that Chaucer's manner was to imitate the Greeks, by using two Negatives to deny more strongly, as, I ne said none ill; but this again is the constant Saxon way of Expression, who almost always used two Negatives in a negative Sense, as I have shewn in my Comment. But much less would he have said, that Chaucer's Verb was sometimes hard to be understood; as in this Instance, I not what Men him call. A very little Insight into this Language would soon expound this Riddle, and shew that both the Verb and Negation lie in the puzzling Word not; which Word signifies no more than ne wot, or as the Saxon is ne yat; I wat not, or knew not. So ic yat; is I know. Ic ne yat is I know not; I wot not. So Chaucer has ne wist, for wist not; that likewise; I suppose, might be a Stumbling Block, and might be with the same Justice said, to be the manner of Chaucer's Language, the English Tongue, which he could not help, nor make it differ from its self nor and in such manner, every Body wrote at that time, who wrote well.

By this time I hope, Sir, it does sufficiently appear, from what I have said, that this
Language

Language deserves a greater Regard and Esteem than generally it has, from the Ignorance of it, met withal. And for the Honour of the Clergy, I can't help taking Notice, that the World is obliged to those of that Order, for the reviving of this ancient Language, and the Northern Literature; and that they at present are chiefly possess'd of this Knowledge, and that it is owing also to them, under the kind and generous Influence and Encouragement of that noble Seat of Learning, the University of Oxford, that the way to the attaining of this Language is now made easy. The learned Dr. Hickes, whose ready Assistance in my Saxon Remarks I think my self bound to acknowledge, has wrote a Grammar of the Saxon and other Northern Tongues, and has reduced the Saxon Language to the proper Form of a Grammar; where you will find that Language, as other Languages, to have its Cases, Moods, Tenses, and Declensions. This is design'd for young Beginners; but the Doctor has wrote a larger Volume, which he calls, Thesaurus Linguarum Veterum Septentrionalium; which contains not only complete Grammars, but a Treatise also, of the Northern Languages; and that which more particularly recommends
this

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this Book to the Perusal of all Lawyers, as well as Antiquaries, and Historians, is, that there is therein to be found a large and very learned Treatise on the Antiquities of the Laws of England, wrote on purpose for the Honour of our Laws, and for the Use of the Professors thereof. This Book, I may with Justice say, has the Reputation among the Learned, of being one of the most curious, exact, and most learn'd Pieces, in its kind, that any Age has produced. The famous Antiquary, Mr. Somner of Canterbury, has publish'd a very good Saxon Dictionary; and a Saxon Vocabulary was publish'd not long since by the ingenious Mr. Benson of Queen's College, which furnishes the World with a great Number of Words, which were wanting in Somner. Mr. Mareschall long ago publish'd the Saxon Gospels; the learned Dr. Gibson has lately publish'd the Saxon Chronicle; and Mr. Thwaites his Saxon Heptateuch. With these Helps, added to a few other Saxon Authors, as Sir John Spelman's Saxon Psalms, &c. now extant, the Difficulty of attaining this Language is nothing. It is in Practice so useful, and in Theory so delightful, that I am persuaded no young Gentleman, who has Time and Leisure,

f

will

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*will ever repent the Labour in attaining to
some Degree of Knowledge in it.*

*These things, Sir, I thought proper to take
notice of, which may serve at least as Hints
to such Gentlemen, as have more Time and
Leisure to carry these Thoughts farther, for
the Improvement of that noble Body of Laws,
the Laws of England. If this be of Use to
my Country, I have my End. I am,*

S I R,

Your most Humble Servant,

J. F. A.



Here

Here followyth the TABLE
of this TREATISE enfewyng.

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CHAP.



CHAP. I.

The Difference betwene **Domini-
um Regale, and** *Dominium
Politicum & Regale.*



HER be two kynds of
Kynghdomys, of the which
that one ys a **Lordship**,
callid in Latyne, *Domini-
um Regale*, and that
other is callid, *Dominium
Politicum & Regale*. And they ^a **dyversen**,
in

^a Or differ; **Dyversen**, is a Latin word, with a Saxon Termination; for the Plural Number of many Saxon Verbs, even in the Present Tense, end in *en*, and sometimes in *on*, as, *hi hauen*, *they have*, *hi cunnon*, *they know*. Our Author throughout his Book uses these Saxon Terminations, which he connects to all sorts of words, and therefore you'll frequently meet with such words as

B

these,

Of ABSOLUTE and

in that the first may rule his People by such Lawys as he makyth hymself; and therfor he may set upon them ^b Talys, and other Impositions,

these, usen, sayen, passen, assenten; and sometimes with words ending in *yn*, as, *lydyn*, *swellyn*, *beryn*, and such like, which in sound differ very little from the other. This Saxonick way of writing is to be found in *Chaucer*, and many other old English Authors; as in the Vision of *Pierce Plowman*, a Copy of which I find annex'd to one of our Author's MSS. in the *Bodleian Library*;

**Hermets in a heap with hoked Staves,
Went to Walsingham and her Menches after,
Cokes—and her Knaves cryden—hote-pres hote.**

Vid. Hickefii Linguar. Vet. Sept. Thef. p. 23, 40.

^b This word signifies Taxes, and comes from the barbarous Latin Word, *Tallia*, or *Tallium*, which in the ancient Signification meant a piece of Wood squar'd and cut into two parts, on each of which they used to mark what was due and owing between Debtor and Creditor; from thence it came to signify a Tribute paid by the Vassal to the Lord, on any important Occasion, the particular Payments whereof were mark'd on these Pieces of Wood, one part whereof the Tenant had, the other was kept by the Lord. In French it is *Taille*, which originally signified no more than a *Section* or *Cutting*, from the Verb *tailler*, to cut; but afterwards it came to signify metaphorically a *Tax* or *Subsidy*: All which words come from the pure Latin word, *Talea*, a cut Stick, or *Tally*. From hence comes our Law Latin word, *Tallagium*, or rather *Talliagium*, which signifies in our Law any sort of *Tax* whatsoever. So *talliare* is to tax, or *Talliam exigere*. In French Authors you'll find, *Tailleur ses homes & sujets*, as in *Consuetud. Burbonensi Art. 343, 344. Matth. Paris, Anno 1256. Cives Londinenses iterato, ad quingentas Marcas talliantur.*

sitions, such as he wyl hymself, without their Assent. The secund may not rule hys People; by other Lawys than such as they assenten unto; and therfor he may set upon them nor Impositions without their own Assent. This Dyversite is well taught by Saynt *Thomas*, in hys Boke which he wrote, *Ad Regem Cipri de Regimine Principum*. But yet, it is more opynly treatid, in a Boke callid, *Compendium Moralis Philosophiæ*; and sumwhat by ^c Gyls, in his Boke, *De Regimine Principum*. The Chikdren of *Israell*, as saith Saynt *Thomas*; after that God had chosyn them, in *Populum peculiarem*; & *Regnum Sacerdotale*, were ruled by hym under ^d Jugs, *Regaliter* & *Politice*; unto the tyme that they desyryd to have a King, as than had al the *Gentylys*, which we cal ^e *Panym*s, that had a Kyng, a Man, that

liantur. Fleta lib. 2. cap. 71. Ad quantum talliari valeant per Annum. Yet in the feudal Law, *talliari* signifies the same as *tailler* in French, *to limit or cut*; as, *talliare Feodum*, is *to limit or curtail a Fee simple*, and to reduce and ascertain that general and indefinite Estate, to a more restrain'd and fix'd Period of Duration; and from thence comes our *Feodum Talliatum*, a *Fee Tail*; that is, an Inheritance restrain'd or limited, to such particular Heirs only as are set down in the Deed of Entail. *Du Fresne Glos.*

^c *Gyls*; i. e. *Gyles*, *Egidius*, *de Regimine Principum*.

^d i. e. *Judges*, from the old French word, *Juges*.

^e i. e. *Pagans*, in old English generally wrote so, and in *Chaucer* to be found very frequently.

reynyd on them *Regaliter tantum*. With which
 defyer God was gretly offendyd, as well for
 their Folye, as for their Unkyndnes; that
 f sithen they had a Kyng, which was God,
 that reynid upon them *Politykty and Royally*,
 and yet would chaunge hym for a Kyng, a ve-
 ry Man, that would reyne upon them only
Royally. And therefore God s manasyd * them,
 and made them to be fearyd, with Thonders
 and other † ferefull thyngs, from the Hevyn.
 And whan they would not leve their foly, the
 defyer, he chargyd the Prophete *Samuell* to de-
 clare unto them, the Law of such a Kyng as
 they askyd; which amongs other thyngs said,
 that he would take from them their Londs and

* *hem*.
 Laud.

† *gastful*,
 Laud.

f This is a Saxon word, and is wrote thus, *siððan*,
siððan, which signifies, *after, afterwards*, and here, *since*;
 'tis frequently used in old Authors, and in many of the
 old Statutes. In *Chaucer*, you'll often find *sið*, as well
 as *siðen*, signifying the same. *Somneri Dictionar. Saxo-*
nicum.

s *Manasyd*, in French, *Menaçoit*.

* *Hem*, comes from the Saxon word, *heom*, which
 signifies *them*; in the Laudean Copy, *hem*, is put for *them*
 throughout, and in most old English Authors. *Hickef*.
Tesaur. 23.

† From the Saxon word, *gast*, a *Spirit*, or *Ghost*. So
 the words, *Gastly*, or *Gastful*, in our Tongue, came to
 signify any thing that look'd frightful, as a Ghost, Spirit,
 or Apparition is said to do. From thence comes the usual
 Expression in the West of *England*, when a Man appears
 affrighted, that he is *agast*.

Goods,

Goods, and ^h gyfe them to hys Servaunts; and also set their Children in his † Works and La-^{† Caritas} bours, and do to them, such other many harm-^{Laud.} full thyngs, as in the eighth Chapiter of the first Boke of *Kyngs*, it may appere. Whereas before that tyme, while they were rulyd only by God, *Royally and Politykly*, under Jugs, ⁱ hyt was not lefull to any Man, for to take from them any of their Goods, or to grieve their Children that had not offendyd. Whereby it may appere that in thoose Days, *Regimen Politicum & Regale*, was dystyngwyd, *à Regimine tantum Regali*. And that it was better to the People to be ruld, *Politykly and Royally*, than to be ruld, only *Royally*. Saynt *Thomas* also in his said Boke, praystith moche, *Dominium Politicum & Regale*, by-cause the Prynce that reynith by such Lordship, ^k may not frely fall into Tyranny, as may the Prynce

^h This is a Saxon word, and comes from the Saxon Verb, *gyfan*, to give, the Infinitive Mood of all Saxon Verbs ending in an.

ⁱ This is a perfect Saxon Word, and is wrote thus, *hȳt*, or *hit*, from which, if the Aspiration be taken away, is then produced our English *yt*, or *it*, from whence *it* manifestly comes: *hȳt is*, *hȳt is*, *it is*, *it is*, or *yea*, *yea*, Marechal. Evangel. Saxon. Mat. 5. 37. Hicel. Thef. 25.

^k It is to be observed once for all, that the Words, *may*, and *may not*, to be found throughout in our Author, signify,

Of ABSOLUTE and

Prynce, that Reynith, *Regaliter tantum*. And yet they both ar egall, in Estate and Powre, as it may lightly be shewyd and provyd, by Infallible Reasons,

nify, after the Saxon Dialect, *can*, and *cannot*; for our English Word *may* comes from the Saxon Word *mæg*, the *g* in Saxon being generally in English turn'd into *y*; and *mæg* is the present Tense of the Saxon Verb *magan*, which signifies, *to be able*, or *to may*, do a thing, as old Authors express it. *God is swa michtig, þ he mæg of stanum apeccean Abrahames bearn, God is so mighty, that he is able of Stones, to raise up Children of Abraham.* *Marescal. Evangel. Matth. 3. 9.* So in the plural Number; *He ne magon þan þyden þe ic fare, Where I go, ye cannot come*; which are the Words of our Saviour in *John 13. 33.* *Marescal. Evangel.* From hence comes the Saxon words, *mægd*, *mægh*, *power*, as also *mægh*, and *mægen*, from whence come our English words *might* and *main*. So the word *might* is used often among the Saxons, to signify *could*, as *his Eyes waxed old*, speaking of *Isaac*, *so that, he ne mihte nan þing ge-jeon, he could not see any thing.* *Thwait's Heptateuch. Gen. 27. 1.*

This leads me to observe, that the Saxons have their auxiliary Verbs, as well as the ancient Northern Languages, from whence the French and other modern Languages derive theirs.

The Saxons have, *mæg*, *miht*, *mot*, *þeal*, *þolb*, *nolb*, (for *ne þolb*), *þeolb*; and from these Saxon Auxiliaries come our English ones, *may*, *might*, *shall*, *would*, and *should*. The Dutch have *moet*, for *might*; and in many parts of *England*, *mot*, *mont*, or *mout*, is retain'd to this day. *Hicckes. Thes. 42.*

CHAR.

C H A P. II.

Why one King reynith Regaliter tantum, and another reynith, Politice & Regaliter.

HY T may peradventure be marvelid by some men, why one * Realme is a * *Reaum* Lordshyp only *Royall*, and the Prynce *Laud,* thereof rulyth yt by his Law, callid *Jus Re- through-* *ont.* *gale*; and another Kyngdome is a Lordschip, *Royal and Politike*, and the Prince thereof rulyth by a Lawe, callyd *Jus Politicum & Regale*; sythen thes two Princes ^a beth of egall Aftare.

To this dowte it may be answeryd in this manner; The first Institution of thes two Realmys, upon the Incorporation of them, is the Cause of this diverfite.

* *Reaume*, comes from the old French Word *Royalme*, and after that it came to be *Royaume*, *inde Reaume*; and from this Original, no doubt, comes our English Word, *Realm*. Nicot Dictionaire Françoise.

^a *Beth*, i. e. *be*, or *are*, from the Saxon word, *beoð*, which is the plural Number, and potential Mood of the Saxon Verb, *beon*, *esse*, *to be*. Hicck. Thef. 36.

Whan, ^b *Nembroth*, by Might, for his own Glor^y, made and incorporate the first Realme, and subduyd it to himself by Tyrannye. he would not have it governyd by any other Rule or Lawe, but by his own Will; by which and for th'accomplishment thereof he made it. And therfor, though he had thus made a Realme, holy Scripture † denyyd to cal hym a Kyng, *Quia* ^c *Rex dicitur a Regendo*; Whych

† *disday-
mid,
Laud.*

^b For *Nimrod*; It was thus written in the old French, from the Greek *Negod*, as in the Version of the Septuagint. *Vid. Nimrod, in Simon's grand Dictionnaire de la Bible.*

^c From the Latin Word *Rex*, comes the Gothick **KEIKS**, (*Rex*.) a Prince, or Potentate. Among the Saxons, *Raca*, signifies a Prince, or one more rich or powerful than others; so the Saxon Word, *Rice*, signifies a Kingdom, Dominion, Power, or Empire. From hence come all those proper Names that end in *ric*, or *rice*; in Latin *ricus*, as *Albericus*, *Godricus*, *Theodoricus*, *Fredericus*, *Chelpericus*, *Hannicus*. So the Saxon Verb, *peccan*, *peccan*, or *pixian*, is to reign. Now *Franciscus Junius* derives the Saxon word, *peccan*, *pixian*, to reign, from the Saxon word, *pecan*, *curare*, to take care; because, as he says, in ancient times, Kings thought the chiefest Law to be observed by them, was to take care, that no wrong or Injury were done to their Subjects. Among the Germans, *Beche*, signifies a Rich-man, *Wiche*, a Kingdom, *richison*, to reign; and from the same Original, perhaps our English word *Riches* comes. *Francisci Junii Glossar. Gothicum.*

Now our English Word, *King*, manifestly comes from the Saxon Word, *Lynung*, or *Lýng*, a Saxon C being most commonly turn'd into an English K. In the Teutonick,

Whych thyng he dyd not, but oppresyd the People by Myght, and therfor he was a Tyrant, and callid *Primus Tyrannorum*. But holy Writ callith hym *Robustus Venator coram Deo*. For as the Hunter takyth the

nick, it is *Kontagh*, which, *Kilian* says, comes from *kennen*, to know, or to be wise. But now let us see what the old Saxon Church says, as to this matter, which seems to have the same Sentiment as our Author; It says, *Lýning geseht Rihtrýrnerre 7 wísdome. him is nama geseht of soþum Reccenbome. 7 he hine rýlne. 7 ríþhan his leode, mid wísdome wírrig. 7 þel gesehtlæce*; in English thus, *Justice and Wisdom belong to a King; his name is given him, from just and wise Government; as one, who is wisely to instruct, and faithfully to govern both himself and his people.* Serm. Cathol. à doctiss. Bedæ Histor. editore citat. p. 167. *Kiliani Etymologicum Teutonica Linguae.* Somn. Dict. Sax.

Ælfric the Abbot, who was afterward Archbishop of *Canterbury*, has the same Notion; *Rex*, says he, is *geseþden, a regendo*, 7 is, þam Reccenbome. for þam þe se Lýning sceal mid micclum wísdome his leode wírrian. 7 beþeþan mid cræft; in English thus, *Rex, or King is so called, a Regendo, that is, from Government, because a King ought to govern his People, with great Wisdom, and to protect them with all his Skill and Power.* He goes on farther, and says, Lýning 7 is þe gemetwærdlice his folc geseþrað. gif he þon mid his wírdere he ofrit. þon biþ he, *Tyrannus*, 7 is þe ðe wælhreop: in English thus, *A King is one that governs his Subjects with Gentleness; but if he oppres them with his Government, he then becomes Tyrannus, in Saxon render'd by the Words, wælhreop, which in English signify a fierce, cruel, and bloody Man.* *Ælfrici Grammatica Saxonica*, p. 51. wrote almost 800 Years ago.

wyld

wyld beste for to^d sle and eate hym ; so *Nembroth* subduyd to him the People with Might, to have their service and their goods, using upon them the Lordschip that is callid *Dominium Regale tantum*. After hym *Belus* that was callid first a Kyng, and after hym his Sone *Nynus*, and after hym other Panyms ; They, by Example of *Nembroth*, made them Realmys, would not have them rulyd by other Lawys than by their own Wills. Which Lawys^e ben right good under good Princes ; and their Kyngdoms ar then most resemblyd to the Kyngdome of God, which reynith upon Man, rulyng him by hys own Will. Wherfor many Crystyn Princes usen the same Lawe ; and therfor it is, that the Lawys sayen, *Quod Principi placuit Legis habet vigorem*. And thus I suppose first beganne in Realmys, *Dominium tantum Regale*. But afterward, whan Mankynd was more manfuete, and better disposyd to Vertue,

^d From the Saxon Verb, *flean*, to kill, or slay. Somn. Dict.

^e From the Saxon word *beon*, which is used sometimes for the Saxon *beoð*, and is found as well in the third Person plural of the potential Mood, as in the infinitive Mood of, *beon*, *esse*, to be. *Riht is þat Muncas beon* ; 'Tis fit, that Monks be, or, for Monks to be. Hicck. Saxon Gram. 45,

Grete Communalities, as was the Fellowship,
that

This is a compound Word, of *Fellow* and *Ship*; *Fellow* has a Danish, and *Ship* a Saxon Original. The word *Fellow* comes from the old Danish word *Fielagi*, a *Companion*, or *Equal*; but it is more often wrote *Felagi*, and is frequently to be found on old Runic Monuments. Now *Felagi* comes from the old Danish Word *Fylgia*, *compositari*, to accompany; and from thence comes *Fylge-Kone*, a *Concubine*; So *Felag* in old Danish, signifies *Company*, or *Society*. Hence comes the barbarous Latin word *Felagus*, which we meet with in the Laws of Edward the Confessor, cap. 15. The Law runs thus; *Si infra Tempus annuum non possit teneri Murderator, parentes Murderati sex Marcas haberent, Rex quadraginta; si parentes deessent, Dominus ejus reciperet; si Dominum non haberet, Felagus ejus.* So, in cap. 35; which Law takes notice, that every Freeman was bound to furnish himself with Armes, for the publick Safety, and gives him a Liberty of disposing of such Armes, by his last Will, to his Heirs; and then goes on; *Quod si qui eorum heredes vel parentes non haberint, Dominus suus, illa recipiet: Et si Dominum non haberent, Felagus suus, si haberet, illa reciperet: Si vero nihil istorum haberet, tunc Regni, sub cuius protectione & pace degunt universi, Rex, illa resumat.*

Now from this 'tis pretty plain, that tho' *Felagus* does, in the general acceptation of the word, signify a *Companion*; yet here it stands not indefinitely, for any *Friend*, or *Companion*, but particularly for such a one as was bound for another in the Decennary for his good Behaviour; for in those Days every Person, of twelve Years of Age, was sworn to the King, and found Sureties for his good Behaviour towards the Subject in some Court Leet or other. Now 'tis said, if he had no *Felagus*, then his Armes are to go to the King, which shews it to be meant, of such a particular *Companion*; for there is no Man but has ever some *Companion* or other always living; tho' he that was

that came into this Land with *s Brute*, wyl-
lyng to be unyed and made a Body Poli-

was bound for him in the Leet, as his free Pledge, might be dead. But this is yet made plainer by the words in the latter end of the Law last mention'd; where it is provided, that every Person, once a year at least, must shew his Armes in publick; and it is there given as a Reason, why their Armes should be thus publickly shewn, because, says that Law, no Man should lend out his Armes, *suis Familiaribus & Notis*: which shews evidently, by an alteration of the Terms, that *Felagus*, and *Familiaris*, have in this place a different Meaning. Every *Felagus* is a *Friend*, or *Companion*, but not every *Companion* a *Felagus*.

I have been more particular in this, because some Antiquaries of good Authority, as *Olaus Verelius*, and others, have blamed *Spelman* for expounding *Felagus* in this sense, who in giving the Meaning of that word, says it is *Felagus, quasi fide cum eo ligatus*. Now tho' I think the word can bear no other Exposition, in the Laws before rehearsed; yet I am of Opinion with them, that *Spelman* has mistaken the true Etymology of the word; for he gives *Felagus* a Saxon Original; and would have it come from the Saxon words, *fe*, *fides*, and *lag*, *ligatus*, which seems rather to be a Gingle, than to have any solid Foundation; for those words are not, as I can find, any where used in that sense, in the Saxon Language. The other part of the word, *ship*, comes from the Saxon *scipe*, which signifies a *State*, *Condition*, or *Quality*, of which hereafter, *Index Olaus Verelii Linguae Vet. Scytho Scandinavicae. Gudmundi Andree, Lexicon Islandicum. Somn, Dict. Spelm. Gloss. Lambard's Saxon Laws.*

§ It may be observ'd here, that our Author does not affirm the Story of *Brute* to be true, but only produces it as an Instance, which, upon the supposition of its truth, is very apposite: Tho' whether it be really true or no, is not material in this place, and is left to every Man's own Opinion.

tike

tike callid a Realme, havynge an Heed to governe it; as' after the Saying of the Philosopher, every Communaltie unyed of many parts must needs have an Heed; than they chose the same *Brute* to be their Heed and Kyng. And they and he upon this Incorporation and Institution, and * onyng of *^{i. e. uniting.} themselves into a Realme, ordeynyd the same Realme so to be rulyd and justyfyd by such Lawys, as they al would assent unto; which Law therfor is callid *Politicum*; and because it is mynystrid by a Kyng, it is callid *Regale*. *Dominium Politicum dicitur quasi Regimen, plurium Scientia, sive Consilio ministratum.* The Kyng of *Scotts* reynith upon his People by this Lawe, *videlicet, Regimine Politico & Regali.* And as *Diadonrus Syculus* saith, in his Boke *de prisicis Historiis*, The Realme of *Egypte* is rulid by the same Lawe, and therfor the Kyng therof chaungith not his Lawes, without the Assent of his People. And in like forme as he saith is rulid the Kyngdome of *Saba*, in *Felici Arabia*, and the Lond of *Libie*; And

¹⁰¹¹⁰¹
 i. e. themselves; from the Saxon Pronoun *hem* sylf, from thence comes *themselves*, the plural Number in Saxon being *syf*, as well as the singular. *Hickef. Gram. 32.*

also

also the ⁱ more parte of al the Realmys in *Affrike*. Which manner of Rule and Lordship, the sayd *Diodorus* in that Boke, prayseth gretely. For it is not only good for the Prince, that may thereby the more sewery do Justice, than by his owne Arbittment; but it is also good for his People that receyve therby, such Justice as they desyer themself. Now as me semyth, it ys shewyd opynly ^k ynough, why one Kyng rulyth and reynith on his People *Dominio tantum Regali*, and that other reynith *Dominio Politico & Regali*: For that one Kyngdome beganne, of and by, the Might of the Prince, and that other beganne, by the Desier and Institution of the People of the same Prince.

ⁱ From the Saxon word *mape*, which signifies *greater*; so that the *more part* in all old Authors; stands for the *greater part*.

^k From the Saxon word *genoh*, *genob*; the *g* being turn'd into *y*, as before mentioned, produces *yenob*, and from thence our English *enough*. The Original of this word is Gothick, wrote thus, **ΓΑΝΑΗ**, *Ganah*; which signifies, *ample, enough*. Hickef. Thes. 127.

C H A P. III.

Hereafter be shewyd, the Frutes of Jus Regale, and the Frutes of Jus Politicum & Regale.

AND hou so be it, that the French Kyng reynith upon his People *Dominio Regali*; Yet Saynt *Lewes* sumtyme Kyng ther, ^a ne any of his Progenytors set never Talys

^a *ne*, is a pure Saxon Negative, signifying, *not*, or *neither*. Sometimes the Saxons use *na*, and sometimes *no*, and *noht*, from whence comes our *not*. Sometimes they use *nene*, from whence comes the French *nenny*.

It may be worth observing, that our Author, after the Mode of the Saxons, uses two Negatives here, *ne*, and *never*, in a negative sense; it being usual in that Language as among the Greeks, to have two Negatives in their negative Propositions, as, *Ne eom ic na Cypc, I am not the Christ.* *Matth. Evang. Joh. 1. 20.*

In imitation of which *Chaucer* has, *I ne said none ill.* Sometimes you'll find the Saxons deny by three Negatives, as, among the Laws of King *Æthelstan*, *nan scyls pynhta na lecge nan jceaper pelle on scyls; Let no Maker of Shields, lay any Sheep Skin on any Shield.* *Inter Leg. Æthelstan. 15.*

Nay, sometimes they have used four Negatives to deny more strongly, as, *Ne nan ne doþst of þam bæge hync nan þing maþe axigean; Neither durst any*

Talys or other Impositions, upon the People of that Lond, without the Assent of the three Astatts, which whan they be assemblid ar like
to

any Man from that day ask him any more questions, speaking of our Saviour. *Marése. Evang. Matth. 32. 46. Hic-kes. Thef. 58.*

Yet in some Saxon Authors, as in *Chronologia Saxonica*, & in *Regia Hist. Eccl. Bed. paraphrasi*; the negative Propositions are express'd generally by a solitary Negative, as in the Gothick. But I no where in the Saxon Language find two Negatives to make an Affirmative, as among the Latins; tho' that seems to me to be more agreeable to Nature and Numbers. The Mathematicians say, in relation to their Algebraick Quantities, that Negation imports the Absence, or Defect of a thing, and if you deny that Absence, or Defect, you affirm the Presence, and Completion thereof: Consequently that the denying of a Defect, or a negative Quantity, amounts to an Affirmation, and takes away that Deficiency. According to which Rule, it would not be improper to say, that all even Number of Negatives in Languages, tho' never so many, should make an affirmative Proposition, but all odd Number of Negatives should make a negative one, tho' never so few; for in the last Case, the even Number of Negatives denying, and consequently destroying one another, there remains one single Negative undefroy'd, which makes the Proposition negative; whereas, in the first Case, the Number of Negatives being equal, they all destroy one another, making an Affirmation, in the same manner as two Negatives among the Latins, and so the Proposition remains affirmative. So the four Saxon Negatives before mentioned, in the nature of the thing, do affirm, when the three Negatives, tho' less in Number, do deny; for the second and fourth Negative in the first Instance, destroy the first and the third by denying them,
which

to the Court of Parlement in *England*. And this order kept many of his Successours until late days, that Englishmen made such a War in *Fraunce*, that the three Estats durst not come to ^bgeders. And than for that Cause and for grete Necessite which the French Kyng had, of Goods, for the defence of that Lond, he took upon hym to set Talys and other Impositions upon the Commons, without the Assent of the three Estats; but yet he would not set any such chargs, nor hath set upon the Nobles, for feare of rebellion. And because the Commons, though they have grutchid, have not rebellid or be hardy to rebell, the French Kyngs have yearly sythen, sett such chargs upon them, and so augmented the same chargis, as the same Commons be so impoverishtid and distroyyd, that they † may ^cunneth lyve. They drynke

† mowe,
Laud;
Water, and so al-
ways.

which makes an Affirmation; and in the second instance of the three Negatives, by the same Rule, the second Negative destroys the first, and makes an Affirmation, and then the third Negative, still remaining so, makes the Proposition negative too.

^b This is a Saxon word, and is wrote thus, *together*, and signifies, *together*. It comes from the Saxon Verb, *gabeman*, to assemble, or gather together. Somn. Sax. Dictionar.

