



ANCIENT
CUSTOMES
OF
ENGLAND.

BEing desirous for my own particular satisfaction to search & inquire after revered Antiquity, it was my hap to light on an old Manuscript, which although in sound is *Saxon*-like, yet in some things it savours of the *Danish* matters, and of the ancient *British* Laws under the Rule and Government of the *Danes* : which writing writ in the *Saxon* tongue, I have translated into *English* word for word, according

to the true sense and meaning thereof.

IT was sometimes in the English Laws, that the People and the Laws were in Reputation : and then were the wisest of the People Worshipworthy, each in his degree, Lord and Churle, Theyne and Undertheyne. And if a Churle so thrived that he had full five bides of his own Land, a Church and a Kitchen, a Bell house and a Gate, a seat and several offices in the Kings Hall ; then was he thenceforth the Theyns right worthy. And if a Theyn so thrived that he served the King, and on his message, or journey rode in his household ; if then he had a Theyn that him followed, who to the Kings expedition five bide had, and in the Kings Pallace his Lord serv'd, and there with his errand had gone to the King, he might afterward with his fore Oath his Lords part play at any need. And if an

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Theyn so thrived, that he became an Earl, then was he right forth an Earl right worthy. And if a Merchant so thrived that he passed thrice over the wide Sea of his own craft, he was thenceforth the Theyns right worthy: And if a Scholar so thrived through learning, that he had degree, and served Christ, he was thenceforth of dignity and peace so much worthy as thereto belonged, unless he forfeited so, that he the use of his dignity might be taken from him.

These ruines of Antiquity make shew of a perpetuity of Nobility, even from the beginning of this Island. But times are changed and we in them also. For King *Edward* the Confessor, last of the *Saxon* blood, coming out of *Normandy*, bringing in then the title of *Baron*, the *Theyn*: from that time began to grow out of use; so as at this day men remember not so much as the names of them. And in process of time the name of *Baronage* be

began to be both in dignity and power so magnificent above the rest, as that in the name of the Baronage of *England* all the Nobility of the Land seem'd to be comprehended. As for Dukes, they were (as it were) fetcht from long exile, and again renew'd by King *Edward* the third. And Marquesses and Vicounts were altogether brought in by King *Richard* the Second, and King *Henry* the Sixth.

But our Kings descended of the *Norman* blood, together with the Crown of the Kingdom, granted an hereditary and successory perpetuity unto honorable titles, such I mean as are the titles of Earldom, and Baronies, without any difference of Sex at all; which thing I thought good to make manifest by the examples of the more ancient times. In the reckning up whereof, that I may better acquit and discharge my self, I shall in the first place desire the Reader to observe three things; First, concerning the disposition and inclination of our K. in the creating of the Nobility. Secondly, of the custome of transferring of Honors & dignities

by Families. And Thirdly, of the force of time, and the change and alteration of things. For why, our Kings (who in their Kingdoms bear alone the absolute rule and sway) are with us the efficient causes of all Political Nobility. The titles of named Nobility by our Custome have this natural and common together with the Crown it self, that the Heirs males fayling, they devolve unto the women, except in the first Charters it be in exprefs words otherwise provided; and yet so that regard is alwayes to be had of the time, which is every where wont to bear sway in the formality of things.

In this manner (*Harold* being overcome) *William* the first King and Conqueror having obtained the Sovereignty, according to his pleasure bestowed Dignities and Honours upon his companions and others; some of them so connext and conjoyn'd unto the Fees themselves, that yet to this day the possessors thereof may seem to be innobled even with the possession of the places onely: as our Bishops at this day, by reason of the Baronies joyned unto their Bishopricks, enjoy the
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Title and Preeminence of Barons in the highest Assemblies of the Kingdom in *Parliament* : he gave and granted to others Dignities and Honours, together with the Lands and Fees themselves. He gave to *Hugh Lupus* his Kinsman (a *Norman*) the Earldom of *Chester*, *Ad conquirendum & tenendum sibi & Hæredibus, adeo liberè per gladium, sicut ipse Rex tenuit Angliam per Coronam.* To *Hanus Rufus* (then Earl of *Britain* in *France*) and his Heirs the Earldom of *Richmond*, *Ita liberè & honorifice, ac eundem Edwinus Comes antea tenebat.* And the Earldom of *Arundell* (which *Harold* possessed) he granted with a Fee unto *Roger* of *Montgomery*. The first two of which Honours (the Heirs male fayling) by Women passed unto other Families: But the later Earldom, *Robert* the son of *Roger* being attainted of Treason returned unto King *Henry* the First, who gave the same in Dowry unto Queen *Adeliza* his Wife. But the Succeeding Kings more sparingly bestowed such Dignities to be holden of them in Fee, granting for the better and more honourable

maintenance of their stock and honor, the third part of the Pleas of the County (as they term it) which they in their Charters call *Tertium denarium* or the third penny : so that he who received the third penny of any Province, was called Earl of the same ; and so by custom the Women , the Heirs male failing.