^c i. e. *can scarce live*. The word, *unneth*, is a Saxon word

C

Water, thay eate Apples, with Bred right brown made of Rye. Thay eate no Fleschie, but if it be selden, a litill Larde, or of the Entrails

Word, and is wrote thus, un-eape, *unecæbe*, *scarcely*; as, un-eape Iraac geenboð þar ƿppæc; *Isaac had scarce ended his Speech*. Thwait's Hept. Gen. 27. 30. It is a compound word, from *un*, which is a negative Particle, and the Saxon, *eape*, *easily*, and so word for word, signifies *not easily*; and from thence comes the Saxon un-eape-lic, *impossible*, or *not easily*; *lic* in the Saxon standing for the same as *ly* in modern English. *Som. Sax. Dict.*

* *But if*; is an old English Phrase for *except*, or *unless*. As in the Vision of *Peirce Plowman*, are many Examples of this kind to be found, as,

And beate Beton therwith, but if the will werk,
Unblesed art thou, Bruner, but if the Gode help.

So also in *Chaucer*, and many other old Authors. Now the Word, *but*, manifestly comes from the *Dano-Saxon*, *buta*, *butan*, or, *buton*, which signifies, *except*, *save*, *unless*; as, Ne gereah nan Man ƿæðer buton je þe 17 of Gode, *No Man hath seen the Father, except he which is of God*. *Evang. Marefc. John 6. 46*. From hence comes our English word, *but*, in this Expression; I have all, *but* three, *i. e. except* three. Sometimes *butan* signifies *beside*, or *without*, as *butan æ*, *Exlex*, *an outlaw*; *butan ƿte*, *without* punishment. In Teutonick, it is *buten*, in *Chaucer*, *bout*. From hence comes the Scotch *but*, used to this day, as, *but* ony indigence, *without* any defect; *but* spot of crime, *without* mark of crime; *but* doubt, *without* doubt. *Hicel. Thef. 57. Kilian. Somn. Sax. Dict.*

* This word is used both in the Saxon and Teutonick;
in

Entrails, or Heds of Bests: clayne for the Nobles, and Merchaunts of the Lond. They weryn no Wollyn, * but if it be a pore Cote ^{* unless it be.} under their uttermost Garment, made of grete Canvas, and cal it a Frok. Their ^f Hosyn be of like Canvas, and passen not their Knee; wherfor they be gartrid and their Thyghs bare. Their Wifs and Children gone bare fote; they

in Saxon 'tis wrote thus, *selben*; in Teutonic, *selten*, *seld*, *seldom*, *rarely*; in the German Tongue, 'tis *selten*. There is no great doubt but the Saxon, *selben*, comes from *selb*, which signifies *rare*, *seldom*, the comparative is *selbon*, or *selbje*, *more seldom*, and the superlative *selborc*, *most seldom*, or *very often*. In this, the Saxons imitate the Greeks and Latins; but we have lost most of the Saxon comparatives and superlatives, by using the words, *more* and *most*, in our modern English, tho' we retain many of them to this day. Among the Saxon Laws we meet with the word *unselbon*, *not seldom*, *unseldom*, or *oftentimes*. Lambard's Saxon Laws, p. 82. Hickef. Thes. 57. Somn. Sax. Dict.

* This comes from the Saxon *hoza*, which signifies a *Stocking*, or *Hose*. Now all Saxon Nouns ending in *a* in the singular Number, end in *an*, or *en* in the plural; as *præga*, a *Prophet*, in the singular Number, is *prægan*, in the plural; so *hoza* in the singular, *hozan* in the plural; and from thence, *hosen*, *hosyn*. And from this termination we have many old English words derive their original, as *housen* and *shoen*, and many others used by the vulgar in several Counties to this day. *Vid. Hickef. Thes. 10.*

may in non otherwyfe lyve. For ƿ sum of them, that was wonte to pay to his Lord for his Tenement, which he hyrith by the

• This is Saxon; 'tis *sum* in the masculine Gender, and *sume* in the feminine; which sometimes, among the Saxons, signified an *individual*, or *single person*, as, On Depoer dagum Iubea cýninges ƿær sum ƿæcep on naman Zacharias; *There was in the days of Herod, the King of Judea, a certain Priest, named Zacharias.* It also signifies in this Language a number that is not precisely certain, but very near it, as, Ða ƿæpon hi sume ten gear on þam gearinne, *They had Wars about ten Years*; or, as the Idiom yet remains in some Countries, especially among the vulgar, *they had Wars about some ten Years.* Boethius de Consolat. Philosoph. Saxon. p. 114. Hicel. Thef. 28.

Sum, is also, among the Saxons, used as a termination, signifying something less than the termination *ful*, and denotes a subject that has somewhat of a particular Quality in it, but not in the full Extent of that Quality; as from the word *lang*, *long*, is form'd *langrum*, *langsome*, or *longsome*; which does not signify *very long*, but what has something of *length* in it, and is not *short*, but a *medium* between *short* and *long*, for which we have no modern English word. From thence come our English words, *delightfulsome*, *wholesome*, *toilsome*, *fulsome*, *lonesome*, and such like. This word *Sum*, comes from the Gothick **SNMS** and **SNMA**, which signify *some*, or *one*. Isaac Casaubon says, our English *some*, comes from the Greek *σώμα*, *corpus*; but whether that be more than a notional Conjecture, I leave to better Judgments; for the Gothick and the Greek probably came from one common Language spoken by the Sons of Japhet. See Gen. 10. 1, 2, 3, 4, 5.

Yere,

Yere, a ^h Scute, payyth now to the Kyng,
 1 over

^h A *Scute*, was a French Gold Coin, and is the same with their *Escus*, or *Ecus d'Or*, a *Crown of Gold*, or *Gold Crown Piece*. It was coin'd about the Year 1427, in H. V.'s time, and was of the value of 3 s. 4 d. *Monsieur du Chesne*, in his *Histoire d'Angleterre*, says, upon the surrender of *Roan* to H. V. the Citizens were to pay 365000 of the *Escus d'Or*, *du Coin de France*. *Speed* calls these Coins, *Crowns of Gold*, and *Trassel*, *Skutes of Gold*, every two of them of the value of an English *Noble*. But our Author himself has fix'd the value, beyond dispute, to be 3 s. 4 d. for he says in his *Book de Laudibus Legum Angliae*, the expence of one Serjeant at Law, when call'd to that Degree, was 1600 *Scutes*, and of eight Serjeants, when called together came to 3200 *Marks*; and then, speaking of the Rings, such Serjeants give away, on that occasion, he says, the cost of his Rings was 50 *Pounds*, amounting to 300 *Scutes*, which is 3 s. 4 d. each *Scute*.

Now the word *Scute*, comes from the old French word *Escu*, which signifies a *Crown*, or *gold Money*; as, *un Escu*, anciently signify'd, *nummus aureus*; and the French phrase, *un qui a Force Escu*, signify'd, one who was a *mony'd Man*, *bene nummatus*. *Escu* also signify'd a *Shield*, or *Target*, and sometimes stood for the Coat of *Armes blazon'd* on such *Shield*; as, *L'Escu de France*, is the *Armes of France*. From *Escu*, comes the French word *Escuyer*, and from thence our English *Esquire*. This, says *Nicot*, is the first degree among the Titles of the *Noblesse in France*, and is called in Latin *Scutifer*, as one who bears a *Shield*, and has a right to *Coat Armour*; for an *Escuyer*, says he, is properly one who has a right to bear a *Coat of Armes* on his *Shield*; so that every *Escuyer in France* is a *Gentleman*, for none is there esteem'd a *Gentleman*, who has not a right to a *Coat of Armes*. From hence comes the word *Escussion* in French, and from thence our word *Escutcheon* in English. *Escu* originally

¹ over that Scute, fyve Skuts. Wher through they be ^k artyd by necessite, so to watch, labour, and grub in the Ground, for their Sustenance, that their nature is much wastid, and the Kynd of them brought to nowght. Thay gone crokyd, and ar feble, not able to fyght, nor to defend the Realme; nor they have wepon, nor monye to buy them wepon withal; but verely thay lyvyn in the most extreme Povertye and Myferye, and yet thay dwellyn, in one, the most fertile Realme of the World; wher through the French Kyng hath not Men of his owne Realme, able to defend it, except his Nobles, which beryn non such Impositions; and therfor thay ar ryght likely of their Bodys, by which cause the said Kyng is com-

nally comes from the Latin word *Scutum*, a *Shield*, and that comes from the Greek *Σκῦρον*, which signifies a *Hide*, or *Leather*, of which Shields were, among the Greeks, anciently made, and with which sometimes cover'd; and indeed, in the time of the Saxons, our Shields were cover'd with Leather, as appears by a Law of King *Æthelstane* before mention'd, whereby 'tis prohibited, that *Shields* should be cover'd with so thin a Leather as Sheep Skin, *Du Chesne Hist. Angl.* 828. *Cronicon Precios. by the learned Bishop of St. Asaph* 23. *Fortescue de Laud. Leg. Angl.* 118. *Nicot Fr. Dict.*

¹ From the Saxon word *opref*, which signifies, *supra*, *above*. *Somn. Dict.*

^k i. e. *arcted*, or *coarcted*, from the old French Verb, *coarctar*, which signifies to *press*, or *restrain*.

pellid

pellid to make his Armys, and Retennys for the defence of his Land, of Straungars, as *Scotts*, *Spaniards*, [†] *Arragonars*, Men of [▪] *Almayn*, and of other Nacions, els al his Ennymys might overrenne hym. For he hath no Diffence of his own, excepte his Castells, and Fortrais. Loo this the frute of hys *Jua Regale*. Yf the Realme of *Englond*, which is an Ile, and therefor may not lightly get So-coures of other Londs, were rulid under such a Lawe, and under such a Prince, it would be than a Pray to all other Nacions that would conquere, robbe, and devouer yt; which was well prouvyd in the tyme of the *Brytons*, whan the *Scotts* and the *Pyetes*, so bette and oppressyd this Lond, that the People therof foughte helpe of the Romayns, to whom they had byn Trybutorye. And whan thay could not be defendyd by them, they fought helpe of the Duke of *Brytayne*, than callid *Litik Brytayne*, and grauntyd therfor, to make his Brother *Constantine* their Kyng. And so he was made Kyng heere, and raynyd many Yers,

[†] i. e. *Aragonians*.

[▪] i. e. *Germany*; it is called *Almayne* in *Chancer*, and all other old English Authors, from *Alemania*, in Freuch *Allemagne*.

and his Children after hym, off which grete *Artbure*, was one of their Yssue. But bleffid be God, this Lond ys rulid under a better Lawe, and therfor the People therof be not in such penurye, nor therby hurt in their Persons, but thay be wealthye and have al thyngs necessarye, to the sustenaunce of Nature. Wherfor thay be myghty, and able to resyste the Adversariis of the Realme, and to bett other Realmes, that do or will do them wrong. Loo this is the Frute of *Jus Politicum* & *Regale*, under which we lyve. Sumwhat now I have schewyd you of the Frutys of both Lawys, *Ut ex fructibus eorum cognoscatis eos, &c.*



C H A P

CHAP. IV.

Hereafter ys ^a schewyd how the Revenuz of Fraunze be made grete.

SETHEN our Kyng reynnith upon us by Lawys more favorable and good to us, than be the Lawys by the which the *Frenche* Kyng rulith his People, hit is reason we be to hym more good, and more profitable than be the Subgetts of the *Frenche* Kyng unto hym, whych it would seme that we be not, confyderyng that his Subgetts ^b yeldyn to hym more in one Yere, than wee do

^a From the Saxon *ſceapian*, *to shew*. And here it may be observed that *ſc*, among the Saxons, is, in our modern English, generally turn'd into *sh*, as in the Nouns, *ſceopt*, *ſceo*, *ſcip*, *ſcipe*, in English, *short*, *shoe*, *ship*, *shire*: so in the Verbs, *ſceotan*, *ſceapan*, *ſceaban*, *ſceappan*, in English, *to shoot*, *to shear*, *to shade*, *to sharpen*; and so in many more instances too tedious to insert. *Somn. Sax. Dict.*

^b That is, *pay*, for this word *yeldyn*, comes from the Saxon Verb *gelban*, or *gylban*, *to pay*; and from hence it is, that in *Doomsday-book* you frequently meet with *gildare*, *to pay*, or *render*. *Ibidem*, tit. Somersf. Wells. *Epiſcopus ipſum oppidum tenuit, quod pro 50 hidis gildaret.*
And

do to our Soverygng Lord in two Yers, how so be it that thay do so, ageyn their Wills, Nevertheles whan it is confydryd, hou a Kyng's Office stondith in two Thyngs, one to defend

And from *gilban*, comes the Saxon word *gelb*, or *gylb*, a tribute, payment, or money; in Dutch, *gelt*, to this day. In the *Media Latinitate* it is render'd *Geldum*, signifying, a Tax. Hen. Huntington. *Hist. lib. 7. de Willielmo Rufo, in Anno 1100; Vicinos Werra suos, exercitiis frequentissimis & geldis continuis vexabat.* So in *Doomsday-book, hoc totum habet, un. Mil. in long. & dimi. in lat. & de 20 s. reddit. 15 d. in Gelto.* But this word *gilb*, among the Saxons, had another signification, which was, a *mult*, or compensation for a Crime, as, *pep-gilb*, a compensation for the death of a Man, the value or price of a Man who was slain. It is from the same original, that our old English word, *Gild*, signifying a Corporation, Company, or Fraternity, is deriv'd; in barbarous Latin, *Gilda*, and sometimes *Gildonia*; for that every one was *gildare*, to pay something toward the support of the whole Community; and from thence it is, that the Places, where these Corporations meet, are call'd *Gild-hallas*, in English, *Gild-halls*, i. e. *Halls* of the *Gild*, or Society; and to this day we find the publick Feasts, among the Germans, call'd *Gilden*. And indeed, anciently, the Inhabitants of Towns and Burroughs in England, were incorporated by Grants from the King, by the words, *Gildam mercatoriam*; and so was the Charter of *H.I.* which was granted to the Weavers of London, by which he granted to them, that they should have, *Gildam mercatoriam*, there being no other words of Incorporation used in those days,

I think it will not be amiss in this place to observe that the Saxon *ȝ*, is very often in modern English soften'd into *y*, both in the beginning, middle, and end of words. In the beginning, as in *yeman*, or *yeoman*,

defend his Realme ageyn their Ennymes out-
 ward, by Sword, another, that he defendith
 his People ageyn wrong Doars inward, * which
 the *Frenche* Kyng doth nott; sythen he op-
 pressith them more hymself, than would have
 done al the wronge Doars of the Realme,
 though thay had had no Kyng. And sythen
 yt is a synne, to gyve no Mete, Drynke, Clo-
 thyng, or other Almes, to them that have
 nede, as shall be declaryd in the day of
 * Dome; hou mych a gretter Synne is it, to
 take

* inward
 bi justice,
 as it ap-
 perith by
 the said
 first Book
 of Kings,
 which the
 French
 King doth
 not, tho
 he keep
 Justice
 betwene
 Subject
 and Sub-
 ject, sy-
 then he
 oppres-
 sith, &c.
 Laud.

yeoman, from the Saxon *geman*; *year*, from the Saxon
geape; *yoke*, from *geoc*; so *yield*, or *yield*, from the
 Saxon *gelo*: So in the usual phrase in Leases, where
 Rent is reserved, by the words *yielding and paying*, by turn-
 ing the *y* into *g*, in Saxon it is *geloeng*, or *gelobing*,
 which signifies properly *rendering*, and answers to the La-
 tin, *reddendo*; and this, indeed, is most suitable to the
 Nature of a Rent reserved, which is to restore, or give
 back a part, in lieu of the whole so leased. So you find
 in *Pierce Plowman*, *Yet will I yeld again, if I co*
much have. This Letter *g* is also liquified in the middle,
 as in the word *sail*, from the Saxon *saegl*; *snail*, from
snægl; *tail*, from *tægl*; *fair*, from *faeg*: So in
 the end of words, as in *day*, from the Saxon *dæg*; *pop-
 py*, from *papig*. *Hiccf. Thes.* 4. *Spelm. Gloss. Register*
of Writs, 219. *Co. Rep.* li. 10. p. 30.

‡ This is perfect Saxon, and signifies, a *Sentence*, *De-
 cree*, or *Judgment*. Sometimes *come*, or *dom*, is us'd
 as a termination to Nouns Substantive, signifying an *Of-
 fice*, or *Duty*, with Rule or Government; as in *Lynning-
 come*, or *Lynngome*, in English, *Kingdom*; *Calbon-
 come*,

take from the pore Man, his Mete, his Drynke, his Clothyng, and al that he hath neede off? Which verely doth the *Frenche* Kyng

some, *Sheriffwick*; the *Sheriff*, in the Saxon Times, being always a *Nobleman*, called *Ealþop*, or *Ealþopman*, from whence comes our English *Alderman*, in Latin, *Comes*. So *Birceop-some*, signifies *Bishoprick*; and from thence we have the English words *Popedome*, *Duke-dome*, *Christendome*, and many others. Sometimes again, *þom* denotes the *State*, *Condition*, or *Quality of any thing*, as, *freoþome*, *freedom*; *huþeþome*, *whoredom*; *wiþþome*, *wisdom*; *þeopþome*, *thraldom*. So the words, *þome*, and *þomar*, signify'd the *Statute* and *Common Law* among the Saxons; as among the Laws of *Ina*, King of the West Saxons, it is provided, *þæt nænig Ealþopmanna ne uþ unþeþ geþeodeþþa æfter þam þe apenþeþe þær uþe þomar*; in English, *That no Nobleman, or other Subject, dare to break or pervert our Laws*. Inter Leg. Inæ, Lamb. Arch. p. 1. Hence the Statute Book, or Book of Laws among the Saxons, was called *Dome-boc*, *Dome-book*, as, *þete swa þom-boc tæce*; *compenset, sicut Liber Judicialis statuerit*; *let him make such recompence as the Doom-book teaches*; which, no doubt, refer'd to the Body of Laws in those Times. Inter Leg. *Edwardi sen. capite 8*. So, in the Law of King *Edgar*, for keeping the Sabbath, it is said, *healþe mon ælceþ tunnan bægeþ, freoþ. fram nontide þær tæteþneþ bægeþ oþþær monan bægeþ lihting. be þam wite ðe þom-boc tæcþ*; *let every Man keep Sunday holy; from three a Clock of Saturday in the Afternoon, to break of day on Munday, on such a penalty, as the Doom-book, or Book of Laws appoints*. Inter Leg. *Edgar. cap. 5*.

Now when the Bishop and Earl, by the Saxons called, *Birceop*, and *Ealþopman*, sat together in the County Court, as they did until the Conquest, and before the Courts

Kyng to many a † M off his Subgetts, as it † ^{thow-}
 is opynly before declaryd. Whych thyng, ^{sand.}
 though it be colowryd *per Jus Regale*, yet it
 is Tyrannye. For, as Saynt *Thomas* faith,
 whan a Kyng rulith his Realme onely to his

Courts at *Westminster* were erected, they judged all Cau-
 ses, both temporal and spiritual; and as the Bishop and
 spiritual Judge, used to carry with him to Court, a *Book*
of Canons, not only to direct him in his Decrees, but as
 an Ensign of his Authority; so the Earl, who was the
 temporal Judge, carry'd this *Dome-book* with him, which
 was the Body of the temporal Law, for the same pur-
 poses.

From hence, I conceive, comes the name of the
 famous Book, called *Doomsday-book*; the question whe-
 ther Lands are ancient Demefn or not, being finally to
 be determined by the Decree and Sentence of that Book,
 from which there lies no Appeal, nor against which any
 Averment is allow'd by the Law. And this is to be
 done on *Court-days*, or *Judgment-days*; which I con-
 ceive to be the Reason of the word *Day* in *Dooms-*
day; for *Day*, or *Dey*, does not signify a *Judgment*, or
Decree, as some have thought, but it comes from the
 Saxon word *ðæg*, which is us'd only for *day*, and has
 no such signification belonging to Law, or Law Pro-
 ceedings, as those Authors imagine. *Fitz Herbert*, in his
Nat. Br. and some others say, *Doomsday-book* was made
 in *Edward* the Confessor's Time; but that is certainly a
 mistake; for by the Saxon Chronicle, and other Authors,
 it appears to have been begun in the Year 1085, which
 was in the twentieth Year of the Reign of *William* the
 Conqueror. From the word *ðome*, comes *ðome*,
 which signifies, a *Court*, *Place of Judgment*, or *Judg-*
ment-Hall, and *ðome-ſetle*, signifies a *Judgment-Seat*.
Marefc. Evang. 18. *John* 28. *Hicck. Thef.* 12. *Differt.*
Pistol. 60. *Chron. Saxon.* 186. 49 Ed. 3. 23.

OWN

* He-
ronde,
Laud.

own profytt, and not to the good of his Sub-
getts, he ys a Tyraunte. King * *Harauld*
reynyd upon the *Jewys*, *Dominio Regali* ;
yet whan he slough the Children of *Israell*,
he was in that a Tyraunte, though the Lawes
sayen, *Quod Principi placuit, Legis habet*
vigorem. Wherfor *Achab*, which reynyd up-
on the Children of *Israell*, by like Lawys,
and desyryd to have had *Naboth*, his Subgetts
Vyneyard, would not by that Lawe take it
from him, but proferyd hym the Value ther-
of. For thees words, said by the Prophete,
Pradic eis Jus Regis, be not els to say but,
Pradic eis Potestatem Regis. Wherfor as of-
tyn as a Kyng doth any thyng^d ageyn the
Lawe of God, or ageyn the Lawe of Nature,
he doth Wrong, notwithstanding the said
Lawe declared by the Prophete. And yt is
so, that the Lawe of Nature woll, in this
Case, that the Kyng schuld do, to his Sub-
getts, as he would be done to hymself, if
he were a Subgett, which may not be that
he would be almoste destroyyd, as be the
Commons of *Fraunce*. Wherfor, albeit that
the *Frenche* Kyng's Revenuz be, by such
meanys, miche gretter than be the Reve-
nuz, which the Kyng, our Soveryng Lord,

^d From the Saxon agen, *against*.

hath

hath of us, yet they be not e goodly takyn, and the Might of his Realme is nere destroyd therby. By which Confideration I would not, that the Kyng's Revenuz of this Realme, were made grete by any such meanys; and yet of necessite thay must be gretter than thay be at this Day. And truly it is verey necessary that thay be alway grete; and that the Kyng have aboundantly, wherwith his Astate may be honorably kepte for Right many Caufys, of which fume schal now hereafter be remembryd.

* i. e. *justly*, or *righteously*; *goodly* coming from the Saxon word *gob-lc*, compounded of *gob*, which signifies *good* and *just*, as well as *God*; and *lc*, which, in our modern English, is *ly*.



CHAP.

CHAP. V.

¶ Land. *The harmes that come of a
Kyng's Povertie.*

FIRST, if a Kyng be powre, he schal by necessite makes his Expences, and by al that is necessarye to his Astate, by a Creauce of borrowyng, wher thowrough, his Creauancers wyll wyne upon hym the 4th or the 5th Penny, of all that he dyspendith. And so he schal lose, when he payeth, the 4th or 5th parte of his Reventz; and thus be therby alway porer and porer. For Usury

¶ Penny.
Land.

• In Imitation of the Saxon *þ*, that.

• This is an old French word, and signifies the same as the modern French, *Creance*, *Credit*, or *Trust*; from thence comes *Creancier*, a *Creditor*, which comes from the Verb *Creancer*, to *promise*, or *undertake*. This brings to my mind a French Proverb, which we find in History, wherein the word, *Anglois*, *Englishmen*, is us'd for *Creditors to France*, to the honour of the English Nation; and that was, when a Frenchman had paid all his Creditors, he us'd to say, *Jay payé tous mes Anglois*, *I have paid all my Englishmen*. This Proverb was suppos'd to have had its rise, from the numerous Debts and Sums of Money, that *France* contracted with, and was to pay to *England*, upon account of the many Conquests made by our Kings of *England* in the Kingdom of *France*.
Nicot.

and

and ^b Chevefaunce, increaseth the Povertie of hym that borowyth. His Creauncers schal always grutch for lacke of their Payment, and diffame his Highness of Mysgouvernaunce, and Defaute of kepyng of * Days; which yf he ^{* i. e. of} kepe, he must borowe as much at the Days, ^{payments.} as at the first. For he schal be than porar than he was, by the Value of the 4th or 5th parte of his first Expenses; and so be alway porar and porar, unto the tyme he be the po-

^b This word is an obsolete French word, and I find it wrote thus, *Chevissance*, signifying an *Agreement*, or *Composition between Debtor and Creditor*, in relation to the loan of Moneys; and this comes from the old French word *Cbevir*, to come to an *Agreement*, or make a *Bargain* touching Property; and from hence the old French word, *Chevance*, is us'd for *Goods*, *Money*, or *Riches*. In barbarous Latin, 'tis *Chivancia*, which you will find in *Chart. Edwar. II. Reg. Angl. in Monast. Angl. Tom. 1. p. 359. Quod idem prioratus pene destructus, & possessiones sua ad plurimos terminos, pro plurimis Chivanciis alienate existunt.* *Chevisance*, in its original signification, meant nothing of corruption, as here in our Author it seems to do; but it now generally signifies, a *corrupt*, *usurious*, and *illegal Contract between Debtor and Creditor*, and is so us'd in our Laws, Statutes, and Histories, and particularly in the Statutes of Usury.

The word *Chevisance* is originally Italian, from whence most of our words relating to Merchandise and Trade, are deriv'd. It comes from the Italian word, *Civanza*, which signifies *advantage*, *odds*, *increase of profit*, or rather *shifting for profit*; and that from the Italian Verb, *Civanzare*, to *forecast*, and *shift how to get*. Torriano Vocabolario Italiano & Inglese. Monf. Menage Origini della Lingua Italiana. Du Fresn. Gloss.

D

rest

rest Lord of his Lond. For such maner of borrowing, makyth the grete Lords to be porat than their Tenaunts. What Dishonour is this, and abatyng the Glory of a Kyng! and yet ye is † leste to his owne sewertie. For his Subgetts wol rather goo with a Lord, that is rich, and may pay their Wags and Expenss, than with their Kyng that hath nowght in his e Pryss, but thay must serve hym, if they wil do so, at their own Dispenses. Item, if the Kyng be poer, he schal of necessite make his Gyfts and Rewards by d Assignments, for which he schal have but litil thanke. For the poer Man had rather have a 100 Marks in hand, than a 100 Pound by any Assignment, which peraventure schal cost hym e right mych f or

† But yet
ye ys most
to hys un-
syrrie,
Laud.

• *Pryss*, i. e. *Pyrss*, or *Purse*. This is after the manner of the Saxons, who have many words, wherein, if you transpose a Letter, as by putting sometimes the Vowel before the Consonant, and sometimes the Consonant before the Vowel, they become perfect English, as, *ƿoppr̄t*, for *frost*; *cnætt*, for *cart*; *bp̄ttbe*, for *bird*; *f̄yph̄to*, for *fright*; *ƿæpp̄r*, in the West Country at this day called, *waps*, for *wasp*; *Ʒopp̄r*, for *grass*; so *beopht̄*, for *bright*; *bepp̄t*, for *best*, and many others. *Thef. Lingu.* 4, 5.

• i. e. by *Grants*, and *Assignments of demands and duties payable to the Crown*.

• From the Saxon *juht*, which signifies *right*, *just*, and *true*. It signifies also a *Law*, *Statute*, *Decree*, *Equity*, or *Justice*; but in this place it signifies *adverbially*, and means the same

For he can gett his payment, and peradventure
 be never paid thereof. And oftentimes for
 lacke of Money, the Kyng shal be fayne to
 gyve away his Land, to such as would have

same as in modern English is express'd by the word *very*,
 or *greatly*; as, for instance, the Saxon *riht-piſe*, is
 render'd *greatly*, but word for word, it signifies *very much*, or
very great. So in the Saxon word, *riht-piſe*, from whence
 comes our English word, *righteous*; the true meaning of it
 is, one *very wise*; or *truly wise*; and from thence is, the Sa-
 xon, *riht-piſe-nýtt*, in English, *righteousness*, which
 signifies word for word, *true Wisdom*, or *very great Wis-
 dom*. This use of the word *right*, is almost lost, but in
 some Expressions it is yet retain'd among us to this day;
 as in the Appellation, *Right Worshipful*, when apply'd to
 Magistrates of a lower Rank; and in *Right Honourable*,
Right Trusty, and *Right Reverend*, when apply'd to Peers,
 Prelates, Privy Counsellors, and Magistrates of a superior
 Rank. Sometimes it signifies, as in the Latin, *recta*;
streight on, *just before you*; as, *east-riht*, is, *just East*,
 or *exactly East*; from hence comes the Expression, in the
 West of England, *fore-right*, that is, *just before you*, *streight
 on*; so *þær-riht*, signifies, *illico*, *immediately*, *just then*.
 Somn. Sax. Dict. Benson Vocab. Angl. Saxon.

Or, does not here stand for a Conjunction, but for
 an Adverb of Time, and comes from the Saxon *ær*,
 which signifies, *first*; or *before*, and in modern English,
 is wrote thus, *'ere*, or *'er*. So in Saxon, the word
ær-bopen, is, *primogenitus*, *first-born*; *ær-onfangan*,
to anticipate; *ær-gýrpan-bæc*, *the day before yesterday*;
ær-leoht, *day-break*; *ær-men-gen*, *early in the morn-
 ing*. From hence it may be judg'd, whether, in modern
 English, to write *'er*, be not better Orthography, than
 to write it thus, *'ere*, wherein you add another letter,
 not in the original word. Somn. Sax. Dict. Benson Sa-
 xon. Vocab.

be a *sayner* of a 100 Pound in hand, than of 40 Pound worth of Land yerely, to the grete abating of his Revenuz, and Depopulation of his Realme. But the gretest harme, that comyth of a Kyng's Povertie, is, that he schal by necessite be arid, to fynd * *exquisite* meanys of getting of Goods, as to put Deffaulte in som of his Subgettys, that be Innocents, and upon the riche Man, more than the pore, because that he may better pay; and so schewe *Rigour* ther as Favor ought to be schewyd, and so schewe Favor ther *Rygor* schuld be schewyd, to the *Perversion* of Justice, and *Perturbance* of the Peace and Quiet of the Realme. For, as the Philosopher saith in his *Eticks*; *Impossibile est indigentem operari bona*. I needith nott now to specife, of the harmys whych comyth to a Realme by the Povertie of their Kyng, hou so be it thay be many moo than we have schewed yet; for every wise Man may see them opynly inowgh, but we must hould it for undoubtyd, that ther

* *requisite*,
Laud.

* *Fain*, comes from the Saxon Adjective, *fægen*, *bilaris*, *desirous*, or *glad*; the comparative Degree is, *fægenep*, and from thence, by turning the *g* into *y*, comes the word *sayner*, which signifies *more glad*, *more desirous*, or *had rather*. Somn. Sax. Dict.

* Now it is, *where as*.

may

may no Realme prosper, or be worshipping
and noble, under a poer King.

From the Saxon, *weopð-ryce-pul*, now *weopð*, signifies *Worth*, or a *worthy Person*, and that comes from the Saxon Verb, *weopðian*, *venerari*, to esteem, reverence, and value. *Ship*, comes from the Saxon terminations, *rycyp*, or *ryce*, signifying *the Condition*, or *Quality of a thing*, or *person*; as, *þegn-ryce*, *Thani dignitas vel manus*, the *dignity*, or *title of a Nobleman*; from hence we have our English termination, *ship*, as in *Stewardship*, *Aldermanship*, *Worship*. So also *ful*, in English *full*, is a Saxon termination, and signifies the *Completion*, or *Perfection of the Quality spoken of*, as, *manful*, *full of Man*, or *Sin*; for *Man*; in the Saxon, and in the ancient *Scandian Gorbick Mein*, signifies *Sin*, or *Wickedness*, as well as *Man*; and therefore the word *manful*, in Saxon, stands sometimes for a *Publican*, or *Sinner*, and *manfulnyrr*, for *Wickedness*. Hence it may be observed that, as *God*, among the Saxons, signify'd *Good*, as well as *God*, so the Saxon *Man*, signify'd *Sin*, as well as *Man*. Thef. Ling. 12. Wallis Grammatica Linguae Anglicanae, p. 114: *Somn. Sax. Dict. Marefcal. Evangel.*



CHAP. VI.

Ordynances for the Kyng's^a Ordinarye Chargys.

AND fethen it is necessarye that the Kyng be alway riche, whiche may not be without he have Revenuz sufficyent for the yerely Mayntenaunce of his Estate; hys is^b behoveful that we first esteeme, what his yerely chargs and expenscs be like to drawe unto. For after that, nedith his Revenuz be proporcyonyd, but yet they nedyn to be gretter than would be the chargs, for doute of sodeyn Casys, which^c mowe fal to hym, and to hys Realme. For Saynct *Barnarde* saith, that if a Mannys expenscs be egal to his Lyvelood, a sodeyn Chaunce may destroy his

^a In modern Phrase, this would be called, I suppose, the Civil List.

^b Sometimes it's *behaveable*, from the Saxon *behopic*, which comes from the Verb *behopan*, *to need*, or *to have need of*; from whence comes the Saxon *behopað*, *it behoveth*; Killian. *behoeven*. In the old Psalms you often meet with *behoof*, which signifies natural or moral need; so that *behaveful*, or *behoof-ful*, signifies what, from necessity or decency, ought to be said or done.

^c The same as *moue*; which see before, in the word *may*.

Estare.

Estate. The Kyngs yerly expenss stondyn in chargs Ordynarye, and in chargs Extraordynary. His chargs Ordynary, may not be eschewyd, and therfor it nedith that ther be Lyvelood assignyd for the payment thereof; which Lyvelood be in no wyse putt to no other use. And if it happyn that any Patent be made of any parte thereof to other use, that than the Patent to be voyde, and of non effecte: Which thyng, yf it be fermely establyshid, the Kyngs Ordinary chargys may alway be paid in hand, and the Provyfyon of them may be alway made in season; which schal be worth to the Kyng the fourth or fifth part of the quantite of his expenss for his Ordynarye chargs. This may in nothyng restryne the Kyngs Power. For it is no Power to ^d may alien, and put awaye: But it is Power to may have, and kepe to hymself. So it is no Power to may fyne, and to do yll, or to may be fyke, or wex old, or that a Man may hurt hymself. For all thees Powers comyne of Impotencye. And therfor thay may properly be callyd, non Powers. Wherefor the holy † Spirites and Angels, that may † ^{Sprytes,} _{Laud.}

^d To may alien, to may have, i. e. to be able to alien, and to be able to retain, from the Saxon Verb, magan, posse, to be able; which see before, in the word may.

not fyne, wex old, be fyke, or hurt themselfe, have more power than we that may harme our self, with al the Defawts. So is the Kyngs power more, in that he may not putt from hym Possessions, Necessarijs for his own Sustenance, than if he might put them from hym, and alyene the same to his own hurt and harme. Nor is this ageyn the Kyngs Prerogative, by which he is exalted above his Subgetts: But rather this is to hym a Prerogative. For no Man save he, may have ageyn the Land that he hath ons alyenyd. This Lyvelood assigned for the Ordynarye charges schal afterward be never askyd of the Kyng. Nor his Hyghness schal thynk for that, that he hath the more Lyvelood to be gevyn away; but by reason therof he woll the more restrayne his Gyftes of other of his Lyvelood, confydering that then it wol not be grete. And therfor he schal have more need of it, than they that wol aske it. The Ordynarye charges, which the Writer hereof can now remember be thees; the Kyngs Household, his Garde Robe. And hou so be it, that the Kyng live now, or will hereafter, make his Household less than it was wont to be; yet his Highness schal then have therefore aboute his person, for his Honour and Sewertie, Lords,

Knights, and Esquyers, and other al-
formed, in as grece nombre, or gretter than hys
Household

This word, *Knicht*, is a Saxon word, and wrote with
a C, thus, *Cniht*; and in its original and proper Signi-
fication stood for *Servus*, or *Puer*, a *Servant*. But this
Signification of *Cniht* is now almost lost, and is retained
among us in no one Instance, says *Sommer*, except in that
of *Knights* of the Shire, which is still used in that Sense
to *this Day*, signifying such Gentlemen whether *Knights*
in Degree, or not, who *serve* in Parliament for the feve-
ral Counties in *England*. And such Attendance is prop-
erly called a *Service*, and was always so esteemed in the
Eye of the Law; and the proper Duty of their Office is
to *serve* the feveral Counties, whereof they are *Represen-*
tatives, and therefore no Action at Common Law would
lie for a false Return of Members of Parliament. So that
Knicht, or *Cniht*, is now, in all other Instances, used for
Eques Auratus, or as vulgarly render'd, *Miles*; but it was
never used in that Sense among the English Saxons; for
they used the word *þegen*, *Þegen*, commonly called *Thain*;
and a Knight among the Saxons, was one of the lesser, or
more inferiour Thains, from the Saxon Verb, *þenjan*, to
serve, or *to obey*; from whence comes the Prince of *Wales's*
Motto, *Sub iugo*, which signifies, *I serve*.

So in the Saxon Gospels throughout, you find *leorning-*
cniht stands for a *Disciple*, which word for word signifies
a *learning Servant*. Now *cnapa*, in Saxon signifies also a
Servant; but such a one as was the most inferiour, and in
Latin is rendered by *Puerculus*, a *little Boy*, or *Jacky*.
From this word, *cnapa*, comes our English word, *Knave*;
and from thence came the vulgar Error, that the Transla-
tors of the new Testament had rendered, *Rom. I. I. Paul*
a *Knave of Jesus Christ*, instead of *Servant of Jesus Christ*,
to shew his great Humility in calling himself the meanest
Servant of Jesus. But this appears to be a Mistake, for no
English Translation of the New Testament, as I can hear of,

ever

Houſhold was wonte to be, to hys charge per
 aventure, as gretely as his Houſhold wel rulid
 was wont to ſtand hym yn. Wherefor herein,
 it nedith not to conſydre or to purvey, but
 only for the Kyngs Houſe, which he may re-
 ſume or change into his new maner, or other
 fourme at his Pleaſure, and as it ſhall be
 thought for the ſeaſons moſt expediēt. The
 expenſys of which Houſhold may ſone be eſte-
 myd by theſe, which of old time have byn
 Officers theryn, and by the Clerks of the Ec-
 cheker. The ſecond Ordynarye charge, is the
 payment of the Wags and Fees of the Kyngs
 grete

ever rendered that Verſe, *Paul a Knaue of Jeſus Chriſt*,
 but the common Error and Opinion is ſuppos'd to have
 been taken up from an old Engliſh Bible, in which, at
Rom. 1. 1. there was written, *Paul a Kneawe of Jeſus
 Chriſt*. This Bible, was in the late Duke of *Lauder-
 dale's* Library, where many Perſons came to ſee it,
 for the ſake of this Paſſage, but the word *kneawe* was
 written in leſſer Letters, than the printed words, and
 within a ſquare Border, where the Razure by holding up
 the Leaf to the Light, might be diſcerned. This Bible
 was really printed in the Year MDXXX. but to diſguiſe
 the Forgery, they had razed out the laſt X, and made it
 MDXX. in which Year there was no Bible at all print-
 ed. But in an ancient MS. Tranſlation of the Revelati-
 ons, which is in the Lord Treafurer, the Earl of *Oxford's*
 Library, there is to be found this Exprefſion, *to his Cnihte
 Jahn. Rev. 1. 1. Soma. Diſt. Seldea. Tit. Honour,
 636. Mareſcal. Evangel. Mat. 5. 1.*

From the Saxon *feo*, or *peoh*, *money*, *hire*, or
ſer;

grete Officers; his Courts, his Councel, his Garde, and other Seruaunts. Which charge woll alway be grete, and thees Men nedyn alway to be redely paid. For Indygence in them is not only unworshipfull, but yt may do the most harme, that may fal of any nede in any Astate of the Lond, after the Kyngs most grete Estate. The third charge Ordynarye, is the payment of the keepyng of the Marches, wherin we bere much gretter charge yerely, than do the *Scotts*, which oftentimes ys for favor, that we do to the Persons that kepe them, which favour the *Scotts* do not. The fourth Ordynary charge, is the keepyng of *Caleys*, which charge is well enough knowyn. The fifth Ordynary charge,

see; in Dutch *wee*. In Gothick it is **Wahn**; from hence comes the barbarous Latin word *feodum*, or *feudum*. So the Saxon *peoh-lear*, signifies *seeless*, or *monyless*. Somn. Di&. Saxon Gram. 4.

* The *Marches*, *Borders*, or *Boundaries* between *England* and *Scotland*. This comes from the Saxon word *meanc*, a *Sign*, *Mark*, or *Bound*; and from hence comes the barbarous Latin word *Marca*, or *Marcha*, for the *Boundary* of a *Dominion* or *Territory*. *Charta Divisionis Imperii Caroli M. ca. 1. Ut nullus eorum fratris sui terminas, vel regni limites invadere presumat, neque fraudulenter ingredi ad conturbandum regnum ejus, vel marcas minuendas, &c.* Du Fresn Gloss. Somn. Di&.

is for the Kyngs Werks, of which the yerely Expensis may not certeynly be estemyd, but yet th' Accompts of the Clerks of the Werks, will schewe the lykelyness thereof, while the Kyng makyth no new Werks. The keepyng of the See, I rekyne not amongs the Ordynarye chargs, hou be it the charge thereof is yerely borne, because it is not estemable. And the Kyng hath therfor the Subsydye of Pondage and Tonnage. Neverthelesse by that reason, Pondage and Tonnage may not be rekynd as parcel of the Revenuz, which the Kyng hath, for the Mayntenance of his Estate, because it owght to be applyyd only to the keepyng of the See. And though we have not alway Warr upon the See, yet it schall be alway necessarye, that the Kyng hath some Flote upon the See, for the repreffyng of

This word, *Werks*, comes from the Saxon, and is wholly disused at this day in the English Tongue. It signifies *Strong Places*, or *Fortifications*; and *Clerk of the Werks*, is *Clerk of the Forts and Garrisons*; there being at that time especially in *France*, a great many Garrisons and strong Places which were maintain'd by the Crown of *England*. Now in Saxon it is wrote thus, *peopc*, or *pepc*, a *Castle*, or *Place made strong with Fortifications*. In *Mandish*, *Wirbe*, *Somn. Dic.*

The Saxon word is *flota*, a *Navy of Ships*, and from thence comes our word *Fleet*. So *plot-man* in Saxon, signifies

^k Rovers, sayng of our Merchaunts, our
^l Fishers, and Dwellars upon our Coasts; but
 that the Kyng kepe alway, some grete and
 mighty Vessels, for the brekyng of an Army
 whan any schall be made ageyn him upon the
 See. For than, it schal be to late to ^m do
 make any such Vessels. And yet without
 them, all the Kyngs Navye schall not suffice
 to bord with ⁿ Caryks, and other grete * Schippis, ^{* Vessels;}
 nor Digby,
 Laud.

signifies a *Swamp*, and *plot* signifies *light Transport*
Ships, such as the *Danes* used commonly when they inva-
 ded *England*. Somn. Dict.

^R *Robbers*, or *Pirates*, from the barbarous
 Latin word, *robare*, *robare*, *to rob*. In Saxon *roþere*,
 a *Robber*; and that comes from *nearian*, *to rob*, and
 that from *near*, a *Garment*. In Dutch *rooven*, in French
voler, in Italian, *rubare*, in Spanish, *robar*. Somn. Dict.

This from the Saxon *fiſc*, a *Fisher*, which comes
 from the Saxon Verb *fiſcian*, *to fish*; in Dutch *vischen*.
 So *fiſc* is a *Fish* in Saxon. Now most Saxon words
 ending in *c*, in our modern English have their Termina-
 tions in *ſh*; as *diſc* in Saxon, is *Dish* in English; so *ſco-
 pel* signifies *Shovel*, *rædic*, *Radish*, *Englisc*, *Engliſh*.
 Saxon Gram. 4. Somn. Dict.

^m This is a French Phrase, and signifies *to go to make*, or
build any such Vessels; as *Il fait bâtir*, *he is going to build*.

ⁿ The barbarous Latin word is *Carrica*, or *Carica*. *Du
 Fresn* says, 'tis *Navigi species*, *Navis oneraria*; by the
 French called *Carrache*, *Vaſſeau de Charge*. *Walsingh* in
 Ric. II. p. 322. *Obviat quippe magnis coggonibus, & ſex Car-
 ricis reſertis vini ſpeciebus, pannis aureis, &c.* And as theſe
Carricks or *Carracks* were Ships of great Burthen, and
 uſed in Trade, ſo they ſerved for Ships of War alſo, as
 appears

nor yet to may breke a mighty Flote gatherd of Purpose. Now, as I suppose, is re-kenyd the gretteſt parte of the Kyngs Ordynarye chargs. Wherefor we wyll next, to his Extraordynary chargs; as far as ſchal be poſſible to us.

appears in Hiſtory. *Walsingham* in *H. V.* p. 394. *Galli conduxerant claſſem magnarum navium, Carricarum & generum, que regnum Angliæ moleſtaret.* So ſays *Truſſel* in *H. V.* That the *Engliſh* Fléet, failing to the Relief of *Calis*, that was beſieged by the *French*, in the way they were encountered by three *Carricks* of *Genoa*; which bore upon our Admiral with great Fury, and batter'd him very much; but in a little time the *Engliſh* took the three *Carricks* richly laden, and brought them into *Rye* Harbour. We meet with the ſame Account in *H. V.* where, ſpeaking of the Siege of *Harſlew* in *France*, it is ſaid, that the *Engliſh* Fleet engaging the *French*, the *Engliſh* ſunk 500 Veſſels of one ſort and another, and took three great *Carricks* of *Genoa*.

Carrick is an *Italian* word, and comes from the *Italian* *Carracca*, *ſpezie di Navilio*, and that comes from *Carrico*, a *Burdén*, or *Load*, and from thence is *carricare*, to *load*. Hence is the word *Cargo*, in the old *French* *Cargue*; the Original of all which is the *Latin* word *Carrus*, a *Carr*. So from *Carracca* comes the *Italian* *Carrozza*, which ſignifies *Carro rozzo*, in *Italian*, a *red* *Carriage*; for it was an ancient-Cuſtom among the *Florentines* when they went to War, to have Charriots painted with red, with a white Croſs upon them, and theſe came afterwards to be uſed by the Men of Quality on all occaſions, and from thence comes the *French* word *Caroſſe*, a *Chariot*. *Du Eſſin* Gloſſ. *Torriano* Di& *Ital.* *Menage* Orig. *Lang.* *Ital.* & *Franc.*

• *Rekyn*, and *rekyned* come from the *Saxon* Verb *reccan*, *numerare*, to *number*, or *count*. *Somn.* Di&.

CHAP. VII.

The Kings Extraordynarye Chargys.

THE Kyngs Extraordynary chargys ar so casuel, that no Man may knowe them in certeynte, but he may esteme what fume thay be not like to excede, *but if^{* i. e. unless.} ther fal a Case over much exorbitant; and than it schal be reason and also necessarye, that al the Realme beare for that case a singular charge. Such of the said Extraordinary chargys, as the Writer herof can now remember, be thees. First, the Kyng schal oftyntymys fend out of this Lond, his ^a Ambassadours, as wel to

^a *Ambassador*; in the *Media Lat.* it is *Ambasciator*, or *Ambaxiator*, *Legatus*; in the old German *Bambacht*. The Saxon is *ambȳht-secga*, a *Messenger*, or *Carrier of Tidings*, from *ambȳht*, which signifies a *Message*. The Saxon *ambȳht*, comes from the Gothick word, **ANAKHTS**, *Minister*, and from thence comes the Saxon *embȳht* and *embȳht-mon*, a *Servant*, from the Saxon Verb *embȳhtan*, *ministrare*, to *serve*. But this originally comes from the Roman word *ambactus*. *Cæsar de Bello Gallico*, lib. 6. cap. 15. says, *Equitum, ut quisque est genere, copisque amplissimus, ita plurimos circum se ambactos; clientesque habet*. Now *am* signifies the same as *circum*, from whence a *Servant* was called *ambactus*, i. e. *circum-*

to the Pope, as to dyvers Kyngs, Princes, and Nations; and other while he schal send his ^b Procurators and Messengers, to the Councils Generall. Which Ambassatours, Procurators, and Messengers, schal nede to be honorably accompanyd, and wel be seen, as wel for the honor

circumactus. So the Saxon emb in emblyt, signifies about; *tanquam sit ab impi, circum, about*. Somn. Dic. Jun. Goth. Glossar.

^b *Procurators and Messengers, i. e. Proxies and Commissioners*. So the Proxies of Lords of Parliament are called in some Books of the Law, *Procurators*; which comes from the Latin word *Procurator*, signifying in general, one that has a Charge committed to him by another. And as the Kings of *England* always sent a Commissary or Viceroi, to the General Councils abroad; so at home, there is no doubt, but the Kings of *England* have a Right to send Commissioners to the Convocation of the Clergy, when they meet in *England*, to sit with, and preside in the Convocation, to see that nothing be done in Prejudice of the Crown and Kingdom. So King *H. VIII.* in the Year 1536, by his Vicar General, not only presided, together with the Archbishop, over the Convocation, but taking the first Place in it, deliberated and voted as the rest of the Clergy did. And heretofore, the Kings of *England* have sometimes in Person met, and sat with, the Clergy in their Synods and Convocations.

Procurator also signifies a *Vicar*, or *Locumtenens*, one who acts in another's stead. Sometimes we read of *Procurator Regis*, as *Petrus Blesensis*, Ep. 47. *Nunquam tibi exhibuit se Dominum, sive Regem, sed quasi Procuratorem Regni tui, &c.* So, *Procurator Reipublice*, is a publick Magistrate. Sometimes the Bishops have called themselves *Procuratores Ecclesiarum suarum*. From *Procurator*, comes our English word *Procurer*.

honor of the Kyng, and the Realme, as for the avaunfing of the Matters, for which they shall be sent to the Kyngs grete charge, which schal be more or lesf, after their long or fchorte Abode, and *devoire in their Voyage.

Item, The Kyng schal bere yerely chargs unknowyn, in receyvving of Legats and ^c Messengers sent from the Pope, and Ambassators sent from Kyngs and Princis, and also from grete † Councells beyond the See, which wil

* *Demure,*
Digb.
Laud.

† *Communal-*
eyes,
Laud.

put the Kyng to grete expensis, while they be here; and at their departyng, thay must needs have grete Gifts and Rewards, for that besittith the Kyngs Liberalite; also it is necessarrie for the † Honour of the Realme.

† *Worship*
of bys,
Laud.

Item, Sythen it is not good, that he reward such as do, or schal do to hym Sarvice, and other maner of Pleasurs, with Possessions and Revenuz

in a Civil Law Court, in French *Procureur*, which in a Common Law Court signifies an *Attorney*, or *Solicitor*. So *Procuratores Cleri*, or *Proctors of the Clergy*, are such as are chosen for the Cathedral, or other Collegiate Churches, and also for the Clergy of every Diocess, to sit in Convocation.

Procurator rerum fiscalium, signifies the *King's Attorney*. Spelm. Gloss. 4. Infit. 323. Du Fresn Gloss. *The learned Bishop of Lincoln's Authority of Christian Princes*, 112.

* In Latin *Missus*, and sometimes when sent from temporal Princes, signifies an *Ambassador*, as well as *Legatus*; but *Missus Papæ* differs from *Legatus*, being always delegated without the *Insignia* of a Legat, and somewhat inferior to a Legat, as an Envoy or Resident is to an Ambassador. Spelm. Gloss.

E

of

of his Crowne, or with the Possessions of his Enherytaunce; for they be much more necessarye for the Sustenance of hys grete Astate; hyt schal therfor be necessarye, that the Kyng make such Rewards, with Money out of hys Coffers, and that sume of them have so largely therof, as they may bye them Land withal, if they will. For by this mean, the Kyngs Estate schal alway be kepte unblemischid, and of sume man his Highness schal have more thank for Money than for Lond. And also Money is most mete and convenient Reward, for hym that hath not long servyd. This Charge woll alway be gret, and so inestimable gret, that in sum yere, a grete Lords Lyvelood schall not suffice to beere it, although he would sell grete parte of his Lordship. And truly, whan the Kyng rewardyth his Servaunts in this maner, he schewyth grete favor to al his Realme. *Item*, It schal nede, that the Kyng have such Treasure, that he may make new Byldyngs, whan he wil, for his Plesure and Magnificence. And as he may bye hym riche Apparel, riche Furrer, other than be *wont to fal under, and be in the yerely chargs of his Wardrober, riche^d Stones.

*wonted,
Laud.

* The Original of this word is the Saxon *stan*,^{or a} Stone, the plural Number of which is *stans*, from whence

and other Jew-
 als and Ornaments convenient for his Affairs
 Royal; so oftentimes his Highness must
 and

whence comes this way of writing *Stony*, in modern Or-
 thography, *Stones*. 'Tis from this word *Stan*, that the
 Town of *Stans* in *Middlesex* receives its Name, and is
 called in Saxon, *Stana*, and from thence *Stanes*. It has
 its Name, *Cambden* says, from a large Stone formerly set
 up there, to mark out the Extent of the City of *London's*
 Jurisdiction, in the River *Thames*. *Camb. Britt.* 309.
 Some Der. Sax.

• *Serples*, i. e. *Mantles*, or *Upper Garments*. This is from
 the old French word, *Surpelis*, or *Surplus*, a *Surplice*, or *Up-
 per Garment*, of many Folds, as the Linen Garment worn
 by the Clergy, in Saxon *oƿerliffe*, *everstip*. It comes
 from the Latin *Superpellicium*, and not from *Suppellicium*, as
 some have thought. *Durandus* liv. 3. ca. 1. Nom. 10. *Super-
 pellicium*, *eo quod antiquitus super tunicas pellicias, de pel-
 lias marmorum animalium factas induebatur: quod adhuc in
 quibusdam Ecclesiis observatur*. Such were the *Furred Gar-
 ments* and *Robes* of State worn by Kings, Judges, and other
 Magistrates. In this kind of Habit *St. Gregory* seems to
 be described in his Saxon Homily, *mis pellænum gyp-
 lum*, in a *Furred Garment*. The Spaniards call it *Sobre-
 peliz*. So that *Serples* here signifies such rich *Mantles* and
Furrs, as the King used to wear with, or upon his *Robes*
 of State. For *Surpelis* is compounded of *super*, and *pel-
 lium*, or *palla*; as much as to say, *subpellicium*; and in
 some Countries in *France*, *pelte* signifies a *Robe* to this day.
 Etymol. Orig. Franc.

• *Baudracs*, i. e. *Belts*, from the old French word *Bau-
 drier*, a Piece of dressed Leather, Girdle, or Belt made of
 such Leather; and that comes from the Verb *baudroyer*,
 to dress Leather, curry, or make Belts. *Monsieur Menage*
 says, this comes from the Italian *Baldungar*, and that from
 E 2 the

and will bye riche Hangyngs, and other Apparels, for his Houlys, Wessels, Westments, and other Ornaments for his Chapel; bye also Horses, and Traps of grete Price, and do other such noble and grete Costts, as besyttith his Royal Magestie, of which it is not now possible to the Writer herof, for to remember the Especialities. For if a Kyng did not so, nor might do, he lyvyd not like his Estate, but rather in myserye, and more in subjection than dothe a private Person. *Item*, The Kyng schal oftyntymys send his Commyssioners in gret Myght, and also his Jugs to repressse and ponysche Riotours and Ryfers; for whiche cause, he schal other whyls ryde in his own Person, mightylye accompanyd; which thyng wol not be done without gret Costts. For no man is bowndyn to serve hym in such Casys, at his own Dispenys. *Item*, If ther come a sodein Armye upon this Lond, by See or by Land; the Kyng must encountre them, with

the Latin *Balteus*, from whence the *Baltick* Sea has its Name, because it goes round as a Belt. This word *Bandrier*, among the French sometimes signified a *Girdle*, in which People used to put their Money: So is *Rablais* III. 37. *Adonques Seigny Joan avoit leur discord entendu, commanda au faquin qu'il lui tirast de son bandrier quelque piece d'Argent.* Now *Balteus* among the *Romans* signified the same as the Saxon *belte*, in *English*, *Belt*. Menag. Orig. Franc. Somn. Dict. Sax. Nicot Dict.

a like

a like Armye, or a gretter, for the expensis wherof, he schal nor so sodenly have Ayde of his People. Wherfor he must then do thes expensis with Money out of his Coffers, or put his Land in Jeopardye. Loo now we have remembrid grete Parte of the Kyngs Extraordynarye Charges. And before is schewyd, grete parte of his Ordynary chargs. Wherfor now it is time that it be schewyd, hou the Kyng may have Revenuz and Lyvelood, sufficyent to bere thees two Chargz.

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3

thereto, how than may his Lyvelood be made sufficient. For his Realme is boundyn by Right to susteyn hym, in every thyng necessarye to his Astate. For as Saynt Thomas sayth, *Rex datur propter Regnum, & non Regnum propter Regem*. Wherfor al that he dothe, owyth to be referryd to his Kyngdome. For though his Astate be the highest Astate Temporal in the Erthe, yet it ys an Office, in the whiche he mynystrith in his Realme, Defence and Justice. And therfor he may say of *hymself, as the Pope sayth of hymself and of the Church, in that he wrytyth, *Servus Servorum Dei*. By whiche reason, right as every Servaunt owyth to have his Sustenance of hym that he feryth, so owght the Pope to be susteynid by the Chirche, and the Kyng by his Realme. *Nemo debet propriis expensis militare*. And our Lord saith, *Dignus est Operarius cibo suo*. Wherfor sithen every Realme is boundyn to susteyn his Kyng, yet much more be we boundyn thereto, upon whom our Kyng reynith by so favourable Lawys,

^{as} *boundyn*, from the Saxon burden, *burden*.

^{as} *Lawys*; this is wrote so, from the manner of the Saxons, and comes from the Saxon *lagg*, or *laga*, which by turning into *ys*, as is usual, makes our English word *Lawys*. In the French it is *Ley*. In the plural Number of

words

as is before declarid, &c.

the Saxon it is lagar, and from thence you have *Lawas*, or *Lawys*, which you find frequently in old Authors. We often meet with *Laga* in the barbarous Latin, as in *Magna Charta Libertat. Angl. ab H. I. concess.* *Lagam regis Edwardi vobis reddo, cum illis emendationibus quibus pater meus eam emendavit.* From thence come the word *Seaxen-Laga*, *Mercen-Laga*, *Dane-Laga*, i. e. the *Laws of the Saxons*, the *Laws of the Mercians*, and *Laws of the Danes*.