And if any Earl or Baron dying without sons had many Women his heirs, howsoever order was taken either by way of Covenant, or partition, concerning the lands and possessions, according to the common laws of the kingdom, yet the dignity & honor (a thing of it self indivisible) was still left to be disposed of according to the Kings pleasure, who in bestowing thereof usually respected the Prerogative of birth: by which right, *K. Hen.* the third after the death of *John* the Scot, dead without issue (other Lands and revenues being by agreement given to his three sisters) united the Earldom of *Chester* with the honour thereof unto the Crown. This is manifest in the Earldom of *Arundel*, (which after *Robert Belisme* son to the aforesaid *Roger Mount-*

Mountgomery, driven out by *Henry* the first) King *Henry* the second bestowed upon *William* of *Aubine*, Qu. *Adeliza* his Mothers husband, and by a new Charter confirm'd it in fee, together with the Inheritance to him and his Heirs, with the third Pleas of *Sussex*, whereof he created him Earl. But *Hugh* the great Nephew of this *William* the first, being dead without issue, all the Earldom was divided among his four sisters; whose dignity and honour for all that, together with the Castle of *Arundel*, was by *Edward* the first at length given to *Richard Fitz-Alan* (the Nephews Son to *John Fitz-Alan*, and *Isabel* the second of the aforesaid sisters.)

I will now pass from *Henry* the third, to *Edward* the first his Son, there being for a time great dissention betwixt him and certain of his Nobility, viz. *Gilbert* of *Clare* Earl of *Hartford* and of *Glocester*, *Humphrey* of *Bohun*, Earl of *Hereford* and *Sussex*, and Constable of *England*; and *Roger Bigod* Earl of *Norfolke*, Marshall of the Kingdom: and that all those Noble men at length had lost their Earl-

doms and offices, they being reconcil'd to the King; afterward they again by new Charters received the same in this manner: The first of them to himself & *Joan* his wife the same K. daughter, his second wife, for term of both their lives; and to the children to be by both of them begotten (his two daughters by his first wife being excluded.) This *Joane* (called *Joane of Acon*) bare unto her husband *Gilbert* a Son called also *Gilbert*; but she the second time secretly married unto one *Radulph* of *Mont Hermeri* (without the K. her fathers knowledge) and in her own right made the same *Radulph* Earl so long as she lived: but she being dead, *Gilbert* her Son by the aforesaid *Gilbert* succeeded again into the Earldom, *Radulph* his father in law being yet alive. In the same manner he restored to the aforesaid *Humphrey* of *Bokun* his Earldom and Constableship, unto whom he also gave in marriage *Elizabeth* another of his daughters, widow to *John* Earl of *Holland*: and to the third he restored the Earldom of *Norfolk* and the Office of Marshal, with the yearly increase of a thousand Marks, upon condition if
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the heirs male of his body to be begotten failed, both should return again to the King. At length this *Roger* died without issue, in the xxxv. year of him the said *Edward* the first, viz. in the last year of his Raign: and King *Edward* his Son, the second of that name, both by a new Creation and Charter gave the Earldom and the Marshallship to *Thomas* of Brotherton, and his heir male.

These things I have propounded, thereby to shew how according to the diverse Dispositions of Princes, and change of Times, it hath by little and little varied in the first bestowing of Dignities and Honours: Of which thing, that new Law, and to them of Ancient time unknown, made by King *Edward* the first, seemeth afterwards to be of no small moment, whereby, he favouring certain private men, more careful of their own surname, then of their Posterity, it was thought good by him to decree to make Fees to belong to men only. That law which I would in latine call *Gentilitium Municipale*, & which the Lawyers commonly call *Jus taliatum*,

and *Talliable*, or the Law of cutting off, for that it cutteth off Successions before generall, and restraineth them to the particular heirs of Families; which seems to have given an occasion of change in the giving and bestowing of dignities and honors. For ever since that time, in the Creating of any new Earl, it is begun to be altered by express words in all Charters, provided, that it shall be but for term of life only, or descend unto the heirs males alone, the women being quite excluded. And for this I need not examples to prove; for why, the thing it self proveth the same. But the force and efficacy of this Law of Entail (or of cutting off) I have thought good thus in few words to declare.