From the word *Laga*, and the Saxon word *Man*, is formed this old Law word *Lagamannus*, which signified, says *Spelman*, *probus & legalis homo*; and for that, quotes a Law in *Edward the Confessor's Time*, cap. 38. *Postea inquisisset justitia per Lagamannos, & per meliores homines de Burgo.* But *Sommer* and *Lambard* think, and with great Reason, that *Lagamanni* signified the *Thains*, called afterwards the *Barons*, who sat as Judges, and had a Power of determining Rights in Courts of Justice. And therefore we find the *lah-men*, which, among the Saxons, were the same as the *Lagamanni*, hearing and determining Civil Rights, as Judges. In *Senatus-Consult. de Monticulis Wallie*, cap. 3. 'tis said, xii. *lah-men* ꝛcylon ꝛiht tæcean *Vealan* Englæn, vi. Englyrce, 7 vi. 7ylrce; which *Lambard* renders thus: *Let 12 Men of Law, 6 English, and 6 Welsh, do Right and Justice both to the English and Welsh.* Now *Lambard*, I think, renders this word *lah-men* truly, because the Phrase *ꝛiht tæcean*, signifies, *Jus dicere*, to dispence Law, and not to decide Fact only, which is the proper Office of a Jury-man, or *legalis homo*. And indeed, the Saxon *lah-man*, does more properly signify a *Lawyer*, one skill'd in the Law, than *homo legalis*; tho' the true Saxon word for a *Lawyer*, is *laga-pen*, *quasi vir legis*, a *Man of Law*. So *Chaucer* has it, *the Man of Lawes Tale*. In Scotch, it is *Law-wer*. *Spelm. Gloss. Somner. Dict. Lamb. Archaionom.*

CHAP. IX.

Hereafter be shewyd the Perilles
that may come to the King, by
over myghty Subgetts.

BUT sithen the said Extraordynarye
charges be so uncerteyn, that they be
not estimable; it is not well possible
to put in certeynte, what Lyvelood woll
yexely suffice to bere them. Wherfor we

Bere, is a Saxon word, and comes from the Verb *bepan*,
to bear, or *carry*; from thence comes *bepende*, *fruitful*,
bearing, or *bringing forth*. The word *bepē* in Saxon sig-
nifies also *barley*; by some called *beere*, or *bere*, from
whence comes *bepn*, a *Barn*, quasi *Bere-ern*, a Place
for *Barley*. And sometimes it stands for the same as
Bere-corne, which in Saxon, signifies *Barley unhusk'd*, *lod-*
den in Water, in Latin *Prisana*. And *bepē-floſ* in
Saxon signifies a *Barn-floor*. So *bepē-hlaſ* is a *Barley-*
loaf, or *Barley-bread*. Hence we have the Saxon word
bepē-tūn, which signified a *Corn-sarum*, or *Grange*; *tūn*
in Saxon signifying a *House*, or *Dwelling-place inclosed*,
and is a verbal Noun from the Saxon *tūnan*, *to inclose*,
or *ſence*; and from hence, manifestly comes the word
Barrow, used so often in the County of *Devon*, and com-
monly to be found in the *Leases* and *Conveyances* of
Land in that Country, signifying a *Farm*, or *Demean Lands*;
and is always contradistinguiſh'd to a *Mannor*. *Sonn.*
Dict.

T A H O

b nede

b nede in this case to use Conjecture and Ima-
 ginacion, as to thiink that ther is no two
 Lords Lyvelood in *England*, sufficient to bere
 the Kyngs Extraordynarye chargs. Than ne-
 dith it, that the Kyngs Lyvelood above such
 Revenutz, as schal be assigned for his Ordyna-
 rye chargs, be gretter than the Lyvelood of
 two the grettest Lords in *England*. And per-
 aventure, whan Lyvelood, sufficyent for the
 Kyngs Ordenarye chargs, is lymyted and as-
 signed therto, yt schal appere, that dyvers
 Lords in *England* have as much Lyvelood of
 their own, as than schal remayne in the Kyngs
 hands, for his Extraordynarye chargs; which
 were inconuenient, and would be to the Kyng
 ryght dredefull. For than such a Lord may
 dyspend more than the Kyng, confydering
 that he is chargyd with no such chargs Extra-
 ordynarye, or Ordynarye, as is the Kyng;
 except an Houehold, which is but litil in com-
 paryson to the Kyngs Houe. Wherfor if it
 be thus, yt schal be necessarye, that ther be
 parveyyd for the Kyng, moche gretter Lyve-
 lood than he hath yet. For ^c Mannys Corage

b The Saxon is neab, neob, or nyo, want, necessity. ^A

c Mannys; this is after the manner of the Saxons, and
 is put for the Genitive Case of the Saxon word ^{MANN}
 which

is so noble, that naturally he applyth to
 five things, and to be extalyd. And therefore
 informeth

which is *Manney*; so *Manney Gunn*, is the Son of *Man*,
Mannes, or *Mannys Son*, now wrote *Man's Son*. From
 hence it may be observed, that some, not being acquaint-
 ed with the Mother of the English Tongue, have taught,
 that the reason of the modern way of writing these Words,
Man's Courage, or *Man's Son*, with a Mark of Abbrevia-
 tion, was, because the word *his*, is alway in such case to
 be understood; as, *Man his Courage*, *Man his Son*. But
 hereby it appears to be a plain Mistake; and that the rea-
 son of such Notation was only to shew, that a Letter or
 two was left out of the word, and not that a whole word
 was to be put in, the Saxon being in this case just as the
 Latin is, *Liber Johannis*; *Iohannes boc*, in Saxon; *John's*
Book, in English.

This word *Man*, has divers Significations. It some-
 times signifies a *Nag*, from the Latin *Mannus*; and there-
 fore we find *Man-peop*, in the Laws of King *Alfred*,
 signifying *Manni raptor*, a *Horse-stealer*. Sometimes *Man*,
 among the Saxons, was used impersonally, as anciently
 the French used *bon*, or *le bon*, sometimes *l'hom*, and
 from thence comes the modern *Pon*, as at this day, *Pon*
dit, they say; so in Dutch, *man leyd*, *alunt*, they say.
Man also in this Language signifies *Error*, or *Wicked-*
ness; as, *þa heofonlican tungel þ man 7 þ most-*
þon reon nolson; that is, *the Stars could not endure to*
see such Wickedness, and Murder. By this we see the Sa-
 xons had the Term *Murder*; so they had the word *Man-*
slaughter also, in Saxon called *Man-slyht*; and *Man-*
slaga was an *Homicide*, or *Man-slayer*. Somn. Dic. LL.
 Aluredi Reg. cap. 9. Casaubon de Linguis 352.

This is plainly a Corruption of the Saxon *th*, wrote
 thus *þ*; the upper Part of which, being cross'd with a
 transverse Line thus *þ*; stood for *that*. Now in trans-
 scribing

inferiour by itself to be alway greater and greater
 his. For which the Philosopher saith, *Omnia
 subiacent sed Principare majus*. Wherfor it hath
 comyn that oftentimes, when a Subgett
 hath had as grete Lyvelood as his Prince, he
 his Land hath alone aspyryd to † the Astate of his
 Prince, which by such a Man may & some be
 gotten. For the * Remouance of the Sub
 getts of such a Prince, seying that if so might
 y a Subgett might obtayne th'astate of their
 Prince, thay schuld than be under a Prince do
 ble so mighty as was their old Prince, which
 increaseth many Subgett's desyren, for their own

* Remouance
 Dignity

looking of old Authors, the þ was sometimes used to be
 made open at the top, and so came to be mistaken for a
 y; and from thence it was, that a y, with an e and i, yet
 above it, stood for the and that, and so continues to this
 day. The Saxons had two sorts of Characters which
 stood for th, but different in Sound, þ, and ð. This ð,
 or th, has the more soft Accent, and answers to the
 Greek θ, as in the words, this, that, thine; but the þ,
 or the t, with the h, added thus þ, has a much harder
 Sound, and answers to the Greek θ, as in the words thin,
 think, thrive; but these Characters being now dissolved, the
 Distinction of those Sounds is made very difficult to For
 eigners.

Sonn. Dict.
 Some comes from the Saxon word *sona*, soon; in
 Dutch, *soen*; in Teutonick, *san*; *sona* after, soon after.
Sonn. Dict.

Remouance: from the old French word *Remouant*;
 from thence came the French *Remouant*, and from thence
 our English word *Remnant*. *Coig. Dict.*

any

Discharge

Discharge of that they beryn to the sustenance of their old Prince; and therfor would right gladly helpyn such a Subgett in his Rebellion. And also such an Enterpryse ys the more sefable, whan such a Rebell hath more Richeffe than his Soveryng Lord. For the people woll goo with hym, that best may sufficeyne and reward them. This manner of doing hath byn so ofte practyfyd, * almost in every Realme, that their Cronycles ben full of ytt. In the Realme of *Fraunce* was never chaunge of their Kyng, sythen it was first inhabityd by *Frenche* Men, but by the Rebelions of such mighty Subgetts; as *Hildericus* Kyng of *Fraunce*, descendid of *Clodone*, which was first Cristen Kyng of *Fraunce*, was put downe by *Pypyne* Son of *Carolus Marcellus*, which was the most mighty Subgett, that unto thes dayys was ever seen in the Realme of *Fraunce*. And afterwards *Charles*, descendyd of *Carolus Magnus*, Sonne to the said *Pepyne* by nine or ten Generations, was put from the

* *Cristen* in Saxon is written thus, *Epytene*, *Christian*; so *Epytene-folc*, or, *epytene-men*, signify *Christian People*; *Epytene-naman*, a *Christian Name*. From thence comes the Superlative *Epytenege*, *Christianissimus*, most *Christian*. So *Epyten-some* signifies *Christianity*, or *Christendome*. *Somn. Sax. Dic.*

Kingdom of France by Hugh Capet, Son
to Hugh Magnus, Earl of Barrys, which then
was

Earl, is a Saxon word, and was a Title of Nobility among the Saxons; and in that Language he wrote *Eopel*, which signifies an *Earl, Duke, Consul, or Nobleman*. *Cambden* seems to think this is a Danish word, and came from the old *Danes*; the Ground of which *Conjecture*, I suppose, was, that the old *Danes* had the word *Earl*, which among them signified a *Baron*. But *Eopel*, is a word as ancient as any in the Saxon Tongue, and to be found in the *Laws* of our first Saxon Kings. It was a great Title among the Saxon Peers, and is the most ancient of any of the Titles of the present English Nobility, there being no other Title of Honour, now among the English, which was used among the Saxons, except that of *Earl*. From thence *Eopel-home*, or *Earldome*, signify'd a *Province*, or *County*; as also it signified the Office, Duty, and Jurisdiction of the *Earl*.

The Titles of Honour in the beginning of the Saxon Times, were those of *Epeling*, *Ealdorman*, and *Thegen*; *Etheling*, *Ealdorman*, and *Thegen*, or *Thane*. *Etheling* signify'd noble, famous; rendered in Latin *Hilomans*, by *Clio*, from the Greek *κλειος*, *κλειος*, and was generally applied to the Prince, the King's Sons, or the foremost in the Royal Line. *Etheling* comes from the Saxon word *Epel*, which signifies *nobilis*, or *noble*. The words *Ealdorman* and *Thegen*, stood for other the Nobility and Peers of the Kingdom; but afterwards *Thegen*, or *Thane*, came to be distinguish'd by the *Thani majores*, and the *Thani minores*; the former were equivalent to our Peers, and the latter to our *Baronets, Knights, &c.* Now in the latter Ages of the Saxons, this word *Ealdorman* grew out of use; and when it did so, the word *Eopel* came into its Place, which was applied to the said same Persons as *Ealdorman* was. It is certain, that *Eopel* was used in *K. Athelstane's* time, and *Selden* thinks that sometimes

was the mightiest subjects of *France*, and therefore crearyd and callid *Dux Franche*. And

in

times *Eorl* stood for the same as *Ætheling*, because in the Laws of *K. Æthelstane*, *Eorl* is ranked with an Archbishop. And in the Laws of *K. Canutus*, *Ætheling* is joyned with an Archbishop, and *Ealdorman* with a Bishop. Now for those *Ealdormen* which were ranked with Bishops in the Saxon Laws, and in the old Latin Translations called *Aldermanni*; they were such as had Counties, or other Territories under their Government, and had the same Power and Jurisdiction as the *Eorl* had afterwards.

The word *Ealdorman* signifies literally no more than *Elder*, or *Senator*; but it signified among the Saxons, a *Duke*, an *Earl*, a *Nobleman*, a *Petty-Vice-Roy*, a *Consul*; nay sometimes it stood for a *Prince*, and sometimes is render'd by *Regulus* and *Subregulus*; and they were so called not because of their Age, for some were young Persons; but because they were, *aliis natu graduve majores*, and not as *Roger Hoveden* says, *propter sapientiam*; in English *Alderman*, in Dutch *Ouderman*.

I find this word *Ealdorman* sometimes to signify a *General*, and to be express'd by the Saxon word *Depe-toga*, i. e. *Dux*, or *General of an Army*; from *Depe*, *Exercitus*, an *Army*, and *Toga*, *Dux*, *Ductor*; and so word for word, is a *Leader of an Army*. And so is the Expression in a Saxon Charter to the Church of *Worcester*; *Alfhere* is called, by *Oswald* Archbishop of *Canterbury*, *Depe-na Depe-toga*, *Ealdorman of Mercland*. So *Hengist* and *Horsa* in the Saxon Annals, are called *Depe-togan*, *Generals*, or *Leaders of Armies*. This Title of *Heretoga* was given to the *Ealdormen*, in relation to their military Power, as they were *Duces* in the most ancient and proper sense; and the Title of *Ealdorman* denoted their Civil Dignity, in such sense as *Senator*, *Seigneur*, or *Senior* has done through many Ages.

And therefore the word *Alderman* came afterwards to be

Of Aldermen

in our days, we have seen a Subject of the
French King in such Myght, that his Place

be used for a Judge. *Ethelstannus Dux Estangliae, Aldermannus dicitur*; which, says *Spelman*, among the Saxons, signified *Justiciarius*. *Ailwin* the fourth Son of the same *Ethelstane*, was call'd, under the Reign of King *Edgar*, *Aldermannus totius Angliae, i. e. Justiciarius totius Angliae*. And unless this be the same great Officer, that in the latter Ages was called *Chief Justice of England*, *Spelman* confesses he is at a Loss; and I believe every body else too. For 'tis plain, these *Aldermen* were well read and versed in the Laws of *England*, and were Judges; and therefore there is no reason to doubt, but this *Aldermannus Angliae*, executed the same Office the *Chief Justice of England* does now, tho' perhaps his Power might be somewhat greater, in some Particulars.

But this Name *Eorle* was once of so great Dignity, that in an original Charter from *William the Conqueror* to the Abbot of *St. Edmondsbury*, the Conqueror is stiled *King of England*, and *Conq. of Normantie*, render'd in Latin, *Princeps Normannorum*; and in the same Charter, *Osbo Comes Cantua*, is render'd *Conq. of Kent*, in which sense *Eorle* was ever used afterwards.

And to these *Earls* were committed the Custody of Counties in the Saxon times, as at this Day to *High Sheriffs*; by which Name I find them called in *K. Ethelstane's* Saxon Laws, where we find *heh-geperap*, or *High-geperes*, i. e. *High-Sheriffs*, such as had the Charge and Care of Counties. So that it seems the *Sheriffs* in those days, were not always Deputies of the *Earls*, as my Lord *Coke* says, and infers from the Latin word *Viccomes*, but indeed 'tis plain they were then the *Earls* themselves.

Now as *Eorle*, among the Saxons, signified one of the highest Rank, so *Leopl* signified one of the lowest, a *Rustick*, or *Clown*, from whence comes our English word *Charl*. LL. *Edgar*, Pol. 5. LL. *Canut*, Pol. 17. LL. *Ethelst. Lamb.* p. 55.

gyvyn

LIMITED MONARCHY.

by the same King, and put him
 to flight, and afterward besieged him in *Paris*
 his greatest City, and so kepte him there
 unto

City, this is a French word, and in all Probability has
 crept into our Tongue since the Conquest; for before, in
 the time of the Saxons, there was no Town whatsoever,
 tho' never so great or populous, that was call'd by this
 Name; but all Cities and great Towns were call'd by
 the Name of *Burgh*, or *Byrig*, i. e. *Burg*, or *Borough*;
 and even the great City of *London* was call'd by the Name
 of *Burgh*, or *Borough*. Nay in Charters long since the
 Conquest, the word *City* is us'd promiscuously with
Burgh; as you may see in *Dr. Brady's Treatise of Burghs*.
 In the Charter of the Town of *Leicester*, you will find
Leicester is call'd *Civitas*, and *Burgus* too; which shews
 that my Lord *Coke's* Observation, that every *City* is, or
 was, a Bishop's See, is not very exact; for *Leicester* which
 is call'd there a *City*, never had a Bishop; nor had *Gloucester*
 at that time any Bishop, tho' it is call'd a *City* in
Domesday-book.

In the first Charter granted to the City of *London*, by
William the Conqueror, which is in the Saxon Tongue,
 and was obtain'd by *William* Bishop of *London*, there is
 no word that signifies *City*, but the Inhabitants of that Ci-
 ty, are there call'd *Burh-papu*, i. e. *Burghers*, *Burgeses*,
 or word for word, *Inhabitants of the Borough*; and the
 Lord Mayor is there call'd *Popt-papa*, i. e. *Port-reeve*.
 In the Saxon Chronicle, in the Saxon Laws, and through-
 out venerable *Bede*, wherever we meet with the City of
London, we find it call'd *Lunden-burgh*, and *Lunden-
 byrig*, i. e. *London-borough*, or *Eorndon-town*; but no
 where call'd the City of *London*. So, *Romana Burgh*,
 signifies the City of *Rome*; *Lantpapa Byrig*, the City of
Canterbury, which was anciently call'd, *Inter Deafos*
 BYRIG) F Buph,

unto the time his said Kyng had made such End, with him, his Adherents and Fautours, as he desired. We have also seen in our Realme, sum of the Kynge's Subgett's gevyn hym Batell, by occasyoun, that their Lyvelod and Offices were the grettest of the Lond; and els they would, nor could have done so. The Erls of *Lycestre*, and of *Gloucestre*, which than war the grettest Lords of *England*, rose ageyn theyr Kyng *Herry*

Burgh, the Capital, or Head City of the Kingdom. So the Bishop of the City, in Saxon, is express'd by *Burgh-bisceop*, Bishop of the Borough.

It is true we find, in the modern Saxon, the word *Leahter*, *Ceafter*, which is rendered *City*; from whence the Terminations of the Names of so many Towns in *England*, in *caster* and *chester*, have their Original; as *Winton-caester*, *Winchester*; *Exon-caester*, *Exeter*; *Dorset-caester*, *Dorchester*. But *Somner*, *Verstegan*, and all others who well understood the Saxon Language, are of Opinion, and with good reason, that this was no original Saxon word, but borrow'd from the Latin word *Castrum*, signifying a *Castle*, or *Fortress*, the Places whose Names have such Terminations, having had *Castles* or *Fortresses* built by the *Romans*, before our Saxon Ancestors came into *Britain*; and the proper Saxon word for a *Fortress*, or strong Place, is *Burgh*, *Burgh*, or *Býrn*, now chang'd into *Borow*, *Bury*, *Bery*, and such like, from *beorgan*, *munire*, to defend. It seems most probable that the Distinction between a *City* and *Borough*, arose first from a *Borough's* being made a *County* of it self, by Charter, as most *Cities* are. *Som. Sax. Dict. Dr. Brady of Burghs*, 16. *Homily St. Gregory, Elstob.* 34.

the

the Thirde, and toke hym and his Son Prisoners in the Feld. Whiche manner of De-meaning, the Kyng of *Scots* that last dyyd, credyng to be practysed in his Lond, put out of the same Lond, the Erls *Dowglas*, whose Lyvelood and Myght was nerehand equivalent to his owne, movyd therto by non other Cause, save only drede of his Rebellion. The Cronycles of every Realme, and in especyall of *Spayne* and *Denmarke*, be full of such Enfamples. And so be also the Boks of *Kyngs* in Holy Scripture; wherfore yt nedyth not to write more herein. And also it may not be eschewyd, but that the grete Lords of the Lond, by reason also of new *Dissents* falling unto them, by reason also of *Maryags*, *Purchasys*, and other *Tytles*, schal often tymes growe to be gretter than thay be now, and peradventure sum of them, to be of Lyvelood and Power like a Kyng; which schal be right good for the Land, while thay aspyre to non hyer Astate. For such was the Case of a great Duke, that warryd with the Kyng of *Spayne*, one of the myghtyest *Kyngs* in Crystendome, in his own Realme; but this ys writyn only to the entent, that it be wel understaund, hou necessary it ys, that the Kyng have grete Possessions, and

CHAPTER X.

*How that the Crown may be best
endowed.*

NOW that the likenes of the Kyngs
chargs Ordynarye and Extraordyna-
rye be schewyd, and over that hou
necessarye it is, that he have grete Lyveloods
above the same chargs, in the whiche hit ne-
dith, that he excede gretely every Man of his
Land, which Lyveloode undoubtyd he hath
not at this day; yt is therfor behoveful that
we now seeke hou the Kyng may have such
Lyvelood; but first, of what Comodytys it
may best be takyn. The Kyng of *Fraunce*,
sometyme might not dispend of his ^a Demaynys,

as

^a This comes from the old French word *Demaine*, now
out of use, which has the same Signification as *Domaine*,
which was used after the word *Demaine*, and signifies
an Inheritance, or *Patrimony*, whereof a Man is absolute
Lord and Proprietor; in Italian *Domaino*. Therefore
the Possessions of the Crown, are call'd *Dominica Caro-*
nae Regis; so in *France*, *Demaine*, or *Domaine du Roy*,
signifies *the King's Inheritance*; and in this Sense of
the word *Demaine*, are comprehended all the Parts of a Man-
nor, as well the Rents and Services, as what we now
call the *Demeans*. So ancient *Demesn* Lands, signifies such

F 3

Manners

as in Lordschippis, and other Patrymony pe-
 culier, so mich as might than the Kyng of *En-*
glond; which may well appere, by that the
 Qwene of *Fraunce* hath but Fyve Thousand
 Marks

Mannors as were in the Possession of King *Edward* the Con-
 fessor, or *William* the Conqueror, being the sole Property,
 and absolute *Dominion* of those Kings, and thereby distin-
 guish'd from such Mannors as were only held of the
 Crown; and therefore in *Domesday-Book*, the Vassals of
Edward the Confessor, in the Borough of *Thetford*, were
 called, *Homines qui erant ita dominici Regis Edwardi, ut*
non possent esse homines cuiuslibet sine licentia Regis. In the
 same Book we read in *Com. Devon. Quod Rex Edwardus*
habuit in Dominio, Burgum de Barnstaple. From hence,
 no doubt, comes our Law Expresssion, *Demefus* of a Man-
 nor, because a Man may more properly be said to be abso-
 lute Lord of the *Demefus*, or have *Dominion* in that which
 he reserves and keeps in his own Possession, than of that
 which is let out to Tenants, and may continue in their
 Possession for Ages, paying a small Acknowledgment on-
 ly for it. Now this word *Demefus*, most plainly, comes
 from the old French word *Demaine* before remember'd,
 and not from *de manu*, of the hand, as my Lord *Coke* says,
 which seems to be a forc'd Derivation; for both the
 words *Demaine* and *Domaine*, come from the Latin *Domi-*
nium, which is the true Original of all these words. *Nicor.*
Corgr. Spelm. Gloss.

This is a Saxon word wrote in that Language with
ew, thus, *Epen*, *Queen*. This word originally signified
 a *Woman*, but afterwards it came to signify a *Wife*, as,
Sarah the Wife of *Abraham*, was called *Abrahamep-*
epen. The Franks had *Kuninginna*, a *Queen*, from
 their *Kuning*, *King*; but the Saxons having no Feminine
 to their *Lynng*, or *King*, they express it by *Epen*,
 which being put absolutely, stood for the *King's Wife*, and
 after-

Marks yerely to hyr Dower, wher as the
 Qwene of *England* hath Ten Thousand Marks.
 For in thoos dayys ther was but litil more of
 the Realme of *Fraunce* in the Kyngs hands,
 but that parte which is callid the Ile of
Fraunce. For al the Remenaunt of the Realme,
 as *Burgoyne*, *Normandy*, *Guyane*, *Cham-*
payne, *Languedok*, and *Flaunders*, with ma-
 ny other such grete Lordschippis wer then in
 the hands of *^c *Duseperys*, and other Princis
 and gret Lords. For which Cause the †^d *Ga-*
bell

* Of the
 Ducy-
 pers,
 Digb.
 † Of the
 Duffe-
 pers,
 Laud.
 † Gavel,
 Digb.

afterwards came to signify *Queen Consort*, *Queen Regent*,
 and sometimes *Queen Dowager*. In ancient Danish, it is
Kona. Epen in later times came to signify a *Whore*,
 from whence comes our English word *Quean*, in a Ca-
 tachrestical way of speaking. Epen-hypn, in Saxon
 signifies an *Eunuch*, i. e. a Keeper, or one fit to have the
 Custody of Wives and Ladies. *Somn. Dict.* *Hickef. Dis-*
sert. 52. *Nicot. Dict.*

* *Duseperys*; two words made one, and signifies *Dukes*
 and *Peers*, from the French words *Ducs* & *Pairs*. For
Pair in French is a *Peer*, and *Pairs de France*, are *Peers*
 of *France*. Originally, in *France*, there were but twelve
 Peers, six Spiritual and six Temporal, and some of them
 were called *Dukes*. *Nicot. Cotgr.*

* *Gabel*, is a French word, and comes from the French
Gabelle, in Latin *Gabella*, or *Gabellum*, and signifies a *Tri-*
bute, or *Tax*. When *Gabel* was spoken of generally with-
 out any Addition, it signify'd the *Gabel*, or *Tax* of Salt,
propter Excellentiam, but afterwards it was applied to all
 other Taxes, as, *Gabelle des Draps*, *Gabelle des Vins*, &c.
Johannes Abbas Laudan. in Speculo Historie. MS. lib. 2. c. 71.

† Quar-
tern,
Digb.
Quate-
rims,
Laud.

bell of the Salte, and the † Quaternities of
the Wynns, was granted to the Kyng, by the

three

tells us how this Tax was received by the People; he says,
En ce mesm an, i. e. 1342, mist le Roi une exaction au sel,
laquelle est appellee Gabelle, dont le Roi aquisit l'Indignation
Et Malgrace tous des grans, comme des petits, Et de tout le
peuple. Monsieur Menage gives a great many Etymologies
of this word, but at last agrees that *Grevius* is in the right,
who says it has a German or Saxon Original; so says *Sel-*
den, Somner, and Du Cange. It comes from the Saxon
Trapel, which is a *Tribute, or Tax,* as in *Luke 20. 21*
Yr hit riht þæt Man þam Earene Trapol sylle ƿ
Is it just that Men pay Tribute to Cæsar?

From hence comes our Law word *Gavelkind*, and not
from the fanciful Etymology of *gif-eal-cyn, give all in*
kind. The true Meaning of *Gavelkind* is, Land, in its Na-
ture, subject to *Tribute, or Taxes;* from *Trapol, or Trapel,*
a Tax. *Gavelkind* is the same as the Saxon *Trauel-lanb,*
and that, the same as *Trapol-lanb,* which signifies Land
liable to *Tribute, or Tax.* In *foedere Aluredi & Guēbr. R.*
R. cap. 2. būtanðæm ceople þe on Trapol-lanb sit;
i. e. præter rusticum qui in terra censa manet; except the
Countryman, or Churle, who sits in taxable Land; and is
so called, plainly to distinguish *Gavelkind* from Land
held by Knights Service, from which, and all the Slave-
ries thereto incident, it was free, by the Payment of this
Gafol, or Tribute.

The Impost of Salt was first begun by *Philip the Long,*
which was 2 *d.* in the Pound, after whom *Philip de Valois*
doubled it, and *Charles VII.* rais'd it unto 6 *d.* and that
was doubled by *Lewis XI.* since whose time it has been
alter'd, and is now altogether uncertain; so that the *Quota*
of this Tax is constantly rising and falling, at the Will
and Pleasure of the Prince. *Cotgr. Somn. Dict. Du Fresu*
Gloss. Mess. Menage Origen. Frant.

• This comes from the old French word *Quatriesme,*
a fourth

three ~~times~~ of *Fraunce*, which was, not is no
 by *Subsyde*. For ther is no Man in *Fraunce*
 that may eate Salte, but if he bye it of the
 Kyng; and that is now sett to so grete Price,
 that the *Bullhell* which the Kyng byyth for
 ij *d.* or iij *d.* is fould to his People for ij *s.*
 and other whilis for more. And the fourth
 Pype of the Wynys that be made in *Fraunce*,
 may be no litill thyng; sythen the Fillyng of
 the Wynys ys the grettest Comodite of the
 Realme; but that Comodite we have not in
 this Land. Wherefore ther is no parte of thoo
 maner of *Subsydeys* that might be good for
 owr Soveryg Lord, but if it war, that he
 might sell to his Subgetts the Salte that co-
 myth hether. Yn which thyng he schall have
 more *f Grutch of the People, than Profyte.* *Grosb-*
 For in *Fraunce*, the People salten but litill ^{ynge,}
 meate, except their *Bacon*, and therfor they ^{Laud.}
 would bye lityl Salt; but yet they be artyd
 to bye more Salte than they would. For the
 Kyngs Officers bryng to their Houys every
 a fourth Part, and signified a *Tax on Wine*, which was the
 fourth Penny for all Wines retailed; an Imposition first
 raised by *Charles V.* and continued by some of his Succeed-
 fors. That it was only on Wines retailed, appears by this
 French Saying, *Cela est de son crey, il n'en doit point le*
Quatrieme. *Geogr. Nicot. Dict.*
 *Grutch, is from the old French Verb *granger*, to *repeine*,
 to *matter*.
 here,

yere, as moche Salte as by their Conjecture ys
 reasonable, to the nombre of the Men, Wo-
 men, and Children that dwellyn theryn, for
 which they schal pay though they wold not
 have so myche. This Rule and Order wold
 be fore abhorred in *England*, as well by the
 Merchants that be † wontyd to have their
 Freedome in byyng and sellyng of Salte, as
 by the People that usen mitch to salte their
 Meats more than do the French Men; by oc-
 casyon wherof thay wol than at every Meale
 grutche with the Kyng, that entreatith them
 more rigorously than his Progenitours have
 done. And so his Highness schal have ther-
 of, but as had the Man that scheryd his
 Hogge, *woche Crye and no^b Wull*. In
Flanders and other Lordscippis of the Duke
 of *Burgoyne* downward, he taketh certeyn
 Imposicions made by hymself upon every Oxe,
 every Schepe, and upon other thyngs fould,

† ‡ best
 wold,
 Land.

* This is wrote after the Saxon manner, and comes
 from the Saxon Verb, sceappan, to clip or shear; so
 Schepe, from the Saxon sceap, Sheep. *Scapela Insula apud
 Cantianos*, i. e. *Insula Ovirum*, the Isle of Sheapy, or of
 Sheep, is in Saxon called sceap-ige, in *Leland*, *Ovinia
 Somn. Dict.*

^b This is the Saxon word for *Wool*, and is wrote thus,
 Pulle; from thence comes the Saxon pullen, in En-
 glish, *woollen*.

and

and also upon every Vessel of Wyne, every Barrell of Beer, and other Vytayls sould in his Lordship, which is no litill Revenue to hym yerely; but yet he doth it, ¹ magre the People, which God defend that the Kyng our Soveryng Lord schuld do upon his People, without their Graunts and Assents. Nevertheless with their Assents, such maner of Subsydye, if ther could not be found a better Meane of the encreasing of the Kyngs Revenuz, were not unreasonable. For theryn, and yn the Gable of Salt, every Man schal bere the charge therein equally. But yet I would not, that such a new Custome and Charge were put upon the People, in our Soveryng Lords dayes, with which his Progenitors chargyd them never, if a better and more convenient way could be found. Kyng *Salamon* chargid his People with gretter Impoficions, than thay were wontyd to, before his days. And because his Son, Kyng *Robubam*, would not ease

¹ *Magre*, from the old French word *maugre*, or *maulgre*, now *malgre*, and signifies the same as *mal-grace*, *disfavour*, or *ill-will*; from *mal*, which signifies *evil*; and *gre*, signifying *will*. This word *gre* comes from the Italian *grado*, and *grado* comes from the Latin *gratum*, as when they say *mal grado*, which is the same as *malgre* in French. *Mon. Menage Orig. Franc. & Ital.*

them

them thereof, the same Parts of the People, devydyd into twelve Parts, departed from him, and chose them a new Kyng, and came never after that time under his Subjection. Of which Departyng God said himself afterward, *A me factum est istud.* Which is an Example, that it is not good for a Kyng to over-fore charge his People. Wherefore me thynketh, that if the Kyng might have his Lyveleod for the Sustenance of his Astate, in grete Lordscippis, Manors, Fee Fermys, and such other Demayns, (his People not chargyd) he schuld kepe to him ^a holy, their Hearts; and excede in Lordschippis, al the Lords of his Realme; and then schuld non of them growe to be like unto hym; which thyng is most to be fearyd of all the World. For than within few Yers, ther schuld not remaine Lordschips in his Realme, by which they might growe so grete, nor that thay might growe soch by Maryages, but if the Kyng would it. For to hym fallyn al the

^a i. e. *wholly*; and so *bole* is used by our Authour, for *whole*. Now this plainly comes from the Saxon word *hal*, which signifies *salvus, integer, whole, or sound*. In Dutch *heet*. *hal ry bu, salvus sis, God save you*. It is from this word *hal*, that the Saxon word *halig* comes, which signifies *upright, or holy*, which is form'd by turning the Saxon *h* into *y*. *Somn. Dict. Sax.*

grete

grete

grette Marriages of his Land, which he may dispose as hym lyst. And by Dyscentē ther ys not like to fall gretter Heritage to any Nobleman, than to the Kyng. For to hym byn Cosyns, the most, and the gretest Lords of the Realme. And by Eschetes, ther may not so much Land fall to any Man as to the Kyng, because that no Man hath so many Tenaunts as he; and also no Man may have the Eschetes of Treason but hymself, and by Purchase. Yf this be done, ther schall no Man so well entreat his Lyvelood as the Kyng. For then schal none of his Tenaunts alien Lyvelood without his License, wherein than he may best prefarr hymself. Nor ther schal no Lyvelood be kepte so hole as the Kyngs, consyderyng that he may * not for his Honor, ^{not o-} sell his Lond, as other men may do; and al- ^{nestly,} ^{Laud.} so his fellyng would be the hurt of all hys Realme. Such was the fellyng of Chirk, and

¹ This word comes from the Saxon Eynic; or Eync, a Temple, or Church. In the Northern Dialect it is Kyrk to this day, by pronouncing the C as a K; which way of writing is more agreeable both to Antiquity, and to the original Derivation of the word; for the Greek *Upsilon* is always, in Latin and English, turn'd into T, but not into U, which is made of the Diphthong *u*; as in *Urania*, *Eubulus*, of *Ουρανία*, *Ευβουλο*. And therefore the Southern People of England have, but awkwardly, chang'd *Cyrch*, or *Chyrch*

and Chirks Lond; whereof never Man sawe a
 Presydent, and God defend, that any Man see
 mo such hereafter. For sellyng of a Kyngis
 Lyvelood, ys properly callyd Dilapidation of
 his Crowne, and therfor it is of grete Infa-
 mye. Now we have found undoubtydly, what
 maner of Revenuz, is beste for the Endow-
 ment of the Crowne. But sythen it ys said
 before, that the Kyng hath not at this Day
 sufficyent therto, it is most convenyent that
 we now serche, hou his Highness may have
 sufficyent of such Revenuz, which we may
 now fynd to be beste therfore.

Chyrch into *Church*; and the Northern might, according to
 that Rule, as well say *Kurk* for *Kyrk*, which would be ve-
 ry unnatural: and tho' our Author uses this word very of-
 ten in this Book, yet 'tis no where wrote with a *U*. There
 are several Compounds of this word; as, *Eypic-ealþop*,
 signifies a *Church-Warden*, or *Church-Elder*; *Eypic-ſceat*,
Church Scott, or a *Tribute*, and Payment made to the
 Church, and not *Churchseed*, or *First Fruits*; as *Lambard*
 erroneously renders it. *Somn. Sax. Dict.*



CHAP.

CHAP. XI.

*Hereafter is schewyd, what of the
Kynge Lyvelood gevyn away,
may best be takyn ageyne.*

THE Holy Patriarke *Jofeph*, while he,
under *Pharoo* the Kyng, governyd the
Lond of *Egypte*, rulid and fo intreatid
the People thereof, that thay grauntyd to
pay, and payyd to the fame Kyng, the fifth
Part of their Graynys, and of all other thynge
that growyd to them yerely of the ^a Erthe;
which Charge they beren yet, and ever fchal
bere. *Wherthorough*, their Prince, which
now is the ^{* b} Sowdan of *Babylone*, is one of ^{* Soden,}
the mightyest Princis of the World; and that ^{Digb.}
notwithftondyng the fame *Egyptians* ar the ^{Saudayn,} Laud.

^a This comes from the Saxon *Eopð*, *Earth*; *Eopð*
æpple, signifies a *Cucumber*, or *Earth-apple*. *Eopðling*,
is a *Husbandman*, or *Earthling*. . *Somn. Diæt.*

^b This word *Sowdan*, comes from the old French word
Soudan, which is the fame as the French *Souldan*, or
Soldan, and comes from the word *Sultan*, which in the
Hebrew is *Shultan*, *Dominus*, a *King*, or *Sovereign*. So
that by *Sowdan* here, is meant *Sultan*. *Nicot. Diæt.*

richest

* i.e.
selves.

richest Comons that livyn under any Prince, whereby, we be lemyd that it shal not only be good to our Prince, but also to our * self, that he be well endowyd, for else the Patriarke would not have made such a Treatye. The French Kyng, in one thyng, that is to say, in Wyne, takyth more of his People than doth the Sowdan; for he takyth the fourth ^c Penny therof, but yet he takyth nothing

* *Penny*; the Saxons had but one sort of Silver Coin current among them, which they call'd *Penning*, *Penning*, or *Penig*, from whence our word *Penny* comes; in barbarous Latin it was called *Penningus*, which was equal in Weight to our Silver Coin, call'd a *Threepence*, some of which Saxon Pence I have seen. Five of these *Pence*, or *Penningi*, made among them, ænne *Scylling*, in barbarous Latin, *Scyllingus*, a *Scylling*, or *Shilling*, and thirty of these *Penningi*, made a *Mancus*, in Latin, *Mancusa*, or a *Mark*. So says *Ælfrick* the Archbishop, *Fig Penegar gemaciað ænne Scylling. 7 þitticg Penegar ænne Mancus. Five Pence, or Penningi, make a Shilling, and thirty Penningi, make a Mancus.* Therefore, as one Saxon *Penny* was of the Weight of *Threepence*; so one *Scylling* of theirs, consisting of five *Penningi*, amounted to fifteen of our *Pence*, and so exceeded our *Shilling* by a fourth Part, or three *Pence*. The *Mancus* also, which contained thirty of the Saxon *Penningi*, contained ninety of our *Pence*, and was of the Weight of three of our *Half-Crowns*. Now this *Mancus* was of the same Value with the Saxon *Mark*, and was used to signify the same as a *Mark*, which afterwards came to be of different and greater Values, as Silver came to be cheaper. But the golden *Mancus*, or *Mark* of Gold, was of

ten

of their Prayers, Wools, or of any other
 † Goods that groweth to them of their † Gode,
 Lond. † Land.

ten times the Value of the silver *Marcus*, according to the Value that Gold exceeded Silver among the Greeks and Romans.

OF Brass Money there was a *Half Penny* among the Saxons, called *Helpling*, as appears in *Marc. Evang. 12. Luke 6. Ne becypað hi þif Speappan to Helplunge?* *Are not five Sparrows sold for a Helpling, or two Farthings?* So also the fourth Part of a Saxon Penny, *quadrans Penningi*, was called *Feopðling*, and from thence comes our word *Farthing*. And so is *Mat. 5. 26. ær þu agylðe þost ycemeðan Feopðlung, e'er thou payest the utmost Farthing.* There was also in use among the Saxons a Brass Coin, which was current with them, and was call'd *Styca*, *Styca*, which was of the Value of half a Farthing, four of them making a *Helpling*; some of which I have seen. This appears from *Mat. 12. 42. þa com an eapm þuðupe. 7 peapp tpegen Styca. 7 y feopðung Peninger;* *And there came a certain poor Widow, and put in two Styca's, that is the fourth Part of a Penny.*

The Mercian Saxons sometimes reckoned by a sort of Money called *Sceata*, which comes from the Saxon *Sceat*, and signifies a *small Part*, or *Proportion*. Each of these *Sceats*, or small Parts of Money, was equal to four Saxon Farthings, and $\frac{1}{4}$ of a Farthing; so that five *Sceats* made six Pence. This appears by *Textus Roffens. fol. 38. Leopler pep-gyls is CC. Scylling. Degener pep-gyls is nix ipa Micel. 7 byð xii. hundnes Scilling. Donno byð cyninger anpeals pep-gyls nix þege-na pep-gyls be Wyncnalage 7 is xxx. þurens Sceata. 7 brð ealles Cxx. Punða. The Husbandman, or Roman's Weregild, [i. e. *Estimatio, vel Pretium capitis,**

London: The King our Soveryng Lord had,
by rymes, sythen he reynayd upon us, Lyke-
lood

the Price of a Man slain,] is 200 s. The Thain's Weregild is six times as much, that is, 1200 s. Then the King's single Weregild contains six Thain-Weregilds, according to the Mercenlaga, or Mercian Law, that is to say, 30000 Sceats, which in the whole amounts to 120 Pounds Saxon.

There was another sort of Money which the Saxons computed by, called a *Djuntja*, which was of the Value of four Saxon Pennings. *Lambard* says, *Thrimsa* comes from *þreo*, three, and was of the Value of 3 s. But *Dr. Hickes* and *Dr. Brady* seem to have hit the Truth much better, when they say, that it comes from *Tremissis*, which, in the ancient Laws of the Germans, signified the third Part of a Shilling. For as of the Roman Pound, which consisted of twelve Ounces, the third Part was called *Triens*, containing four Ounces in Weight; so *Tremissis*, which among the Germans, was the Sum of 4 d. was the third Part of an old German Shilling, which consisted of 3 *Tremissis's*, or 12 d.

There was another species of Money among the Saxons; but whether it was Coin, or only a Denomination of Money, by which they reckon'd, is not certain. It was call'd among the Saxons, *Ora*, from the Saxon word *One*, which signifies *Metal*, and was brought into use in this Kingdom by the Danes. 'Tis call'd in barbarous Latin, *Æreus*, which was the eighth Part of an Islandick Mark; so says *Olaus Verel. in vet. Sueo-Gothic. Indice; Burt est octava Pars Marce.* So *Gudmund. Andr. in his Lexico Islandico, Mora, Marca ponderis continet octo Æreos.* Now a Mark of pure Silver, among them, weighed eight Ounces, and this *Ora, five Æreus argenteus*, weighed one Ounce only, tho' in Taxations, among the Islandicks, it went for more; and so in Weight and Value was equal to twenty Saxon *Penningi*, i. e. sixty of our *Pence*; which is a Crown. So *Somner* says, that *Ora* signified the same

hood in Lordschippis, Lands, Tenements and Rents, amount to the Value of the fifth Part booi

as an Ounce, but was of two sorts, the greater and lesser *Ora*; the lesser was but sixteen Pence, the greater, twenty Pence Saxon.

Now to reduce this Matter of the Saxon Coin, into a narrow Compass, and to give a full View of it at once; consider, that two *Stica's* made a *Farthing*, two *Farthings* made a *Halfing*, and two *Halfings* made a Saxon *Penny*, which is equal to three Pence English Money; two *Halfings*, one *Stica*, and $\frac{1}{2}$ of a *Stica*, or nine *Stica's* and $\frac{1}{2}$ of a *Stica*, which was four *Farthings*, and $\frac{1}{2}$ of a *Farthing* Saxon, made the Saxon *Sceat*, which is in English Money three Pence Half Penny and $\frac{1}{4}$ of a *Farthing*. Four Saxon *Pennings* made a *Thrimisa*, which is twelve Pence English Money, and five *Pennings* made a Saxon *Scylling*, equal to fifteen Pence English. Again, twenty *Pennings* made an *Ora*, which is equal to our Crown Piece; and thirty *Pennings*, which were equal to twenty five *Sceats*, made a *Mancus*, or *Mark*, then of the Value only of six Saxon *Scyllings*, making seven Shillings and six Pence English. Ten *Mancus's*, or *Marks*, made sixty *Scyllings*, and sixty *Scyllings* made a *Pound* Saxon, which was of the Weight of seventy five of our Shillings, amounting to three Pound fifteen Shillings. So that fifteen Ounces of Silver went to make their Pound. *Hicel. Thef. Dissert. Epist. 109, 110.*

Lordschippis; this is a Saxon word, and is wrote thus, *Blapodsceipe*; *Blapods*, signifies *Lord*, and sometime *Leige Lord*, or *King*. King *Canutus* is so called in *Chron. Saxon. 1014*. And as *Blapods*, signifies *Dominus*, *Lord*, or *King*; so the Feminine Gender, *Blarona*, signifies *Dominna*, *Lady*, or *Queen*. As for the word *Sceipe*, which signifies *Dominion*, *Jurisdiction*, or *Autority*, see before *Saxon. Diet. Hicel. Thef. Dissert. Epist. See the Preface.*

of his Realme, above the Possessions of that Church, by which Lyselood, if it had abydyn styl in his Hands, he had byn more myghty of good Revenuz, than any of the said two Kyngs, or any Kyng that now reynith upon Cristen Men. But this was not possible to have be done. For to summe parte therof, the Heysrs of them that sumtyme owyd it, be restoryd; summe by reason of [†] Taylys, summe by reason of other Tytles, which the Kyng hath confyderyd and thought them good and reasonable. And summe of the same Lyselood, hys good Grace hath gyvyn, to such as hath servyd hym so notably, that as their Repowne wol be eternal, so it befatt the Kyngs Magnifycenc, to make their Rewards, everlasting in ther Heysrs, to his Honor, and ther

* Taylys,
Digb.
Laud.

note
to see
what
the
word
means

† i. e. own'd it, from the Saxon Verb agan, *to own*, of *possess*, and that from agen, *proprium*, *his own*. Somn. Dict.

† Taylys, from the French *Taille*, which here signifies *Estates*, by reason of which, some of those Estates were in such a manner limited, as would not give the King any right of Forfeiture, tho' the Owner was convict of the highest Offences.

† Befatt, i. e. *did befit*, from the Saxon word, beretan, which undoubtedly was a Verb among the Saxons, signifying *decere*, *to become*. And according to the Saxon Formation, beretan, in the Preterimperfect Tense, must make beretan. *Saxon Gram.* II. 34. *Somn. Dict.*

perpetual

perpetual Memorye. And also the Kyng hath gevyn part of his Lyvelood, to his most honorable Brethren, which not only have seryyd him in the manner aforesaid, but byn also so nigh in Blode to his Highness, that yt befatt not his Magnificence to have done ^{* other} ^{wise,} ^{Laud.} Service. Nevertheless som Men have done hym Service, for whiche it is reasonable that his Grace had rewardyd them; and for lack of Money, the Kyng than rewardyd them with Land. And to some Men he hath done yn likewise, above their Demerits, thorowe Impportunitye of their Sewts. And it is supposyd, that to † sum of them is gevyn C^l. worth Land yerely, that would have hold hym content with CC^l. in Money, if thay might have had it in Hand. Wherfor, it is thought, yf such Gyfts, and namely thos whiche have ben made inconsiderately, or above the Merits of them that have them, ware reformyd; and thay rewardyd with Money, or Offis, or somewhat Lyvelood for Term of Life, which after their Deths, would than returne to the Crowne; the Kyng schuld have such Lyvelood as we now seke for, sufficyent for the Maintenaunce of his Astate. And if it would not than be so grete, I hold it for undoubtyd, that the People of his Eord, wol

be willyng to graunt hym a Subsidye, upon such Commodities of hys Realme, as be before specyfyd, as schal accomplish that which schal lack hym of such Lyvelood. So that hys Highness woll establish the same Lyvelood than remainyng, to abyde perpetually to his Crowne, withoute translating thereof to any other Use. For else, whan that schal happyn hereafter to be gevyn away, hytt schal nede that hys Commons be chargyd with a New Subsidye, and be alway kepte in Povertie.



CHAR.

CHAP. XII.

*Hereafter ys schemyd, what Harme
would come to Englonde, if the
Commons thereof were Pore.*

SOME Men have said, that it war good
for the Kyng, that the Comons of *Eng-
londe* wer made poer, as be the Comons
of *Fraunce*. For than, thay would not re-
bell as now thay done often tymes; which
the Comons of *Fraunce* do not, nor may do;
for thay have no Wepon, nor Armor, nor
Good to bye it withall. To thees maner of
Men, may be said with the Philosopher, *Ad
parva respicientes, de facili enunciant*; that
is to say, thay that seen fewe thyngs, woll
sone say their Advyse. ^a Forsothe thoos folkys
conly-

^a This word is pure Saxon, and is wrote thus *forþ-
roð*, certainly, truly. Sometimes 'tis made two words,
as, *forþ roð*, then it signifies word for word, for truth,
for certainty, or in truth; the Saxon word *roð* signify-
ing truth. From hence, Charity in this Language is cal-
led *roðe-lof*, sooth Love, in English true Love. So
roðe-saga, sothe-saga, in Saxon, stands for a History, be-
cause all Histories should be true, tho' they are not; it al-

confydera[n]t li[n]e the Good of the Realme of
Englond, wherof the Might most ston[d]yth
 upon Archers, which be no rich Men. And
 if thay were made porer than they be, they
 schuld not have wherewith to bye them Bowys,
 Arrowes, ^b Jakkes, or any other Armof of
 Defence,

so signifies *true Sayings*, or *Divinations*, and from thence
 comes our English *Soothsayer*, or *Fortune-Teller*. From
 ʒoð, *truth*, comes the Saxon Adverb ʒoð-lice, *truly*, or
verily; *lice* or *lic* in Saxon making in English *ly*. Some
 Saxon Dict.

^b *Jakkes*, comes from the old French word *Jaque*, *Ja-*
quette, or *Jaquedemaille*. *Jaque*, in old French, signify'd
 a *Habit*, or *Garment* used in War, which was stuff'd with
 Cotton, in the fashion of a Wastecoat. But afterwards
 it was made of small Links of Iron, call'd in French
Mailles de fer, like a Coat of Mail, or what in French is
 called *Haubergeon*; and therefore it was they put the Ad-
 dition, *de Maille*, calling it *Jaque*, or *Chemise de Maille*.
 This sort of Habit was in those times worn also on all
 common Occasions, and usually made of Cloth, and
 Stuff; and from thence they anciently call'd it a *Jaque*,
 and in modern times, a *Jacquette*. *Pontanus* says, the
 French had this word from the German *Jach*, which has
 the same Signification; but Monsieur *Menage* says it
 comes from the English, and not from the German, but
 borrow'd from us; the word *Jacke* in old English, signify-
 ing *Coat of Armor*, or a *Coat of Mail*. *Du Cang* says, a *Jacke*
 is a sort of Military Cloak, or Vestment used in War; to
 put over their Coats of Mail. *Walsingham* in his *Life of*
Richard II. p. 239. says, *Accepi ab ore ejusdem Johannis*
Philipor, quod mille Loricas, vel Tunicas, quas vulgo Jackes
vocant, redemerit de manibus creditorum. Et p. 249. Acceptorum
quoddam vestimentum pretiosissimum, Ducis Lancastrie, quod
Jacke

Defence; whereby they might be able to resist our Entymyes, when they list to come upon us, which they may do on every fyde.

Jacke vocamus. In Latin it is *Lorica*, being originally made of Leather, but afterwards of Iron, called a *Coat of Mail*. Now *Maille* is a French word, and has divers Significations; anciently it signified a Piece of French Money, called a *Half-penny*, formed, *Du Cang* thinks, from the word *metallum*; but the *Sieur de Clerac*, in his *Treasure des Anciens Poids Et Monnoies de Guyenne*, says, it comes from the Old French word *Maille*, which signify'd a *square Figure*, or the *square Hole of a Net*; and this is the true Etymology. So says *P. Labbe* in his *Etymologies Françoises*, *Les Mailles, en Monnoye ont est d'etes, d'autant qu'elles n'avoient pas plus grandes qu'un petit trou de filet, ou qu'une boucle de Cottes de Maille*; from hence comes the French *Maille de Retz*, the *Spots*, or *Squares in a Net*. Now from this *Maille de Retz*, comes *Maille de Hanbergeons*, a *Coat of Mail*, or the *Spots or Squares in a Coat of Mail*, in the same Signification as the *Spots or Squares in Nets*, because of the Resemblance of the *Links*, or *Joints*, of a *Coat of Mail*, with the *Macule*, the *Spots or Squares of a Net*. Hence is the French Proverb, *Maille a Maille on fait les Hanbergeons*; *Link after Link, the Coat is made at length*.

There is also the ancient French word *Mail*, but that signified heretofore a *Mallet*, but now is no where in use, but to signify a *Play*, called *Le jeu de Mail*, and stands for the *Mail*, or round Ring of Iron, which they use at the Play of the *Mail*, or *Mall*. And from hence you have the word *Pal-mail*, or *Pall-mall*, derived from *Palla*, which is the *Ball* with which they play, and the word *Mail*. For the Play of the *Mall* comes, says *P. Labbe*, from *Maille*, i. e. a round Ring of Iron, through which the Ball is to pass; from thence it is supposed our *Pall Mall* in *St. James's Park* has its Name. *Du Fresn. Gloss. Menage Orig. Franc.*

consy-

confydering that we be an Ileland; and as it ys said before, we may not have sone Socors off any other Realme. Wherfor we schuld be a Pray to al other Ennymyes, but if we be mighty of our self, which Might stondith most upon our poer Archers; and therfor thay nedyn, not only to have such Abilyments as now is spoken of, but also thay nedyn to be & mich exercysyd in schotyng, which may not be done without right grete Expenfys; as every Man experte theryn knowyth right well. Wherfor the making poer of the Comons, which is the making poer of our Archers, schuld be the Distruction of the grettest Might of our Realme. *Item*, If poer Men may not lightly ryse, as is the Opynyoun of thoes Men, which for that cause would have the Comons poer; hou than, if a mighty Man made a Ryfing, schuld he be repressyd; whan all the Comons be so poer, that after such Opynyoun thay may not fyght, and by that reason not help the Kyng with fyghtyng? And why makyth the Kyng, the Commons to be every

^{NOT}
 • This comes from the Saxon word micel, *much* ^M
great. In *Chaucer*, it is *mikell*, *makell*; in Danish might, ST
 in Scotch *makel*. The Saxon *micelic*, signifies *magnif-*
icent, *noble*, *sumptuous*; *micelnesse* is *Greatness*, *Largeness*,
Nobleness. *Somn. Sax. Dic.*

Yere

Yere musteryd; sythen it was good thay had no
 d Harnes, nor wer able to fyght? O hou unwise
 is the Opynyoun of thees Men; for it may not
 be mantenyd by any Reason! *Item*, whan any
 Ryfying hath byn made in this Land, before

^{ca} *Harnes*, signifies *Arms*; the old French word is *Harnois*; in Italian *Arnese*, and in the barbarous Latin it is *Harnesium*, or *Harnascha*. Some of the Italians, as *Castelvetro* and others, would have *Arnese* come from the Latin *ornare*, or *Ornamentum*; others, *Arnese*, quasi *Arnese*; but *Du Cang* says, in vain do they seek a Latin or Greek Derivation, and is of Opinion with Monsieur *Ménage*, that this comes from the German word *Harnisch*, *Harnaltch*, or *Hrnisch*, which properly signifies all warlike Instruments; and *Harnas* in Flemish signifies *Arms*, and from thence our old English words *Harnish* and *Harnes* come. From hence you have the old French Expression, *Harnascher un cheval*, which was properly spoken of a Horse of War, when he was to be enclosed in Armour, and managed. *Gauterius Cancellarius de Bellis Antioch.* p. 454. *Hæc inter discrimina, conventus nostri Harnesi, cum totius exercitus Suppellectili, in quodam monte prope existente se locavit.* Statut. 2. Rob. I. Reg. Scotiæ cap. 27. *Quilibet paratus sit cum Attiliis & Harnesiis, &c.* It is *Hernesium*, according to *Roger Hoveden*, p. 725. *missus ab eo cum Hernasio suo in Angliam.* *Matthew Paris* has *Hernesium*, in *Vit. Abbat. S. Alban.* p. 98. And sometimes we meet with *harnisgatus*, armed, from the English *harnished*. *Mottist. Angl.* Tom. 3. Part 2. p. 85. *Duo baculi harnisati cum bevillo.* The old Danish word is *Harneskia*, and in its original Meaning, *Dr. Hickes* says, it might signify in a more restrained sense, Armour for the Head only, *Armatura Cerebri*, which in Gothick is **ONIRNS**, in old Danish *Harne*, in old French *Hirn*. *Hickes. Gram. Franc. Theologica.* *Du Fresn Gloss. Menage Origen. Franc.*

thees

three dayes by Comons, the poore Men there
of, hath byn the grettest Causars and Dears
theryn. And thyrty Men have ben loth ther
to, for Drede of losyng of their Goods, but
yet often tymes thay have gone with them
thorough * Manafys, or els the same poer
Men would have takyn their Goods; wherin
it semyth that Povertye, hath byn the hole
and cheffe Cause of al such Ryfyng. The
poer Man hath ben styryd therto, by occa-
syon of his Povertye, for to get Good; and
the riche Men have gone with them, because
thay wold not be poer, by lesyng of their
Goods. What than would fal, if al the Co-
mons were poer? Truly it is like, that this
Land than, schuld be like unto the Land of
† Boeme, † * Beame, wher the Comons for Povertye
rose upon the Nobles, and made al their Goods
to be comon. *Item*, It is the Kyngs Honor,
and also his Office, to make his Realme riche;
and yt ys Dishonor whan he hath a poer
Realme, of which Men woll say, that he
reygnyth upon Beggars; yet it war mych
gretter Dylhonour, if he fownd his Realme
riche, and than made it poer. And also it

* Manafys,
Manafys,
Laud.