And what I have said concerning Earls, the same may be said also of Barons created by Charters; but in Barons created by Rescripts, or Writs of Summons, yet resting upon most ancient custom not so.

For in them (one only excepted, sent forth to *Henry Bromflet*, wherein it was provided him, that same *Hen.* and his heirs male of his body lawfully begotten

gotten only to be Barons of *Vestry* women, the heirs male failing, were not in ancient time forbidden or imbarred, but that they might be accounted, and by name stiled Honourable, with the preeminence of the dignity and calling of Barons: and after they had born a child according to the ancient favour of our Lawes, (and the custom of the Kingdom) graced their Husbands also with the same honour, and with the same by Inheritance ennobled their Children, yea without the possessions of those places from whence the name of such dignities and honors may seem first to have risen. For Fees and Local possessions circumscribed by the Law, are translated and carried from one family unto another, and usually enrich their Lords and owners, the possessors thereof, but yet of themselves neither bring, nor take away Nobility, either Dative or Native. By example to manifest these things were but needles, and of little consequence; for why, all the most ancient Baronies, and the more ancient sort of the Barons at this day, are in this point on my side: and if any shall object against me in this point,

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unto him I will oppose either the force of time, or the carelesse and lack of looking unto. But customs are still like themselves, nor must we detract from the authority of Kings, who although they have such supereminent and undeterminate prerogatives, as that they may seem sometimes to have of favour granted some things beside the Law, yet it shall not appear them to have done, or yet suffered to have been done, any thing contrary to the custom of Stocks and Families; so sometimes they not regarding the solemnities of Ceremonies and Charters, have only by their becks (that I may so say) suffered dignities and honours to be transferred; as in *Ranulph Blandevil* Earl of *Chester* and of *Lincoln*, to be seen, for the Earldom of *Chester* he permitted after the manner to descend to *John the Scot* his Nephew by *Maud* the elder of his Sisters: But the Earldom of *Lincoln* (the King thereunto consenting) he yet alive delivered unto *Hamisla* another of his Sisters then married to *Robert Quincy*, by his Deed in the seventh year of *Henry III.*

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These things I say were of old and ancient time, but at this day not so; for such is the force of time, and change in altering the forms of things, as that in eating out of the old bringeth still in new: so unto Earls, whom we said in ancient time to have been rewarded with the third penny of the Province whereof they were Earls, to maintain their honour and dignity, a certain sum of money is at this day yearly paid them out of the Exchequer, and they the Titles of such places, as wherein they have no jurisdiction, administration, or profit at all. Barons also, who, as the Fathers and Senators in ancient times among the *Romans* were chosen by their *Suffrages*, were in like manner wont to be esteemed and valued by Knights fees; for why, he which had and possessed thirteen Knights fees, and a little more, was to be accounted among the Barons, & are now more seldom times chosen for their vertue, then great wealth, and large possessions.

Neither is there any let, but that a man may hold and still retain the name and title of a Barony, the head
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of which Barony (as they term it) he hath afterward sold or alienated to some other common person.

In brief, our Kings Royal Majesty is always like it self, constant and the same, which having regard to the virtue, stock, wealth, and substance of any man (whereby he may with his counsels service profit the Commonwealth) may in every place freely give and bestow dignities and honours, sometimes chusing no more Barons than one out of one and the same family; the custom of the succession of the former and more ancient Baron, being still kept whole, and not in any hurt; as we see *Edward* the sixth wisely to have done in the family of the *Willoughbys* of *Ersby*, brought forth also another Barony of *Parham*. Wherefore we acknowledge our Kings to be the fountains of Political Nobility; and unto whom we may with thanks refer all the degrees of honours and dignities; wherefore I may not without cause seem to rejoice, on the behalf of our Nobility of Great *Britain*, which hath had alwayes K. themselves Authors, Patrons, Governors and Defenders.

ders thereof; that when Lands, Fees & Possessions, subject to Covenants or agreements, are still tossed & turmoil'd with the storms of the judicial Courts, and of the Common Law, it is onely unto the Kings themselves behold-ing, and resteth upon Heroical orders and institutions proper and familiar unto it self, so that,

*Per titulos numerentur avi, semperque
renata
Nobilitate virent, & prolem fata se-
quantur,
Continuum propria servanti lege ce-
norem.*

By Titles great mens Ancestors are known, the posterity of whom enjoy the same to their flourishing and ever-lasting fame.