† Boeme,
Dish.
Laud.

* Beame, i. e. Babemio, from the old French word
Bobem.

WRO

were grechly f ayenst his Confyence, that
 ayghe to defend them, and their Goods, if
 he toke from them their Goods, without law-
 full Cause; from the Infamy whereof God
 defend our Kyng, and gyve him Grace to aug-
 ment his Realme in Rycesse, Welth, and Pro-
 speryte, to his perpetual Lawde and Honour.

Item, The Realme of *Fraunce* gavyth never
 frely of their own good Will, any Subsydye
 to their Prynce, because the Comons therof
 be so poer, as thay may not gyve any thyng
 of their own Goods. And the Kyng ther
 askyth never Subsydye of his Nobles, for
 drede that if he chargyd them so, thay would
 confedre with the Comons, and peraventure
 putt hym downe; But our Comons be riche,
 and therfor thay gave to their Kyng, at sum
 tymys * s. Quinsimes and Dismes, and often

tymys *Dyames,*
Digb.

^f This is after the manner of the Saxons, and comes
 from the Saxon word *agen*, and turning the *g* into *y* it
 is *ayen*, and from thence, *ayenst*, that is, *against*. *Somn.*
Die.

* *Quinsime*, from the French *quinsime*, a *fifteenth*, in
 our Records called *quinta decima*. This was a Tax grant-
 ed by Parliament in the 18th Year of *Edward I.* which
 was a fifteenth Part of all moveable Goods. The Title
 of the Account Roll is, *Comptus quinde-decima, Regi An.*
18. per Archiepiscopos, Episcopos, Abbates, Priores, Comites
Barones, Et omnes alios de Regno, de omnibus bonis suis mo-
bilibus

for the
 Defence
 of his
 Realme,
 Land.

may other grete Subsydyes, as he hath
 made of their Goods for * the Defence of his

hitherto concesses. The City of *London* this Year paid for their fifteenth, 2860*l.* 13*s.* 8*d.* Many compounded or fined for this fifteenth, as did the Abbot of *St. Edmonds* this Year for 665*l.* 13*s.* 4*d.* and thereupon, had his Discharge of the fifteenth of all his temporal Goods, and the Goods of his Convent, and his Villains, and the Men of the whole Town of *St. Edmonds*, saving the King's fifteenth of the Goods of all other free Tenants of the said Abbot and Convent. In the 22^d and 23^d of *Ed. I.* there was a tenth granted, of all temporal Goods, and a Moiety of the Benefices and Goods of the Clergy. In 34 *Ed. I.* a thirtieth Part, of all temporal Goods was granted in Parliament, for the Prelates, and great Lords, and the whole Commonalty of the Kingdom, and a twentieth Part of the Goods of all the Cities, Burghs and King's Demeans.

The ancient way of collecting these sort of Taxes was thus; There were two chief Assessors appointed by the King, in every County, who appointed twelve in every Hundred, to rate every Man's personal Estate according to the true Value; and then to levy a thirtieth or fifteenth part of it, as it was granted by Parliament; and these Assessors appointed also in every City and Borough, and Town of the King's Demeans, such, and as many as they thought fit, to enquire into every Man's personal Estate there, in order to have them assessed, and the Tax levied in the same manner as in the Counties. In the 8th Year of *Edward III.* upon Complaint by the Parliament, that the Assessors and Collectors did, by Bribes, vary from their former Assessments of the tenth and fifteenth, Commissioners were sent into all the several Counties to agree and compound them; and thereupon the tenth and fifteenth were then first of all fixed and settled, what every Town and County was in particular to pay for the same. *Dr. Brady of Burghs, p. 26, 27, 39.*

30

Realme

be fallyn into Povertie, becomyn anon Robbers and Theses, which would not have be such, yf Povertie had not brought them therto. How many a These than wer like to be in this Land, if al the Comons were poer. The grettest Sewertie truly, and also the most Honour that may come to the Kyng is, that his Realme be riche in every Astate; for nothyng may make his People to arise, but lacke of † Goods, or lacke of Justyce. **H** yet certeynly when they lack Goods they will arise, fayyng they lack Justyce. Nevertheless if they be not poer, they will never aryse, * but if their Prince so leve Justice, that he gyve hymself al to Tyrannye.

† Gode,
Land.

* *hoc est*, signifies *unless, except, vid. ante.*



C H A P.

LIMITED MONARCHY.

CHAP. XIII.

Onely lacke of Harte, and Covardise, kepyn the Frenchemen from Ryfing.

POverie onely is not the Cause, why the Comons of *Fraunce* rise not ageyn their Soveryng Lord; for there were never People in that Lond more pore, then wer in our Tyme, the Comons of the Cuntrey of ^a *Caux*, which was almost deserte for lack of ^b *Tyllars*; as yt now wel apperith, by the new Husbandrye that ys done ther; namely, in grobbyng, and stockyng of Trees, Bushes, and Grovys growyn, while we wer ther, Lords of the Cuntrey. And yet the foresaid Comons of *Caux* made a marvelous grete Ryfing, and toke our Townys, Castells, and

^a *Caux* is a Province in *Normandy* in *France*, of which *Diep* is the chief Town; in Latin it is called *Caletensis ager*. *Cesar* calls the Inhabitants *Caletes*; and in French they are called *Cauchois*. *Nicot*.

^b *Tyllars*, comes from the Saxon Verb *tilian*, *laborare*, to take pains, to toil; from thence comes *tilia*, or *Εορδ-tilia*, a Husbandman, a Labourer, or Toiler in the Earth. *Sonn. Dict*.

H

Fotresses,

Fortresses, and slew our Captayns and Soldiers, at such a time, when we had but a few Men of War lyyng in that Countrey; which proveth that it is Cowardise and lack of Hartes and Corage, that kepith the Frenchmen from vsyng, and not Povertye; which Corage no Frenche Man hath like to the English Man. It hath ben often seen in *England* that iij^e. or. iij^e. ^d Theses, for Povertie, hath sett upon vij. or viij. ^e true Men, and robberyd them al. But it hath not ben seen in *Fraunce*, that vij. or viij. Theses, have ben hardy to robbe iij^e.

^c *England*; from the Saxon Engla-land, *England*, so called first of all, as is commonly reputed, by *Egbert*, the first sole and absolute Monarch of the *English*, of which the learned Prelate Bishop *Usher* takes notice, in his *Britann. Eccles. Primordia*, p. 108. Now *Engla-land*, word for word, signifies the *Land of English Men*, for the Saxon word *Engle*, signifies *Angli*, *Englishmen*. *Somn. Dict.*

^d From the Saxon *þeof*, a *Thief*; the plural Number is *þeoper*. This comes from the Verb *þeopian*, to *thieve*; *þeofað*, signifies *stollen*, or *sterved*; and from thence comes the Saxon word, *þeofðe*, and from thence our English word, *Theft*. *Somn. Dict.*

^e *True Men*, i. e. *honest and just Men*; it is a Saxon word wrote thus, *træpe*, *fidelis*, *just and faithful*: In the Superlative it is *træpeſta*, *fidelissimus*, *most true*, or *truest*; in Dutch, *trouw*. This comes from the Saxon Verb *træopian*, *justificare*, to *clear one's Innocence*. So *træop-lease*, signifies a *perfidious Man*, *faibleſs*, or *trustless*; in Teutonick, *trouw-loos*. *Somn. Dict.*

OR

Or *Johnius Man* : Wherefor it is right to seld
 that French Men be hangyd for Robberye,
 for that they have no Hertys to do contrary
 right an Acte. There be therfor some Men
 hangyd in *England*, in a Yere, for *Robbe-
 ry* and *Mauffleughter*, than ther be hangid
 in *France*, for such Cause of Crime in vij.
 Yers. There is no Man hangyd in *Scot-
 land*

of right seld, i. e. very rare; for seld, in the Saxon sig-
 nifies rare, unusual, vid. ante.

Mo, here stands for the Saxon word ma, which sig-
 nifies plures, or more: Sometimes it signifies magis, rather;
 he ma ham-peapþ þapan þonne leng þær bide;
 i. e. that he may rather go homeward, than abide long there.
 Somn. Dict.

A *Scotland*, is a Saxon word, and is wrote thus *Scot-
 land*, and sometimes *Scotta-ealonþ*, which signifies
Ireland, as well as *Scotland*, and originally signified *Ire-
 land*, before it came to signify *Scotland*. So *Scottar*, in
 Saxon signifies *Irish-men*, as well as *Scotch-men*; and
Scottar Leod, is *Gens Hibernica*, item *Scotica*, the *Irish*,
 or *Scottish Nation*. So the Latin *Scotus* in those days sig-
 nified an *Irish-man*, as well as a *Scotch-man*; as the fa-
 mous *Johannes Erigena*, was called *Johannes Scotus*, and
 he was an *Irish-man*, and not a *Scotch-man*. He was
 born in *Ireland*, but travelled into foreign Parts, to learn
 the Eastern Languages, and at last went into *France*, from
 whence he was invited as one of the Learned of the Age,
 into *England*, by the great King *Alfred*, and in the Monaste-
 ry of *Malmesbury*, met with the dismal Fate, of being stabb'd
 to Death with Pen-knives, by his own Scholars.

Now the *Scots*, 'tis supposed, took their Name of *Scy-
 this*, because the *Scythians* first came into *Ireland*, and
 made

ob. of 311
Land in vij. Yers together, for Robberye ;
 and yet they be often tymes hangyd for
 * *Larceny*, and *Stelyng of Goods* in the
 * *Larceny*, *Digb.* *Absence of the Owner* thereof! But their
 † *hens*, *Land.* *Harts* serve † them not to take a Mannys
Goods, while he is present, and will defend
 it; which maner of takyng is callid *Robberye*.
 But the English Men be of another
Corage; for if he be poer, and see another
 Man havyng *Rycheffe*, which may be takyn

made a Conquest of that Kingdom, and afterwards invaded *Scotland*, and beat out the Inhabitants from thence, and fetted themselves there; and so the *Scoti*, or *Scythi*, becoming the Inhabitants of both Nations, *Scotland* anciently came to signify *Ireland*, as well as *Scotland*: So the word *Scythia*, after that several Colonies from that Place were planted in *Ireland*, and after that in *Scotland*, in Process of time, by Corruption, as the most learned think, was turn'd into *Scotia*; and so gave the Name to both Kingdoms. Now the *Scythians* got their Name from the old Teutonick Verb *scytan*; in Saxon *scotan*, *sagittare*, to shoot, or cast Darts; from the wonderful Skill and Dexterity they had, beyond all Nations, of throwing Darts. *Somn. Ven. Bede, lib. 1. ca. 1. lib. 2. ca. 5. Alfredi Magni Vita, lib. 2. 99.*

† *Larceny*, for *Larciny*, from the old French word *Larcine*, in Latin *Latrocinium*, *Theft*; and this comes from the old French Verb *larreciner*, which is the same with *larroner*, to steal; from whence comes *Larronean*, a Pilderer, a little Thief. From hence is our Law word *Larceny*, which signifies Theft in general, and is divided into Grand and Petit Larceny; the first is a Theft to the value of 12*d.* and the last under 12*d.* *Nicot.*

from

LIMITED MONARCHY.

101

from him by Might, he wol not spare to do
fo, ^k but if, that poer Man be right true.
Wherfor, it is not Povertie, but it is lacke of
Harte and Cowardise, that kepyth the French
Men from ryfing.

... k but if, i. e. except.



H 3

CHAP.

101

C H A P. XIV.

Hereafter is schewyd, why it nedith that ther be a Resumpcion, and a Graunt of † Goods, made to the Kyng.

† gode,
Laud.

THIS Serche which we now have made, for to understond hou harmefull it would be, to the Kyng, and to his Realme, if his Comons wer poer, hath ben a Digression from the mater in which we labor; that is to say, for to understond hou the Kyng may best have sufficient and perdurable Lyvelood, for the Sustentation of his Astate. Wherfor it behovyth that we now resort to the Poynte in the which we left, which, as I remember, was this. We found by grete Cauys, that yt was nedefull, that al such Gyfts as have ben made of the Kyngs Lyvelood inconsiderately, as not deservyd, or above the Merites of them that hath getyn them, were reformyd; so that they which have done Service, be not onrewardyd. Which thyng, as me thynkith, may not perfity be done, without

out a general Resumpcion, made by Acte of Parlemt; and that ther be gevyn to the Kyng by the Auctorite of the same Parlemt. a grete Subfydye, with which his Hyghness, with the Advyfe of his Councile, may reward choos that have deservyd Rewards; and aught not therfor to have part of his Revenuz, by which his Astate must needs be mayntenyd; or aught not to have so moche of the Revenuz, as thay have now, or not so grete Astate in the same; confydering that al such gevyng away of the Kyngs Lyvelood, is harmfull to al his Lyegemen, which schal therbye, as is before schewyd, be artyd to a new charge, for the Suttentation of his Astate. But yet, ^a or any such Resumpcion be made, it schal be good, that an * honorable and no-^{* wor-}table Conceile be establischid, by the Advyfe ^{shipful,} of which, al newe Gyftes and Rewards may be ^b moderid and made, as if no such Gyftes or Rewards had been made before this time. Providyd alway, that no Man be harmyd by reason of such Resumpcion, in the Arrearages of such Lyvelood as he schal [†] than have.

† *hon,*
Laud.

^a Or, this stands for the Saxon *for*, which, as I have already mention'd, signifies, *before, 'ers.*

^b *Moderid*; i. e. *moderated*, from the French Verb *moderer*, to moderate; *moderé*, moderated.

* *renne*,
Laud.

which schuld **e* ron after the Resumpcion, and before the said new Gyftes and Rewards. And when such a Conceil is fully create and establichid, hyt schal be good that all Supplications which schal be made to the Kyng, for any Gyft or Reward, be sent to the same Councelle, and ther debatyed and delibered; first, whether the Suppliant have deservyd such Reward as he askyth: and if he have deservyd ytt, yet it nedyth that it be deliberid,

* *Renne*; from the Gothick **RINNAN**, *rinnan*, *currere*, *to run*, **RANN**, *rann*, *cucurrit*, *he ran*. Marc. 3. 8. and 13. In German, it is *rinnan*, *to run*; in Danish, *rende*; in Dutch, *rennen*. Among the Saxons *æppan*, or *yppan*, is *to run*; which by the Transposition of a Letter is *æpan*, and the old Saxons used *pan*, and *pypan*, *to run*; and in the most ancient Monuments we find *pyne*, to signify a *Course for running*, and *Rynel*, or *Rynol*, a *Runner*. But *rinnan*, among the Goths, signified *to flow*, or *run* as Water does, as well as to *run* a *Course*. So among the Saxons, *Ryne* *æppan*, signified a *Watercourse*, or *Run of Water*; and sometimes they used *Ryne* alone, to signify a *Watercourse*. From hence, *Sommer* says, came the Name of the River *Rhine* in *Germany*, so called from its rapid *Course*, as he thinks; but *Junius* says it comes from the Saxon *pein*, that signifies *pure*, from the Clearness of the Water; tho' the Purity may be the Effect of the Rapidity; for the more rapid any River is, the more pure is the Stream. From hence it is, I suppose, that in *Somersetshire* they call the Streams and Rivulets between their Moors, which on Floods rise high, *Rhines* to this Day. *Somm. Dict. Mariscal. Evangel. Glossar. Gothic. Spelm. Sax. Psal. 1. 2.*

whether

whether the Kyng may gyve such Reward as he askyth, of his Reventuz, sayng to hymself suffycient for the Sustenaunce of hys Astate; or els such gevyng war no Vertue, but rather a Spice of Prodigalitie, and as for so much, it were delapydacion of his Crowne. Wherefore no pryvate Person wol, by reason of Liberalite, or of Reward, to abate his own Lyyelood, as he may not kepe such Astate as he dyd before. And trully it war better that a pryvate Person lackyd his Reward which he hath well deservyd, than that by his Reward the Good Publike, and also the Lond were hurte. Wherefor to^d eschewe thees two Harmes, hyt may than be advyfed by the Councelle, hou such a Person may be rewarded with Office, Money, Mariage, Fraunchise, Privylege, or such other thyng, of whiche the Crowne hath grete Rychesse. And verely if this Order be kepte, the Kyng schal not be grevyd by Importunyte of Sewtars,

^d *Eschew*; from the old French Verb *eschever*, to *shun*, *bend from*; *eschève*, *eschew'd*, *shun'd*, *bent*, or *bow'd from*; *eschew*, *befallen*, *happen'd*; *eschèvement*, *shunning*, *bending from*. This probably comes from *ex*, and the old Francick *scutan*; in old Danish, *utscuta*; in Saxon *ut-rcupan*, *destrudere*, *propulsare*, to *shave off*, *stave off*, or *deliver from*. Nicot. Somn. Dic.

not they shal by Importunyte, or Brochage, optayne any unreasonable Desires. O what
 Quyet

Brochage; this is spoken in Allusion to such Sums of Money as are usually given to a Broker in London, for the Sale of any Commodity. A *Broker* is an ancient Trade in the City of London, of many hundred Years standing, and formerly they were Freemen, and used to be chosen out of some of the Companies there, and allowed and approv'd of, by the Lord Mayor and Aldermen, for their Integrity and Ability, and used to take an Oath to demean themselves faithfully.

Their Business was, to go between Merchant and Merchant, or other Trader, and to make and conclude Bargains between them, for the Sale of Commodities, and for the Loan of Monies; and this Trade was called *Brochage*, or *Brokery*. This was ever esteem'd an honest and fair Trade, and way of living; and is very different from that of the modern *Brokers*, commonly call'd *Pawn-brokers*, who assume to themselves the Name of *Brokers*, tho' it does not belong to them. For a *Pawn-broker*, in the Eye of the Law, is not esteem'd an honest or lawful Trade, and is so declared by Act of Parliament, which calls them *counterfeit Brokers*; they being properly what the French call *Fripiers*, i. e. such as mend and trim up old Garments to make sale thereof. In barbarous Latin, *Brocarius* is a *Broker*. Statut. Gildæ Berwic. ca. 27. *Statuimus quod Brocarii sint electi per Communiam Ville, qui dabunt singulis annis annum dolium vini. Brocarius*, among the Scots, according to Skene, signifies a *Mediator*, or *Intercessor*, in any Transaction, Contract, or Bargain; and this falls in with the Civil Law Term, which is *Proxenetæ*, *Pararius*; a *Go-between*, *Mediator*, or *Preparer* of Contracts and Sales. I am apt to think the Original of this word is Saxon, and that it comes from the Verb *bneacan*, to *breake*, and from thence you have *brocob*, which signifies a *Bankrupt*, or *Trader braken*; and that per-
 haps

Quiere schal growe to the Kyng by this Order! And in what rest schal all his People lyve; having no Colour of grutchyng with such as schal be aboute his Person, as they were wonte to have, for the gyvyng away of his Lands, and for the Miscouncelyng of hym in many other Causis; nor of Murmour ageyne the Kynge's Person, for the Mysgovernyng of his Realme! For in this Councelle may be Determinyd, every Case of Dificulte, * or the * i.e. 'ere. Kyng do any thyng therin. And the wise Man saith, *ubi multa Concilia, ibi Salus*. And truly such a contynuall Councelle, may be well cauldyd, *Multa Concilia*, for it ofte and every day Councelyth.

haps may come from the Saxon *broc*, which signifies *Misfortune*, or *Adversity*, that being the general Reason of an honest Man's Breaking. And in all probability, this Name *Broker*, came from one who was a broken Trademan; for it is supposed, that none were admitted to be *Brokers*; but such as had been fair Traders, and had broke by Misfortune; and compounded with their Creditors; and that thereby (there being a sufficient Testimony of their Honesty) they would be the better qualify'd for such Employment. *Stat. I. Jac. I. 21. Du Fresn. Soran. Sax. Dist.*

CHAP.

CHAP. XV.

*How the Kyngs Conceil, may be
best Chofyn and Establyfchyd.*

* *wonted,
Land.*

THE Kyngs Counceile was * *wont* to be chofyn of grete Princis, and of the gretteft Lords both Spirituallis, and Temporallis of the Realme, and also of other Men that wer in grete Auctorite, and Offices, Which Lords and Officers, had nerehand as many matters of their own, to be treatid in the Counceile, as had the Kyng. Wherthorow, whan they came togeders, thay was occupied with their own maters, and with the maters of their ^b Kynne, Servaunts, and Tenants, that thay intendyd but lityll, and ether while no thyng, to the Kyngs maters.

* *Wont*; comes from the Saxon *gepunian*, or *punan*, *officere*, *to use*, *to accustom*, *to be wont*. The Participle of that Verb is *gepunod*, or *punod*, *wont*. *Somn. Dict.*

^b *Kynne*, from the Saxon *Lynne*, or *Lyn*, which signifies *Genus*, *Gens*, *Progenies*, *Progeny*, *Kindred*. *Dynaceenne*, signifies *a Genealogy* or *Pedigree*. *Lyn-cyn*, signifies *Rogalis*, *Royal*, or word for word, *the Kin of a King*. *Somn. Dict.*

And

And also ther war but fewe maters of the Kyngs, †but if the same maters †towchid al-^{† i.e. ex-} so the said Counceylors, their Cosyns, their ^{cept.} † ^{† touche-} Servaunts, Tenaunts, or such other as thay ^{den,} owyd Favor unto. And what lowar Man was ^{Land.} than sytting in that Counceile, that durst say ageyn the Opynyoun of any of the grete Lords. And might not than Men make, by Meanyes of Corruptcion, sum of the Servaunts and Counceillours of some of the Lords, to move the Lords to Parcyalite, and to make them favourable and parcyal, as wer the same Servaunts, or the Parties that so movyd them. Than could no mater treatid in the Counceile be kepte Privy and Secrete. For the Lords oftyn tymes tould to their Counceylors, and Servaunts that had sewyd to them for the maters, hou thay had sped in them, and who was ageyn them. Hou may the Kyng be counselid, to restrayne gevyng away of his Lond, of gevyng of Offices, Corodyes, or Pencions of Abbeys, by such gret Lords, to other Menys Servaunts, sythen they most desyer such Gyfts for themself, and their Servaunts. Which thyngs consydneyd, and also many other which schal be schewyd hereafter; hyt is thought good, that the Kyng had a Counceile chosyn and establichid in the

Fouirme

bna

Fourme that followith, or in some other
 Pointe like therunto. First, that ther wer
 chosyn. xij. Temporall Men, and xij. Spirituall
 Men of the wisest and best disposyd Men that
 can be found in al the Parties of the Land ;
 and that they be sworne to counceile the
 the Kyng, after a Fourme to be devyfyd for
 their Othe. And in especyall, that thay schal
 take no Fee, nor Clothyng, nor Rewarde of
 any Man, excepte only of the Kyng ; like as
 the Justices of the Kyngs Benche, and of the
 Common Place be sworne, whan thay take
 their Offices. And that thees xxiv. Men be
 always Councailors, *but if ther be any De-
 faulte found in them, or that yt lyst the
 Kyng, by the Advyse of the more Partie of
 them, to change any of them. And that
 every Yere be chosyn by the Kyng, iv^{er}.
 Lords Spiritual, and iv^{er}. Lords Temporal, to
 be for that Yere of the same Councile, in like
 fourme as the said xxiv. schal be. And that
 they al have an Heede, or a cheffe Ruler,
 one of the said xxiv. and chosyn and ap-
 pointyd by the Kyng, havynge his Office at
 the Kyngs Pleasure ; which may then be cal-
 lid, *Capitalis Conciliarius*. Hyt schal not be
 necessarye, that the xij. Spirituall Men of this
 Councile, have so grete wags as the xij. Tem-
 poral

*i. c. ex-
 cept.

poral Men, because they shall not need to kepe an Household in their Countrey, while they be absent, as the Temporal Men must needs do, for their Wives and Children. By which Consideration, the Spiritual Judges in the Court of Parlement of *Paris*, takyn but CC. Franks by the Yere, whereas the Temporal

A *Frank*, was a French Gold Coin, which anciently was worth but one *Sol Tournois*, or French Shilling, but now it is not current, but in computation is twenty *Sous*, and is used among the French to signify the same with a French *Livre*, or *Pound*, which is about twenty of our Pence. There were two sorts of *Francs*, one call'd *Franc d'Cheval*, which was coin'd in the Reign of *K. John of France*. Of this, Monsieur *le Blanc*, in his excellent Treatise of the Coin of *France*, p. 257. says, that the sixth Species of the Coin of *K. John* was call'd, *Franc d'Or fin*, a *Frank of fine Gold*, which weighed something more than a *Dram*. It was so call'd, because it was of the Value of a *Franc*, or *Pound*, that is, twenty *Sous*. King *John* coin'd this Money in the Year 1360. in *Edward III.*'s time, when he return'd ransom'd from *England*, having been taken Prisoner by *Edward III.* These *Francs d'Or* were a long time current in *France*, but scarce known at this day. This Species of Coin, which was worth in *Edward III.*'s time, but twenty *Sous*, or a *Livre*, is worth now seven *Livres*, which shews how the Value of a French *Livre* is diminished, since the Year 1360. It was call'd *Franc d'Cheval*, because the French King was represented on this Coin, mounted on Horseback, and armed Cap a Pée, brandishing a Sword in his Hand. The other sort of *Franc* is call'd *Franc d'Pie*, which Mr. *Le Blanc* makes to be the same in Value with the *Franc d'Or*, (so call'd from the *Fleur des Lis*, which is the Arms of

Florence

porall Judges thereof, takyn by the Yere CCC. Frankes. The said viij. Lords also, which, by reason of their Baronies and Astats, ben to the Kyng always, *Consiliarii nati*; and therfor oughtyn to counceile him at al tymys when he woll, nedyn not to have grete Wags for their Attendaunce to this Conceile, which shall last but for a Yere. For Temporal Men, which by reason of their Enheritaunce and Lyvelood, been made ^d Scheriffs for a Yere, takyn

Florente, being impres'd upon it) and was called so, to distinguish it from the *Franc à Cheval*; for upon the *Franc à Pie*, the King was represented on Foot, as on the other, on Horseback. *Monf. Menage Etym. Franc. Nicot. Dict.*

^d *Scheriffs*; this comes apparently from the Saxons, and is called in that Language, *Scip-geper*, that is, in English, *Governor*, or *Reeve of the Shire*; for *Scip*, or *Scipe*, signifies *Shire*, or *County*, and *Gepera*, is a *Governor*, or *President*; and from thence comes our English word *Reeve*. Hence also comes *Graphio*, or *Grafio*, for an *Earl*, or *Governor*; also *Gravio* and *Gravins*; for a *Judge*; in Dutch *Grave*. Now the word *Scipe*, tho' a Substantive, is sometimes compounded with other Nouns, and so receives an adjective Signification; as *Scipe-bispeop*, *the Bishop of the Diocefs*, or *Shire Bishop*; *Scipe-gemot*, *the County Court*, *County Meeting*, or *the Meeting of the Shire*, in their Courts, held for the Counties, which, in those days before the Courts at *Westminster* were erected, were the chief and superior Courts in the Kingdom. Among the Laws of King *Edgar*, you find this Law, *Sece mon hundpes gemote. 7 hæbbe mon*

takyn of the Kyng lityl, and almost no thyng
for their Service of that Yere. And though
that

mon þyppa on gear buph-gemote. 7 7ra Scipe-
gemote. 7 ðær beo on ðær Scipe-gemote Bi-
rceop. 7 re Ealþoþman. 7 þær feþer teacan ge
lober rihte. ge Peopulb rihte : which in English
is thus ; *Let the Hundred Court be kept as anciently it has
been; and let there be three Borough Courts, and two County
Courts in a Year. In which County Court there shall be a
Bishop, and an Alderman or Earl, where one shall judge ac-
cording to the Common Law, and the other according to the
Ecclesiastical Law.* Inter Leg. Edgar. Polit. ca. 5. & Ca-
nut. Polit. ca. 17. This Law is the Foundation of what
I said before, touching the Bishop and Earl's sitting together
to judge and try Causes in the County Court. So that it
appears in those times that the Power of Church and State
were both united ; and indeed it is evidently true, what
the learned Dr. *Inet* says in his excellent Treatise of the
Antiquities of the English Church, that from the first Set-
tlement of Christianity among the English, the Ecclesiasti-
cal and Civil Power mutually assisted each other, and that
the Conjunction of those Powers appears as ancient as the
first Foundation of the English Government ; and there
is a Law still extant whereby King *William* the First se-
parated the Temporal Courts of Justice, from the Spirit-
ual ; and this gave Birth on the one Hand to the Ec-
clesiastical Courts, and on the other, to the King's Bench,
by withdrawing the Business from the County Court, and
Hundred Court, where all Law Business was before
transacted.

Now as to the Derivation of the word, *Scipe*, in En-
glish, *Shire* ; it comes from the Saxon *scipan*, or *scýpan*,
to divide, or sever, being so called from the first Division
of the Kingdom into several Parts. This leads me to
take notice of my Lord *Coke's* Derivation of this word

that Wages of the said xxiv. Councillours, seme a new and a grete Charge to the Kyng ; yet whan it is considerid, hou grete Wages the grete Lords, and other Men, which wer of the Kyngs Councile in tymes passid, toke for their Attendaunce therunto, which maner of Councile, was nothyng so behovefull to the Kyng, and to his Realme, as this wol be, which Wags schal than forwith ceasse ; the Wages of the xxiv. Councillours schal appere no grete Charge to the Kyng. And I can suppose, that summe Kyngs before this tyme, have gevyn to sum one Man that hath servyd

Sheriff, who says it comes from the two Saxon words, *Shire* and *Reeve*, and that *Shire* comes from the Saxon Verb *Shiram* ; which will appear to be a Mistake, for there are no such words in Saxon, as *Shire*, or *Reeve*, nor any word in that Language, that begins with *sh*.

As to the Division of the Kingdom into *Counties*, I can't but observe, that several Lawyers, as well as Historians, have mistaken, in ascribing to King *Alfred*, the first Division of the Kingdom into *Counties*, and *Counties* into Hundreds, and those again into Tythings ; for that it appears from the Saxon Laws themselves, and other Authorities, that there were *Counties*, long before his time, and Earls over those *Counties*, as I could easily make out, if it were not too tedious ; so shall refer the Reader to Mr. *Selden's Titles of Honour*, Dr. *Brady's Compleat History*, and to Dr. *Hickes's Dissertatio Epistolaris*, who in those Books have clearly made out this Matter beyond Scruple. *Sonn. Dict. Hickes. Dissert. Epist.*

hym,

hym, as mych Lyvelood yerely, as the said Wages wold come unto. And if the same Wags be thought so grete Charge unto the Kyng, the foresaid Counceillours may be in lesa Nombre; as to be xvi^{en} Counceillours of private Personys, with ij. Lords Spiritual, and ij. Lords Temporal; so as than thay be in all xx^{ti} Persons. Thees Counceillours may continually, at such Howres as schall be assigned to them, comewne and deliber upon the maters of Difficulty, that fallen to the Kyng; and than upon the maters of the Polycie of the Realme: As hou the going out of the Money may be restraynyd, how Bullion may be brought into this Land, hou also, Plate, Jewels, and Money late borne oute, may be getyn yn

• *Bullion*; this comes from the old French word *Billion*, or *Billon*, which signified all base sort of Metal, whether of Gold or Silver, that had in it Alloy, and was courser than the Standard, or what was fixed by the Laws of the Mint. Money that was not current, or Coin that had too much Alloy in it, they also called *Billon*; from whence came this French Expression, *Mettre un piece au Billon*, that is, *to send a piece of base Metal to be recoin'd*. Monsieur Menage says, it had its Rife thus: Coin that was cry'd down, and sent to the Mint to be remelted, was such as was found defective in Weight and Goodness, and being melted down into one Mass, the Metal was found of courser Alloy, than by the Law it ought to be, and that was called *Billon*; from thence comes the word *billoner*, *to melt into billon*, and *Billonneur*, *one that embases the Coin*. Menage Etym. Franc. Cotgr. Nicot.

ageyn, of which right wise Men may soon find the Meanys. And also hou the Pricys of Merchaundises, growyn in this Lond, may be holdyn up, and encreasyd, and the Prycys of Merchaundise, brought into this Lond abatyd. Hou our Navye may be mayntenyd, and augmentyd, and upon such other Pointz of Polycie, to the grettest Profitt, and Encrease, that ever came to this Lond. Hou also the Lawys may be amendyd, in such Thyngs as thay nede Reformation in. Wherthorough, the Parlements schall * may do more good, in a f Moneth, to the Amendment of the Lawe, than

* i. e. be able.

f Moneth; from the Saxon word *monað*, *Month*. The Saxons did not call their Months by arbitrary Names, but by such as did exprefs their Nature, or Order, or some peculiar Quality in those Months; as, *Se forþma monað*, signified *January*, or *the first Month*. *February*, was called *Sol-monað*, or *the Month of the Sun*, the Sun then coming towards us from the Winter Solstice with greater Influence. *March*, was called *þlyð-monað*, *the boisterous Month*, from the Saxon *þlyð*, that signifies *Noise*, *Tumult*, or *Tempest*. *June*, was called *Mid-summer-monað*, *Midsummer-month*, because the *Middle of Summer* always happens in it. So *April*, is called *Eaƿtop-monað*, *Easter-Month*, for the same reason. *July*, was called *Mæbe-monað*, *Mead-Month*, or the Month when the *Meads*, or *Meadows* are fit to be cut. So *ƿeos-monað*, signified *August*, or *Weed-month*, because in that Month the Earth was *cloathed* with Corn. We say to this day, when a Widow wears mourning, *that she is in her mourning Weeds*; which

than they may do in a Yere, if the Amend-
ment therof be not debatid, and by such
Counceile rypyd to their Hands. Ther may
be of this Counceile, whan thay s liste to
come thereunto, or that thay be desyryd by
the said Counceilours, the grettest Officers of
the Land, as Chauncelor, Tresorar, and Pry-
vye Seale, of which the Chancelor, whan he
is present, may be Hye Presydent, and have
the supreme Rule of al the Counceile. Al-
so the Juges, and Barons of th' ^h Eschequer,
the

which word, *Weed*, comes from the Saxon *ƿeod*, a *Gar-
ment*. And lastly, *December*, is called *Ɔis-pinter-monað*,
or *Midwinter-month*, because it falls in the *Middle of Winter*.
From *Monað*, comes the Compound *Monað-ƿeoc*,
a *Lunatick*, or *one sick every Moon*. Somn. Dið.

^s *List*; this is a Saxon word, from the Verb *lystan*,
desiderare, so *desire*, and sometimes in the old English, *to lust*.

^h *Eschequer*; this word comes from the old French
word, *Eschequier*, the *Exchequer*, in *Normandy*; which
was a Court held by the high Justicier there, wherein the
Sentences and Decrees pronounced by Viscounts, Bailiffs
and other inferior Justiciers were censured, and amended.

This was a Court held upon extraordinary Occasions,
but at no fix'd Period, till the time of *Philip the Fair*, who
order'd it to be held twice a Year, and was made a So-
vereign Court, and so remains to this Day. In barbarous
Latin, this Court was called *Scaccarium*, which signify'd
a *Chess-board*; and that from *Scaci*, *Scacci*, *Chess-men*, or
Schacchorum Ludus, the *Play of Chess*, which was in French
call'd *le jeu des Eschees*, so call'd, some think, from the
Arabick *Scach*, which signifies *King*, being the Principal of
the Chess-men; or rather from the German *Sach*, i. e.

the Clerk of the Rollis, and such Lords, as the forsaide Councailors will defyer to be with them,

Latro, which signifies a *Chefs-man* in true Latin; and we meet with *Sceacepe* in Saxon, which signifies *Latro*.

From the French *Eschequier*, no doubt, comes our English word *Exchequer*; so called in all probability, from the chequer'd Cloth (figur'd with Squares like a Chess-board) that was anciently wont to be laid on the Table in the Court of Exchequer, and continues so to this day: and indeed the word *Eschequier*, signifies in old French, a *Chess-board*, or *Chequer Work*. *Planter à l'eschequier*, is an old Phrase, to plant Trees *exchequer wise*, i. e. in Rows at equal Distances, so as, at every Corner, to see an exact Range of Trees. And it is from hence, I conceive, the barbarous Latin word *Scaccarium* comes, and not *Eschequier* from *Scaccarium*, the French word being the more ancient; and to this Opinion the ingenious Mr. *Madox* in his learned History of the Exchequer inclines. So that we need not go to the Latin word *Scaccarium*, signifying a chequer'd Cloth, nor to *Scaccus*, or *Scaccum*, a Chess-board, for the Derivation of this word; for we have in the old French word *Eschequier*, the same Signification. And the *Grand Custumier of Normandy* says, that in *Normandy* time immemorial there had been a Sovereign Court, which was anciently call'd the *Eschequier*, which bore a great Resemblance to our ancient Court of *Exchequer*; but was long before it; and at last, it was turned into a Court of Parliament. *Polydore Virgil* says it was called *Scaccarium*, by Corruption, for *Statarium*, from its Stability, but that seems to be nothing but Speculation, in which that Foreigner much abounded. *Du Fresn. Nicot. Somn. Grand Custom. Normandy. Madox Hist. of Exchequer.*

ⁱ Clerk of the Rollis, i. e. Master of the Rolls. This is the next great Officer in Chancery to the Lord High Chancellor, who in his Absence judges of all Causes in Equity. His Title in his Patent is, *Clericus parva Bagæ, Custos Rotulorum,*

them, for Mattets of grete diffyultie, may be of this Counceile, whan they be desyryd, and els not. All other maters which schal concerne this Counceile, as whan a Counceilor dyyth, hou a new Counceylor schal be chosyn, hou many howrs of the day this Counceil schal fyt, whan thay schal have any Vacation, hou long any of them may be absent, hou he schal have his leve and licence, with al other Articles, necessary for the Demean- yng and Rule of this Counceile, may be conceyvyd by leysure, and put in a Boke, and that Boke kept in this Counceile, as a Registre, or an Ordynal, hou thay schal do, and be orderyd in every thyng.

tulorum, & Domus Conversorum. In ancient Authors, and Statutes, before Henry VII.'s time, he is called *Clerk of the Rolls*. But about 11 H. VII. he began to be called *Master of the Rolls*. *Domus Conversorum*, is the Office of the Rolls in *Chancery Lane*, which House was built by Henry III. for such Jews as were converted to the Christian Faith, which gave it the Name of *Domus Conversorum*. But these new Converts not keeping within the Bounds of true Religion, gave themselves up to all Impiety, and Wickedness; for which reason Edw. III. in the fifty first Year of his Reign, suppressed and expelled them, and gave the House for the Custody of the *Rolls* and *Records* in Chancery. This great Officer has his Title from the safe keeping of the *Rolls* of all Patents and Grants, that pass the Great Seal, and of all the *Records* of the Court of Chancery.

C H A P. XVI.

How the Romaynes prosperyd, whiles they had a grete Counceyle.

TH E Romaynes, whill their Counceil callid the Senate was grete, gate, thow the Wifdome of that Conceile, the Lordship of the grete Parte of the Worlde. And afterwards *Julyus* the first Emperor, counceilid by the same Senate, gate the Monarchie, nerehand of all the World. Wherethorow *Octavian* theyr secund Emperor, comaundyd al the World to be *^a discrivyd, as subgett unto

* descri-
bed,
Digb.
Laud.

^a *Discrivyd*; i. e. *described*; which comes from the Latin *describere*, and has an Allusion to the Latin Translation of the second Chapter of *Luke*, v. 1. *Factum est autem diebus illis, ut prodiret edictum a Cesare Augusto, ut describeretur totius terrarum orbis.* So that by *described*, or *described*, he means *taxed* or *assessed*, as all that were so, were *described*, or *set down* for that purpose. In the Saxon it is *meapcob*, or *marked*; from the Saxon *meapcan*, *to mark*, or *set down*. Every one went into his own City to be *taxed*, and at this time *Joseph* went out of the City of *Nazareth*, unto the City of *Bethlehem*, (being of the Family of *David*,) that he with *Mary* the Mother of *Jesus* might be *described*, or *set down*, in order to be *assessed* and *taxed*. *Erasmus* says, when it is used in a military Sense, it signifies *listing*, and when in a civil Sense, it signifies *saxing*; so that *describeretur*, is the same as *cenferetur*. *Somn. Sax. Dict.*

hym.

hym. But after this, whan yll disposyd Emperours, as *Nero*, *Domycian*, and other had sclayn grete parte of the Senatours, and dyspyfyd the Conceile of the Senate, th'astate of the *Romayns*, and of their Emperours, began to fall downe, and hath fallyn away sithen, unto such decay, that now the Lordschips of th'Emperour be not so grete, as the Lordschips of some Kyng, which, while the Senate was hole, was subgett to the Emperour; by which Ensample it is thought, that if the Kyng have such a Conceile as is before especyfyed, his Land schal not only be riche, and welthy, as were the *Romayns*, but also his Hyghness schal be myghty, and of Power to subdue his Ennymes, and al other that he schal lyste to reygne upon. Of such Ensamples many of the Boks of Cronycles be full. But in especial the Cronycles of the * *Lacedemeneys*, and of *Athenes*, which while they prosperid, were best concelid, and most did, after Conceile, of any People of the World, except the *Romayns*.
* i. e. the Lacedemoneians, and Athenians.

But whan thay laste such Conceile, thay fel into non Power and Povertie; as of the Cyte of *Athenes* hyt may well appere, by that it is now but a Poer Vyllage, and sumtyme was the most worschipful Cyte of *Grece*.

C H A P. XVII.

*Here followen Advertisements, for
the geuyng of the Kyngs Offyces.*

YF yt would like the Kyng to gyve non Office, unto the tyme that hys Entent therein be comtuned with his Counteile, and their Opynyoun by his Highnesse understoud in the same, he schal so reward his Servaunts with Offices, that ther schal be lytill nede, to gyve them much of hys Lyvelood, and his Offices schall than be gevyn to such, as schal only serve hymself. Wherthorough, he schal than have a gretter might, and a Garde of his Officers, whan he lyste call them, than he hath now of all his other^a feed Men under the Astate of Lords, and other the Nobles. For the Might of the Land, after the Myght of the grettest Lords, stondith most in the Kyngs Officers. For thay may best rule the Cuntreys, where their Offices ben, which is in every parte of this Lond; and a mean Bayliffe may do more, in

^a i. e. *Fee'd Men.*

his

his ^b Bayly-Weke, than any Man of his Degree,

^b *Bayly-Weke*; this word is half Norman, and half Saxon. *Bayly* and *Bayliff* cothe from the old French word *Bailiff*, in barbarous Latin, *Baillivus*. Monsieur *Ménage* says *Baillivus* was formed from the Latin word *Bajulus*, which signified a *Nostrifler*, a *Nurse-Father*, or *Foster-Father*, and that comes from the Verb *bajulando*, to carry in one's Arms, as the Nurse-Fathers used to do the Children that were put to them to nurse; *quem ego parvulum gestavi*, says a *Nurse-Father*, in *Terence*. In Italian it is *Baglia*, and *Baille* in *Languedoc*, signifies a *Nurse* to this Day. This word *Bailiff*, in process of time stood for a *School-Master*, and afterwards it came to signify a *Judge*; from whence it is that in several Places in *France*, the *Judges* are call'd *Bailiffs*; which Signification it had anciently in *England*, as appears by several ancient Records.

This word *Bayly*, some think, comes from the French word *Baile*, which signified a *Tutor*, or *Guardian* of Infants. *Antoin. Loifel*, in his celebrated work, called *Les Injustes Constumiers*, says; *Bail, Garde & legitime Administrateur, sont quasi tout un*; and the Venetians call their Resident at *Constantinople*, *Baile*. In Teutonic *Bael*, is a *Guardian*, or the Office of a *Guardian*; and *Baelien*, *Batlin*, is *Praepositus*, a *Bailiff*.

From hence is the barbarous Latin word *Bailia*, *Baila*, and *Bailium*, which signifies *Pupillage*, or *Wardship*; as where one by his Will, left the Pope Guardian to his Son, it is said, in *Testamento relicto sub Baila*, seu *Tutela Urbani quarti*, &c. sed ipse *Papa dictam Bailam, seu Tutelam minus fideliter gessit*. In *Constit. Neapolit. lib. 3. Tit. 17. Si quando Bailium impuberum gerendum, utique Serenitas vestra concefferit, hi qui Bailium gesserint pupillarum, postquam Bailium dimiserint, de administratione Bailii reddere debeant rationem*, &c. So that *Bailium* here signifying *Custody*, has the same meaning as our Law word *Bailium*, in English *Bail*, has, in our Courts of Law; and therefore when any

one

gree, dwelling within his Office. Sum Forester

one is arrested for a Sum of Money, and another Person *bails* him out of Prison, the Entry is, that the Prisoner *traditur in Ballium*, is *deliver'd into Custody*, i. e. of the *Bail*, because the Party *bail'd*, is suppos'd to be deliver'd into the *Custody* and *Keeping* of that Person, who *bails* him; and in Consequence of such a Supposition, the Person so let out on *Bail*, may be taken up by the *Bail* wherever he meets him, and the *Bail* may surrender him in Discharge of himself. So that this word *Bail*, as my Lord *Coke* observes, does not come from *bailler*, to *deliver*, but from the old French word *Bail*, which signified a *Tutor*, or *Guardian*; and in *Languedoc* it signified a *Taylor*.

Our Author here means *Bailiff* of a Hundred, which is a very ancient Officer, and sometime call'd by the Name of *Præpositus*, as well as *Ballivus*. Sometimes this word *Ballivus* is applied to the Sheriff as well as to other Officers, because the County is put under his safe *Custody*, or Government. Nor is it to be doubted, that what Foreigners called *Grafones*, and the Saxons *Grevios*, in English *Reeves*, were afterwards, after the Normans came in, called *Ballivi*. In the same manner it came to pass, that the Extent of Jurisdiction, of Mayors and Aldermen in Cities and Boroughs, and of the *Præpositorum* in Hundreds and Wapentakes, was called *Balliva*, as that of the Sheriffs is at this day; for in all Returns of Writs and Procefs that he makes, the Sheriff says, *in Balliva mea*, and not *in Comitatu meo*. And a Bailiff of the Hundred, or Wapentake, had much the same Jurisdiction over the Hundred, under the Lord of the Hundred, as the Sheriff had under the Comes or Earl in the County. *Spelm. Gloss. Chron. Saxon. Menage. Du Fresn. 2. Instit. 178. Bract. lib. 3. fol. 123. Somn. Dict.*

Now as to the other Part of the word, *weke*, that comes from the Saxon word *ſīc*, which signifies a *Street*, *Town*, or *Village*, as also the *Precinct*, or *Territory* of any such Place;

fter of the Kyngs, that hath none other Lyvelood, may bring moo Men to the ^c Feld well
^d arrayed,

Place; in Dutch *Witich*. From hence we have the Saxon *Ʒicenza*, which signifies *Inhabitants* of any Place, but more especially in Towns and Villages; so the Saxon *Ʒicbaȝar*, signifies *Dies Nundinarum*, *Market Days*, i. e. such Days that the People resort to the *Wic*, or *Town* to Market. *Ʒic* also signifies *sinus Fluminis vel Maris*, a *Turning and Winding of a River, a Creek, Harbour, or Haven*; from whence comes the Names of several of our Towns in *England*, ending in *Wic*, or *Wich*; as *Greenwich*, in Saxon *Græna-Ʒic*, or *Græne-Ʒic*, which is as much as to say, the *Green Creek, or Harbour*, this being formerly famous for being a *Harbour* of the Danish Fleet; so *Harwich* in Saxon is *Hæpe-Ʒic*, or *Depe-Ʒic*, which signifies a *Creek, or Bay*, where a Fleet, with an Army on Board, may lie conveniently, *Depe* in Saxon signifying an *Army*. This is *Cambden's* Opinion; but the learned *Dr. Gibson* thinks the ancient Name was *Ape-Ʒic*. So the Town of *Ipswich*, in Saxon is *Grypeſ-Ʒic*, *Gypeſwic*, *Gipeſwich*, *Ypeſwich*, *Ipswich*. From hence it was, that the Inhabitants of *Worcestershire* were called the *Wiccii*, and the City called, *Ʒic-wara-ceaſter*, *Wic-wara-ceaster*, and by corruption *Ʒigora-ceaſter*, from the several Windings and Turnings of the River *Severn*. *Ʒic* signifies also *sinus terræ*, as well as *fluminis*, as in *Droitwich*, and other Places. In *Kilian*, it is *Witich*, *sinus maris*, *litus curvum*, which also signifies *Jurisdiction* and *Dominion*.

^c *Feld*; this is a Saxon word, and is wrote thus *Feld*, in Dutch *Weld*; *Feld-beo*, is a *Locust*, or *Field-Bee*; *Feld-cȳric*, is *Ecclesia ruralis*, a *Country-Church*, or, word for word, a *Field Church*. So in Saxon *Feld-huſe*, is a *Tent*, or *Field-House*. *Feld* sometimes signifies in its
 Compounds,

^d arrayed, and namely for schoting, than may
sum

Compounds; *agrestis, uncultivated*; or *wild*; as *Felb-hunig*, is *Wild Honey*; so *Felb-mýnt*, is *Wild Mint*. Somn. Sax. Dict.

^d *Arrayed*; the barbarous Latin is *arraaiatus, instructed, or well appointed*; it comes from the old French word *arrayé, or arroye*. *Charta Richardi Regis Anglia, apud Wilhelm. Thorn. Gentes sufficienter munitas & arraiatas. Henry Knighton, lib. 3. Rediit tota fortitudo Scotorum in tribus aciebus, distincta & bene arraiata*; and that there joined them *viginti sex mille hominum bene arraitorum*. This comes, I suppose, from the old French Verb *arroyer, to put in order, or to array*, and from thence comes the word *Arroy*, which signifies *Order, Equipage*, but in a more particular manner, *Military Order*. So they say in French, *Le Roy vient en bel arroy*, that is to say, *well provided and equipped; with all manner of warlike Preparations*: The contrary whereof was used to be expressed thus, *mettre un Armee en desarroy*, i. e. *to break an Army, or disorder their Ranks*. So, *sans arroy*, is *nullo ordine, without any Order*. In this Sense it is, that the Lawyers mean when they speak of the *Array* of a Panel of a Jury, which signifies only the Names of the Jurors set down, in *Order and Rank* one under another in a Piece of Parchment. Now this word *array*, my Lord Coke says, comes from the French word *arroyer*, tho' some think it comes rather from the French word *arranger, to rank in order*; and that my Lord Coke's *Arraiamentum*, and the old French word *Arrayement*, is no more than the French word *Arrangement*, which is a *setting, or putting a thing in order*.

From this word *arranger*, Dr. Cowell thinks *Arraignement* comes, in the sense we mean, when we speak of the *Arraignement* of a Person at the Bar for a capital Crime; but that I believe will appear to be a Mistake. My Lord Coke says, it comes from the French word *ar-raigner, to arraign*, but I do not find any such word. *Spelman*

sum Knight, or sum Esquier, of right grete
Lyvelood,

man indeed advances a very pretty Notion, in relation to the Original of this word, but I doubt it is not a true one; for he fetches it from the word *arramir*, which is an old French word that signifies *to swear, to promise, or oblige* himself before a Judge to do a thing. From thence came the barbarous Latin word *arramire*, and *arramare, to engage by Oath, or Witnesses to prove any Matter*; so, *arramire Sacramentum*, is *to take care at a certain Day and Place, to swear, or produce Witnesses to clear the Matter*.

So, *arramare bellum, or arramare duellum, is to promise, or engage to a Court, to prove the Matter in Controversy, by Battail*; so *arramir bataille, in Concilio Petri de Fontaines, ca. 21. i. e. duellum arramire*. From hence, continues *Spelman*, *Bracton* has this Expression, *Affsam arramare, to arraign an Affize*, which, says he, is only *to promise, or undertake, that he will prove his Right in the Affize, by the Oath of a Jury*; and the Mistake, he says, was very easy, being only that of *in* for an *m*, *arrainatus* for *arramatus*, more especially in regard, he says, that the Lawyers did not understand the Meaning of the word *arramir*. And to confirm all this, he quotes the Register of Writs, and *Fitz Herbert's Nat. Brevium*.

Now tho' all that this learned Man says, in relation to the meaning of the word *arramir*, and *arramare* be true, as certainly it is, yet I dare say it will appear, upon examination, that our Law word *arraign*, does not come from thence, nor the word *arrainatus*, mistaken for *arramatus*, but rather that *Bracton* is misprinted, and that it was the Printer fell into this Mistake, and not the Lawyers. For this contradicts all other Books of the Law besides, and it is a little unlucky, that it contradicts two Books of the three he quotes; for in the Register, in all the Writs constituting Justices of particular Affizes, there are almost twenty Places wherein mention is made of *Arraigning an Affize*, and in every one we find *arrainavit; arrainoverunt;*
arra-

Lyvelood, dwelling by him, and having ~~the~~
Office

arrainata, and *arranatur*, &c. but no such word as *arrainatus*, *vit*, *arramatus*, or *arramare*. So in the French Notes upon Writs of *Affise*, in the *Register*, we find no such word as *arramer*, or *arramé*; but always, and in every Place, *arraigner*, and *arraigné*, and with the *Register Fitz H. No. B.* exactly agrees. And so it is constantly in the *Tear Books*, and in the *Grand Customier de Normandie*. And tho' the Difference between the two Latin words be small, yet the Difference betwixt the two French words is too great, to make any Mistake about this Matter.

Now the true Derivation of this word *arrain* seems to me clearly, to come from the French word *arraisonner*, *aliqui quempiam*, or *ad rationem ponere*, to call a Man to answer in the forms of Law; and this comes from the barbarous Latin word *rationare*, *adrationare*, i. e. *placitare*, or *probare*; so *ad rationem ponere*, is to bring him to Judgment. Galbertus in *Vita Caroli Comit. Flandriæ*, N. 140. *Posuerunt Comitem ad rationem*. And the French Expression is, *mettre quelqun a la raison*. Now *rationare*, comes from the Latin word *Ratio*, a Cause, or Plea. So, *ad rationem venire*, was the same as *juri stare*, to appear, or make Defence in a Cause. *Rationem habere cum aliquo*, is, to have a Cause, or, be in Law with any one, and *rationem perdere*, is, to lose his Cause.

From hence also you have the barbarous Latin word *derationare*, *dirationare*, and *difrationare*, which signify to defend a Cause, and to disprove the Charge laid against him. Inter Leg. Edw. Conf. ca. 36. *De Latronibus interfectis pro Latrocinio; si quis post Justitiam factam, fecerit clamorem ad Justiciarium, quod injuste interfectus sit; & dixerit quod velit hoc difrationari, det vadimonium suum, & inveniat plegios*. So we find the ancient Form of Pleading in a Writ of Right, is, *paratus illud difrationare, per Corpus suum*. And from hence comes the French word *desraiser*, and from thence the old Word *desrener*, to justify, to defend,

Office. What than may grete Officers do ;
as

defend, to deraine. Inter Leg. Will. Conq. ca. 27. *Si homo vult derainer, covenant de terre, ver. son Seignior; per estranges nel purra pas derainer;* where by the way it is observed, that the learned Translator does not give the Meaning of this word, *derainer.* Assisæ Hierof. MSS. ca. 13. *L'on pëut plaidoyer contre chascun soms estre donné a conseil par court, pour son droit defraigner, ou deffender. Le Grant Coustumier de Normandie; Et la ou il dit quil sen defrenera, cest a dire quil sen purgera: car defrener nest. autre chose fors soy purger, de ce dequoy leu est accuse.* So when the Lawyers say the Warranty Paramount is *derained*, it is to be understood in the same sense, that the Tenant *defends* himself by proving a Warrantry prior to his own.

So that when a Criminal is *arraigned*, it is no more than *ponere ad rationem*, or *adraisoner*, to set him to the Bar, and to charge him with his Crime, and thereupon to ask him what he has to plead for himself. When he pleads, Not Guilty; the Officer says, *Culprit*, *how wilt thou be tried?* The Prisoner's Answer is, *by God and my Country.* As to the Meaning of *Culprit*; it is compounded of *Cul*, and *pri*; i. e. *Culpabilis*, or *Guilty*, which is replying for the Queen, and affirming he is guilty, without which there is no Issue join'd, and so the Prisoner could not be tried; the other word *pri* is from the old French word *prest*, which signifies *ready*, and answers to the Latin word *paratus*, and is as much as to say, in the Queen's Reply to the Plea of Not Guilty, that he is *Guilty*, and she is *ready* to prove him so. *Prest de defendre*, is an old Phrase for *to be ready to defend himself, or to prove his Plea.* So we find in the Year Book of H. VI. where in Trespass the Defendant pleaded as to part, Not Guilty; *Forrescue.* Our Author, then King's Serjeant, who was for the Plaintiff, says, in his Reply to the Defendant's Plea; *Quant a tout ceo qu'il plead Rien Culp, prest av' que si; As to his Plea of Not Guilty, he was ready to prove he was.*

K

And

as ^e Stewards of grete Lordschippis, Receyvers
 f Constables of Castellis, Master Foresters, and
 such

And as to the Expression, *How wilt thou be tried?* It is an old Form anciently very significant, when there were several Forms of Tryal, as by Battail, Ordeal, and Jury, the Criminal answering by *God, and his Country*, is his Choice and Election to be tried by a Jury; which Form now is of little use. *Spelm. Gloss. Du Fresn. Menage. Origen. Franc. 20. H. VI. 40. Old Vol. Entries, fol. 2.*

^e *Steward*, is a Compound of two Saxon words, *Stede*, and *Ƴeapd*; *Stede*, or *Steba*, signifies *Room, Place, or Sead*, and *Ƴeapd*, a *Keeper, or Warden*; and so word for word signifies in the *Stead*, or *Place of the Warden*, or principal Officer, the *Locumtenens* in Latin, and *Lieutenant* in French. By turning the *w* into *g*, the French make *Guerdian*, and from thence comes our word *Gardian*; the barbarous Latin is, *Guardianus*, or *Gardianus*. *Ƴeapd* signifies *Vigilia, Custodia, a Watch*; from thence comes our English word *Ward*, in barbarous Latin *Guardia*, in Kilian, *Wiarde*. From *Ƴeapd*, come the Terminations of several proper Names, in *weard, ward, and gard*, as *Ead-weard, Ethel-weard, Sig-ward*, aliàs *Si-ward, Leod-gard*. *Somn. Sax. Dict.*

^f *Constables of Castles*; this word *Constable* some derive from the Saxon *Lynung, Rex*, and *Ƴeaple, stabilis, stable*, as one who was a Support and *Stay* to the King, and preserving his Dignity; but this seems to be nothing but Notion, for it is a Name that we most manifestly derive from the Normans, and came from their *Comes Stabuli*, sometimes called *Comestabilis*, and sometimes *Comestabilis*. *Aimoinus lib. 3. Histor. Franc. ca. 71. Regalium Prapostus Equorum, quem vulgò Comestabilem vocant. Gregor. Turonens. Lib. 5. ca. 48. Burchardum Comitem Stabuli, quem corrupte Constabulum appellamus.* By this it seems his Office was originally

such other Officers, besides the High Officers, Justices of Forests, Justices and Chamberlains

ginally to take Care of the Kings Stables. But this Dignity in Process of time was made military; so that the *Comites Scabali in France*, were the chief Generals and Leaders of their Armies. Those which were call'd in the Laws of Edward the Confessor, the *ἑπετογα Ηεροκχι*, or *Heretoches*, which was the Saxon Name for their Generals, were call'd among the French, *Capitales Constabularii*, or *Marescalli Exercitus*, *Le Connestable de France*, which was the Great General of the French Army, commanded, and took Place of, every one in the Army, except the Person of the King. Much such an Officer, and from that Example, no doubt, came our great Officer in England, called *Constabularius Angliae*. *Matth. Westm. An. 1254. Coram Comite Herefordiensi, qui secundum antiquum jus, Constabularius esse, dignoscitur regii Exercitus*. This Officer was first created in William the Conqueror's time, and laid aside about 13 H. VIII. since which, there has been no such Officer for a Constancy, but now and then created so, on particular Occasions only. This Dignity was hereditary, as that of Earl Marshal is, and descended to Females, and the *Constable* used to hold several Mannors of the King, by the Service of being *Constable*. But this being a Dignity so high and powerful, and consequently so troublesome and dangerous to the Crown, King Henry VIII. got rid of it; for the Power of the *Constable of England* exceeded that of *France*, as having Power over Affairs Civil as well as Military.

There was anciently an Officer in the Exchequer, who was call'd *Constabularius Scaccarii*, and was esteem'd one of the great Officers there, without whom no considerable Affair could be transacted; his Office was more particularly to audit the Accounts in relation to the building and repairing the King's Palaces, his Castles and other Fortifications. This seems, as *Spehman* says, to be part

leyns of Curtreis, the ⁸ Warden of the Ports, and such other? For soth it is not lightly este[m]able, what Might the King may have of his Officers, yf every of them had but one Office, and served non other Man but the Kyng. Now it is easye to be esteemyd hou many Men may be rewardyd with Office, and hou gretely yf they be dyscretely gevyn. The Kyng gevyth moo than a thousand Offices, besyds thoos that my Lord Prince gevith, of which I rekyn the Officers, as the Kyngs Officers. Of thees Officers sum may depend by the Yere, by Reason of his Office, CC l. some 2. C. l. some XL l. some L^h Marks, and so downward.

of the Office of *Constable of England*, who, no doubt, formerly sat in the Exchequer. *Fleta lib. 2. ca. 31. Spelm. Gloss. Du Cang.*

⁸ *Warden of the Ports*, i. e. *Cinque Ports*.

^h *Mark*, in Saxon *Deapc*, which was not any particular Piece of current Coin, among the Saxons, as can be found, but only a Denomination by which they reckoned, as we do now by our English Pound.

We meet with several sorts of *Marks* in the Histories and Accounts of *France*, but they were of several Values. The *Marca Trecentis* was 12 s. 11 d. Sterling, the *Marca Lemovicensis* was 13 s. 1 d. $\frac{1}{2}$. Sterling, and the *Marca Turonensis* was 12 s. 11 d. $\frac{1}{2}$. Sterling; they had also the *Marca Anglicana*, or *le Marc de la Rochelle*, which was 13 s. 4 d. Sterling. We read likewise of the *Marca Danica*, *Hispanica*, and *Sclavonica*, but of all these, the English *Mark* seems to be most ancient, and comes from the Saxon word

downward. So as the laste of them, though he be but a Parker, takyng but two Pens by the Day, yet he hath by the Yere XL s. Xd. Beside his Dwellyng yn the Lodge, his Fewell, his Cowe for his Mylk, and such other thyngs goyng about hym, (beside Rewards) as profitable as it would be fyve Pounds of Rent or Fee yerely, which is a fair Lyvyng for a Yeoman. Hou many Men then of every Affate, and of every Degree, and hou greatly may the Kyng reward with Offeys, withoutt gyyng away of his Lyvelood. For soth the greatest Lords Lyvelood in England may not suffice to reward so many Men, though he would departe yt every Dele, among his Ser-

† would
be a C
Shillings
of Fee or
Rent,
Laud.

word Meanc, which signifies a Mark or Impression, made upon Money or any other thing, and that comes from the Verb meancan, to mark.

When this Mark came first to be fix'd, to the Value of 13 s. and 4 d. is not very certain; but Matthew Paris in the Life of Guarinus Abböt of St. Albons, so early as the Year 1194, tells us, a Mark was then 13 s. and 4 d. and has continued so to this day. Du Fresne Gloss. Chron. Precios.

Dele, is a Saxon word and wrote thus, ðæl, which signifies Part, a Part, or Portion, and this comes from the Saxon Verb ðælan, dividere, to divide, to part, to distribute; from thence comes our English words dole, and dele, so from the Saxon ðæling, comes our English word dealing, division, or partition. From hence it is that the Stones, used as boundaries of Lands, i. e. such as divide and distinguish Lands, one from another, are called Deule Stones.

vaunts. Not two of the greatest Lords in
England may make so grete a Might as the
 King may have only of his Officers, if they
 were holy and onely his Servaunts, and that
 every of them had but one Office. To this
 sayen such Lords and other Men, such as
 axen of the Kyng, Offices for their Servaunts,
 that they and all their Servants schal always
 serve the Kyng, and his Officers schal do hym
 the better Service, by Reason they be in their
 Service. For they woll † help them to do so,
 and suffre non other in their Company, but
 such as woll do soo. Wherto it may be said,
 that yt ys true that they schal do the Kyng
 Service while they be in their Company; but
 so schulde they have done, though the Kyng
 had never made them his Officers. Wherfor
 the Kyng schal not be the better servyd, that
 he hath † gevyn his Office to their Servaunts,
 but rather worse. For, as our Lord said, *Ne-
 mo potest duobus Dominis servire.* For so
 the Kyng schal lefe the Officers for any sin-
 gular Service he schal have of them, or that

† *helpen
 bim,
 Laud.*

† *geven
 Laud.*

* *Axen*, is a pure Saxon word, and comes from the Sa-
 xon Verb *axian*, to demand, to inquire; from thence our
 English word, to ask. Somn. Sax. Dict.

† *Left*, is a Saxon word, and comes from the Verb
lerjan, to deliver, to set at liberty, to loose. Somn. Dict.

the

the same Officers schal thynk themselves behold-
 yng to the Kyng for their Offices, which his
 Highnes hath ^{* yevim.} gevyn them at the Contem-
 plation and Requeste of their Masters; and
 for no Reward of any Service that they have
 done or schal do unto hymself. By Consid-
 ration wherof their old Masters schal be better
 servyd by them than they were before; and
 the more myghty in their Cuntreys to do
 what them liste; and the Kyng in lesse might,
 and have the fewer Officers to repress them
 whan they do amysse. And this hath caused
 many Men to be such ^{† m} Broggars and Sucours
 to the Kyng, for to have his Offices in their
 Cuntreys to themselves, and to their Men, that
 almost no Man in some Cuntreys durst take
 an Office of the Kyng, but he fyrst had the
 good Wil of thos [†] Broggars, and Ingrocers
 of Offices. For, if he did not soo, he schuld
 not after that tyme have Peace in his Cuntrey;
[†] ^{Beggars,} ^{Digb.} 198.
[†] ^{Beggars} ^{Laud.}
[†] ^{Bragers} ^{Laud.}
[†] ^{Beggars,} ^{Digb.} 189.

^m Broggars; this word, as I conceive, comes from the
 old French word *bragard*, or *braguer*; *homo bullatus*, a
 gay, flaunting and vain Person, one who lives in Luxury
 and Excess, and this comes from the old French word
bragader, to flaunt, to wear gay Attire, and also to brag, or
 swagger; and from thence *braguerie*, signifies *braving*,
flaunting, or *swaggering*. Dr. Cowell thinks it comes from
 the old French word *broyer*, which is *tritor*, one who grinds
 the Poor, but I rather think the other is the truest Deriva-
 tion.

whereof hath comyn and growyn, many grete Trobills and Debats, in dyvers Cuntreyys in *Englond*. Which Matters thorowly conſyde-
 yd, yt ſemyth verely good, that no Man have any Office of the Kyngs * Gyfte, but that he be firſt ſworon, that he is Servaunt to noa other Man, nor woll ſerve any other Man, or take his Clothyng or Fee while he ſervith the Kyng. And that no Man have moo Offices than one, excepte that the Kyngs Brethren may have two Offices. And that ſuch Men as ſerve the Kyng aboute his Perſone, or in his Conceile, may have in their Cuntreys a Parkerschip, or Forest, for their Diſporte whan they come home, or ſuch another Office as thay may well kepe by their Deputyes.

* Teſte,
 Laud.



CHAP.

CHAP. XVIII.

*Advertysements how Corodies, and Pensions may best be * gevyn.*

* gevyn,
Land.

AND if it will like the Kyng to gyve no Corodye nor Pencion, which he hath by Right of his Crown, of every Abbey, Priorye, and other Houfes fowndyd upon Hospitalite, by any of his Progenytours, unto the tyme that his Entent therin be communyd and delyveryd with his foresaid Counceile, and that his Highness have understoud their Opynyoun in the same. Than shall Men of his Houshoule be rewar dyd with Corodyes, and have honeste Sustenaunce in their olde Dayys, whan they may no longer serve; and the ^a Clerks of his Chapell that have Wifes, or be not avaunfyd, be rewar dyd with Pensions without grete abatyg of the Kyngs Revenues, for their Rewards or Sustenauncys; for such Corodyes and Pensons were fyrst ordeynyd, and gvvyn to the Kyng, for the same

^a Clerks of the Chapell, i. e. the Queen's Chaplains, as now called.

Entent. But now of late tyme, other Men than the Kyngs Servaunts hath askyd them, and by impossiue Sewte, have gettyn grete parte of them, to the Kyngs grete Harme, and Hurte of his said Servaunts. Which by the Cause therof lyvyn in the gretter Penurye, and in none Sewertie of their Sustenaunce in tyme comyng, whan they shall not ^b may do Servyces.

^b Be able to do.

A



CHAR.

C H A P. XIX.

How grete † Goode wyll growe, † *gode,*
of the **^a forme endowyng of ^{** *ferme,*} *Laud.*
the Crowne.

AND whan the Kyng, by the meanys
aforesaid or otherwise, hath getyn ageyn
his Lyvelood, yf than yt woll like his
most noble Grace to establich, and as who
sayth

^a *Forme endowyng*; this signifies the same as *ferme*, or *firm endowyng the Crown*, and *form* is sometimes wrote *firm*. It comes manifestly from the Saxon word *peopm*, in barbarous Latin *firma*, and in English *a farm*; and from thence it came to signify adjectively, any thing *firm* or *substantial*. Now many have been the fanciful Derivations of the word *firma*, or *farm*; but there is no doubt but it originally came from this Saxon word *peopm*, which signified among the Saxons originally, *food*, or *sustenance*, a dinner, supper, or entertainment; and this came from the Verb *peopmian*, which signified, *cibum præbere*, *victum administrare*, to entertain, to feed, or to feast. So in the Laws of K. Canutus, ca. 68. *peapm pillan*, is, to give food, and *peopmian*, to administer food. So in *Evang. Marechal. ca. 16. 21. Depod gegeapode mycle peopm*, Herod made a great Supper. So the Latin word *firma*, originally signified the same, as the Saxon *peopm*, which is to be seen in *Hunnington*, *Matthew of Westminster*, and other

sayth, ^b Amortyse the same Lyvelood to his Crowne, so as it may never be alienyd therfro, without

other Historians. In Domesday Book, there is much said *de firmis*, tho' perhaps not clearly to be understood, unless you refer it to the Saxon peopm, signifying *meat and Drink*, as before mentioned. *Titt. Sudsex. Comes Meriton. Borne T. R. E. i. e. tempore Regis Edwardi, reddebat firmam unius noctis.* So in *Wiltescir Tit. Rent. l. i. verso Regis, firma unius noctis*, very often occurs. You also find in that Book, *dimidiam firmam noctis*, and sometimes you'll find that such a one *reddebat unum diem de firma*; and in *Tit. Cornwallge*, there is, *reddebat firmam quatuor septimanarum*. The Meaning of which is, that these were Provisions for nights, days, or weeks, which were reserved by the King for his Table, out of what he rented to his Tenants, who held of him: For about the time of *William the Conqueror*, what was reserved to the King out of his Lands, was not Gold or Silver, or at least not much so; but the Reservations were in Victuals and Provisions, which soon after, by reason of the Inconvenience, in *H. I.'s* time, some say, was turn'd into Money; and then the word *firma* came to signify *rents*, and after that, it was transferr'd to signify the *farm* it self, out of which the Rents were reserved. *Spelm. Gloss. Somer. Dict.*

^b *Amortyse*; this comes from the old French word *Amorti*, which, *Nicot* says, signified *humano commercio eximere pradia, emortue manus jus concedere*. From hence comes the French word *Mortmain*, or *Mainmort*, which is the same thing, and signifies such a Possessor of Lands or Inheritance, which, as *Nicot* says, *n'est vivant, mourant, ne confiscant*, that is, which never makes any Change of the Tenancy, as Chapters, Abbies, and such like. Accordingly they say in *France*, a Fief or Inheritance, is in *main mort*, in a *dead hand*, when it falls to, and is become the Inheritance of such religious Houses, because it never changes

without Assent of his Parlement, which than would be as a new Foundation of the Crowne he schal be therby the grettest Fownder of the Worlde. For *theras other Kyngs have fownd- * i. e. yd c Byfchopryches, Abbeys, and other Hou- ^{whereas.} tys of Religioun, the Kyng schal then have fowndyd a hole Realme, and endowyd yt with grete Possessions, and better than ever was any Realme in Crystendome. This maner of Foundation may not be ageyn the Kyngs Prærogatiff, or his Libertie, no more than the Fundation of an Abbay, for whiche he may take no Parte of the Possessions, which he hath ons gevyn them, without th'assent of their Covent. But this maner of Endowment of his Corowne,

changes from that hand, but becomes from that time unalienable, *manus planè emortua*; and from hence comes our Law word *Mortmain*. Nicot.

c Byfchopryches; this is a Saxon word, and is wrote thus, *Birceop-pice*, which comes from the Saxon *Birceop*, a *Bishop*, and *pice*, or *pice*, which signifies *Dominion, Rule, and Jurisdiction*, and has much the same Signification as *home*, and therefore *Birceop-home*, signifies the same as *Birceop-pice*, and from thence comes our English word *Bishoprick*. *Deah-birceop*, in Saxon, is an *Archbishop*; *Birceop-rcipe*, is the *Diocesi*, or the *Share of the Bishop*. From hence comes the Verb *birceopian*, *episcopare*, to exercise the Office of a Bishop, to visit; and from thence we have *birceopod*, confirm'd by the Bishop, or as we commonly say, *bishop'd*. Somn. Sax. Dict.

schal

schal be to the Kyng a greater Prærogatiff, in that he hath than enryched his Corowne with such Riches and Possessions, as never Kyng schal may take from yt, without th' Assent of his hole Realme. Nor this may be to the Hurt of the Prærogatife or Power of his Successors; for, as it is schewyd before, yt is no Prerogatif or Power to may leese any Good, or to may waffe, or put it away. For all such thyngs comith of Impotencye, as doth Power to be syke, or to wax old. And truly if the Kyng do this, he schal do thereby dayly more Aimes, than schal be done in all the Foundations that ever were in *England*. For every Man of the Land schal, by this Foundation, every day be the meryar, the fewrer, fare the better in his Body, and in all his Goods, as every wise Man may well conceyve. The Foundations [* of Abbeys, of Hospytallis, and of such other Houfys, ar no thyng in comparyson hereof: For this schal be a Cotage in which schal^d syng and pray for evermore at

[* Cætera desunt in Cod. Laud.

^d Sing and pray; *sing* comes from the Saxon word *singan*, *cænere*, to sing; in Dutch *singhen*. Now *singan*, among the Saxons, signified to pray, as well as to sing; for among the Saxons, great part of the Service of their Church was *sung*, as among the Jews. In the Saxon Homily on the Birth-day of St. Gregory, it is said,
Let

the Men of England Spiritual and Temporal
and their Song schal be such amonges other

As

Let us come together on the fourth day of this Week, early in the Morning, and with a devout Mind, and with Tears, i. e. sing, or pray, seven Litanies, that our angry Judge may spare us. In the Laws of K. Canutus, ca. 22. which was about seven hundred Years ago, which enjoins the People to learn their *Pater noster* and *Creed*, as an argument for them to do, it is said, *Egyst sealf range Pa- ter noster, ætost; Christ himself first of all sang, we pray'd, Pater noster, and taught that Prayer to his Disciples;* and then it goes on, this divine Prayer consists of seven Petitions; *Wid þam se þe hit mæaplice gærung; 7 ætost; seofon his Heart singeth it, prays to God for every Blessing, in this or the other Life.* And in *Ælfrick's* Canons to Bishop *Wulfin*, in his Directions for visiting the Sick, he mentions the Rule of *St. James*; and they shall pray over him, which is expressed in the Saxon Language, they shall sing over him.

Now to give a Taste of the Piety of the Saxon Times, I would observe that they had seven set Times in a Day appointed for Publick Prayers, and all of them were expressed by Songs. And this you'll find in *Lambard's* Saxon Laws, among the Canons of the before-mention'd Archbishop *Ælfrick*, p. 131. where the Priests are enjoined; *georpon tide rangar gærung; i. e. that they sing Songs, viz. Prayers, seven times a day, as was appointed by the Church.* There is first of all, the *Uthrang*, which was *Cantus Antelucanus*, or the Prayer before light, which was at three a Clock in the Morning. The next was the *Ppumrang*, i. e. Morning Prayer, or Song; *Cantus Matutinus*, which was at six a Clock in the Morning. *Underrang*, was the *Cantus Tertianus*, or Prayer at the third Hour, which was nine a Clock in the Morning. *Mibægrang*, or Mid-day Pray-

ers.

• Antemes: Blessyd be our Lord God, that hath sent Kyng *Edward* the IVth to reygne upon us. He hath done more for us than ever dyd Kyng of *Englond*, or might have done before hym. The Harmes that hath fallyn in gettyng of his Realme, ben now by hym turnyd into our ^laller Good and Profit. We schal now enjoye our own Goods, and

ers, Cantus Meridianus, which was at twelve a Clock at Noon. *Cantus Nonalis*, or *three a Clock Prayers*, was among them called *Nonang*, *Noon Song*, or *Noon Prayers*. Then came the *ſpenſang*, i. e. *Evening Prayer*, *Cantus Vespertinus*, which was at nine a Clock at Night. And last of all they had their *Nihtſang*, i. e. *Night Song*, or *Prayer*, *Cantus Nocturnus*, which was at twelve a Clock at Night.

• *Antems*; in Saxon antefn, from the Greek word *antiphona*, i. e. *contra sonans*; and so the Prayers were called that were sung alternatively.

† *Aller good*; i. e. *greatest good*; for this word *aller* comes from the Saxon word *æalpa*, and that from the Saxon word *eall*, *all*, and is used generally to make the Expression to signify superlatively. In old Authors, we find this word *aller*, and sometimes *alder*, for better Sound sake, to signify superlatively; as, *I am your aller bed*, *I am your aller bele*. In Saxon, *forþam þe ic eam eoþra æalpa hearoþ*, ic eam eoþra æalpa hæł. So in *Chaucer*, *ſhall have a Supper at our alder Coſts*; *uprode our Hoſt*, and *was our alder Cock*. And in the ſame Senſe do the Dutch uſe this word *aller* to this day. *Kilian* ſays, *aller* is ſometimes elegantly put before Superlatives, and enlarges their Signification, as *aller beſt*, *omnium optimus*, *the greateſt*, *beſt*, or *beſt of all*. *Kilian. Somn. Hicel. Theſ. 17.*

lyve

lyve under Justice, which we have not done of long time, God knowyth. Wherfor of his Almes yt ys that we have all that is our own. And therfor God continue his Grace and Person in long Lyffe with Inceſe, in Honour and Magnificence, to his Hart's Deſyer, and Welth of this his Realme.



L

C H A P.

CHAP. XX.

Advertisment for making of Patents of Gyfts.

HY T is not ment by the Premysfys, but that the Kyng without the Assent of hys Parleament schal geve to such as do his Grace singuler Service, Land for Terme of their Lyfys. For therby his Corowne may not be ~~Dy~~sheryted; for that Land will sone come ageyn. But than it were good that the same Land be no more after gevyn; for els Importune Sutours will gape upon such Reversions, and often tymes axe them^a or thay be fallyn. And when they be fallyn, the Kyng schal have no Reste with such Sutours, unto the tyme his Highnesse have gevyn ageyn all such Lands as he hath ons gevyn. And by Contenance therof, that Lond schal not serve hym but for Gyftys, as done Offices, Cordyes, and Penfyons. And truly yt were good that of all the Kyngs Gyftys, his Patents made

^a i. e. ere, or before.

mencyoun

mencyoun that they were passyd, *de Avisamento Concilii sui*, namely for a ^b Yere or two. For if such an Order be kepte, Men wil not be hastye to axe Rewards, * but if thay * ^{i. e.} be of right good Merits, and many Men will be of the better Governauce, for the Kyngs Councyle schuld deme them worthye to be rewardyd. And thay that optayne not that Defyer schal have than lityll Colour of Grutche, confyderyng that they lacke yt by the Dyscrecyoun of the Kyngs Councyle. And the Kyng schal have hereby grete Reste and Quietnesse, and be well defendyd ageyn such Importune Sutours. And yet his Grace may leve this Order whan hym ^c likyth. And God save the Kyng.

^b *Yere*; from the Saxon word *geap*, *annas*, the *g* being turn'd into a *y*, produces our English word *year*. From this word *geap*, comes the Saxon word *geapa*, *olim quondam*, of old time; and from thence comes the English Expression, *in days of yore*. Somn. Sax. Dict.

^c *Likyth*; from the Saxon Verb *lician*, *placere*, to please, to consent; and from thence our English word, to like, comes; from thence also comes the Substantive *licunge*, *satisfaction*, *pleasure*, and in modern English, *liking*. Somn. Sax. Dict.

At the End Sir *Adrian* writes thus :

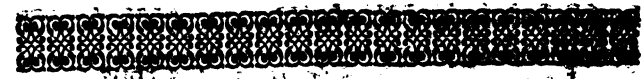
Explicit Liber compilatus & factus per Johannem Fortescue Militem, quondam Capitalem Justiciarium Angliae, & hic scriptus manu propria mei Adriani Fortescue Militis, 1532.

Loyall



Pense.

A CA-



A CATALOGUE of the most considerable Authors quoted in the REMARKS to this Book.

Hickes. Ling. Vet. Sept. Thef.] *Linguarum Vett. Septentrionalium Thesaurus, Grammatico-Criticus, & Archæologicus, Auctore Georgio Hickeſto.*

Du Fresne Gloss.] *Glossarium ad Scriptores Mediæ & Infimæ Latinitatis, Auctore Carolo Du Fresne, Domino Du Cange.*

Somn. Dictionar. Saxon.] *Dictionarium Saxonico-Latino-Anglicum, Opera & Studio Gulielmi Somneri.*

Mareschal. Evangel. Saxon.] *Quatuor D. N. Jeshu Christi Evangeliorum Versiones perantiquæ duæ, Gothica, scil. & Anglo-Saxonica, per Thomam Mareschallum, Anglum.*

Thwait's Heptateuch.] *Heptateuchus, Liber Job, & Evangelium Nicodemi, Anglo-Saxonice, Historiæ Judith Fragmentum, Dano-Saxonice, per Edwardum Thwait's, è Collegio Regiæ.*

Nicot Dictionair. Franc.] *Dictionaire François-Latin, par M. Nicot, Conseillier du Roy. A Paris 1573.*

Francisc. Jun. Glossar. Goth.] *Glossarium Gothicum, opera Francisci Junii, at the End of, Mareschalli Evangeliorum Versiones, &c.*

Kiliani Etymol. Teuton. Ling.] *Etymologicum Teutonicæ Lingue, sive Dictionarium Teutonico-Latinum, Studio Cornelii Kiliani.*

Ven.

A CATALOGUE of the Authors

Ven. Bede.] *Historiæ Ecclesiasticæ Gentis Anglorum Libri quinque, a Venerabili Bedæ scripti.*

Olaus Verelius Index.] *Olai Verelii Index Linguae Veteris Scytho-Scandicæ sive Gothicæ.*

Lexicon Islandicum.] *Lexicon Islandicum, sive Gothicæ Runæ, vel Linguae Septentrionalis Dictionarium, Autore Gudmundo Andree Islando.*

Lambard's Saxon Laws.] *Archaionomia, sive de Priscis Anglorum Legibus; Gulielmo Lambardo interprete.*

Spelman's Glossary.] *Glossarium Archaologicum, Autore Henrico Spelmanno.*

Menage Origin. Franc.] *Dictionaire Etymologique, ou, Origines de la Langue Française, par Mr. Menage. A Paris.*

Menage Origin. Ital.] *Le Origini della Lingua Italiana, compilate, Dal Sr. Egidio Menagio. In Geneva.*

Fontanini Vind. Antiquorum Diplomatum.] *Iusti Fontanini, Vindicie Antiquorum Diplomatum. Rome.*

Ælfrick's Saxon Gram.] *Ælfrici Grammatica Saxonica.*

Chronicum Saxonicum.] *Chronicon Saxonicum, per Edmundum Gibson, è Collegio Regine.*

Chronologia Saxonica.] *Chronologia Anglo-Saxonica, cum Latina Versione; Studio Abrahami Wheloci.*

Alfredi Vita.] *Alfredi magni Anglorum Regis Invictissimi Vita.*

Cotgrave Dict.] *A French-English Dictionary compiled by Mr. Randle Cotgrave.*

Cambden's Britt.] *Cambden's Britannia.*

Fortescue de Laud.] *Fortescue de Laudibus Legum Anglicæ.*

Du

quoted in the REMARKS.

Du Chesne Histoire d'Angleterre.] *Histoire d'Angleterre, par André du Chesne Historiographe de France.*

Hickes's Saxon Gram.] *Grammatica Anglo-Saxonica, Auctore Georgio Hickeſio.*

Boethius de Consolation. Philosoph. Saxon.] *An. Manl. Sever. Boethi Consolationis Philosophiæ, Libri quinque Anglo-Saxonice redditi ab Alfredo.*

Benſon's Vocabular. Saxon.] *Vocabularium Anglo-Saxonicum; Opera Thomæ Benſon à Collegio Reginae.*

Mrs. Elſtob's Saxon Homily.] *An English-Saxon Homily on the Birth-day of St. Gregory; by Mrs. Eliz. Elſtob.*

Liſle's Saxon Monuments.] *Divers ancient Monuments in the Saxon Tongue, by William Liſle.*

Fox's Saxon Gospels.] *The Gospels of the four Evangelists, translated into the vulgar Tongue of the Saxons, by Mr. John Fox.*

Chron. Precioſ.] *Chronicon Precioſum, or an Account of English Money, for the last 1600 Years. London. 1707.*

Torriano Ital. Dict.] *Vocabolario Italiano & Ingleſe, by Gio. Torriano.*

Selden's Tit. Hon.] *Titles of Honour; by Mr. Selden.*

Wallis Engl. Gram.] *Johannis Wallis, Grammatica Linguae Anglicanae.*

Madox's Hiſt. of the Exchequer.] *The History and Antiquities of the Exchequer, by Mr. Madox.*

Spelman's Saxon Pſalms.] *Pſalterium Davidis, Latino-Saxonicum vetus, a Johanne Spelmanno.*

The



The SAXON-ALPHABET.

Figure.		Power.	
A	a.	A	a.
B	b.	B	b.
C	c.	C	c.
D	d.	D	d.
E	e.	E	e.
F	f.	F	f.
G	g.	G	g.
H	h.	H	h.
I	i.	I	i.
K	k.	K	k.
L	l.	L	l.
M	m.	M	m.
N	n.	N	n.
O	o.	O	o.
P	p.	P	p.
R	r.	R	r.
S	s.	S	s.
T	t.	T	t.
þ	þ.	TH	th.
U	u.	U	u.
V	v.	W	w.
X	x.	X	x.
Y	y.	Y	y.
Z	z.	Z	z.

The English-Saxons write þ for and; and þ for *æc* or *cæt*.

FINIS.

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AUG

[REDACTED]