William the Conqueror, after the death of *Harold* having confirm'd the Kingdom to himself, laid these foundations of ancient and worthy Nobility, which afterwards by his successors, according to the divers occur-rents and occasions, by little and little became at length in the reign of
King

King *Henry* the third, and *Edward* the first, to appear a goodly and stately building, who having vanquished the *Welsh-men*, and contending with the *Scots* bordering upon them, for Principality and Sovereignty, entreating of all things concerning the Commonweal with the three States of the Kingdom (which consisteth of the Nobility, the Clergy, and Commonalty) they themselves in their Royal Majesty sitting in *Parliaments*, appointed unto every man a preeminence, according to the place of his dignity; from whom especially all the Nobility of our age may seem to derive the divers and appointed degrees of dignities and honours.

Now to abbreviate much that might be writ in the continuance of this Discourse, I shall desire to straiten my purpose to some handsome conclusion, by the observation of the degrees and sitting of our *English* Nobility in the *Parliament-Chamber*, out of the Statute of the 31. of King *Henry* the Eighth, who of his

his Princely wisdom, with the full assent of the whole *Parliament*, caused a particular Act to be made for the placing of the Nobility in the Upper House of *Parliament*; the effect whereof I have here recited:

That forasmuch as in all great Assemblies and Congregations of men having degrees and Offices in the Commonwealth, it was thought fit and convenient that order should be taken for the placing and sitting of such persons as are bound to resort to the same, to the intent that they knowing their places, might use the same without displeasure, the places of which great Officers deserve respect and admiration: and though meerly officinary, and depending on life, and the Kings gracious election, without any hereditary title or perfection, yet are they of such high dignity, that all hereditary honour whatsoever under the degree of Royalty may (at all times) without disparagement give them place and precedence: The placing of these most Noble and Great Officers both in the *Parliament-House*, and other Assem-

Assemblies, is after this worthy and distinct order.

That is to say, the Lord Chancellor or Lord Keeper, the Lord Treasurer, the Lord President of the Kings Privy Council, and the Lord Privy-Seal, being of the degree of Barons of the *Parliament*, or above, to sit on the highest part of the form; on the left side in the *Parliament*-Chamber; and above all Dukes, except those which are the Kings Sons, the Kings Brothers, his Uncles, his Nephews, or his Brothers or Sisters Sons: but if any of these four great Officers aforesaid shall be under the degree of a Baron, then he or they to sit on the uppermost part of the Sacks in the midst of the *Parliament*-Chamber, in such order as is afore shewed.

As touching the other, it was enacted that the Lord great Chamberlain, the Lord Constable, the Lord Marshal, the Lord Admiral, the Lord Steward, and the Lord Chamberlain of the Kings Household, shall be placed next to the Lord Privy-Seal, each of them above all other personages being

being of their own estates or degrees, and holding the same precedence, as they are formerly named.

Lastly, The principal Secretary being of the degree of a Baron, shall be rang'd above all Barons, (not having any of the former offices also) and this range and precedency to continue to all the great Officers in general which are before named, both in *Parliament*, in Council-Chamber, in the Star-Chamber, at the trial of Peers, and in all other Assemblies whatsoever.

This in brief is the effect of the Statute, expressing the dignity and place of our most principal and supreme Temporal Officers; of which the first and chiefest is the Lord Chancellor, or Lord Keeper, who is said to be the Kings Conscience, his mouth, and confirmation, for by him all the rigours of the Law are bridled, the Kings will in grave Consultations revealed, and his gifts and prerogatives confirmed; before him all the great business of the Commonwealth is dif-

dispatcht, either at Council-Table, in Star-Chamber, or in the Chancery, where he hath a principal voice and precedence : and lastly, he hath the keeping of the great Seal of the Kingdom, in which is exprest a reputation so serious that all Subjects lives and Estates depend on the same.

The next in place is the Lord High Treasurer of *England*, to whose trust the Kings Treasure is committed ; who is a man of that noble, worthy, sweet and generous disposition, of important confidence, of noble estimation, excellent in wisdom, and high in estimation, and to his wisdom and excellent judgment is referred the whole mannage of the Kings entire Estate, and the provident regard of the wealth and flourishing prosperity of all the Kings Subjects: he is the prime Officer Judicatory between the King and his Tenants, and hath dependence on the Council-Table, the Exchequer, and the Kings Royal House and Family.

The next to these is the Lord President of the Kings most honourable Privy Council, and is the chief man (next the King) belonging to that high and honourable Assembly, and hath in his power under the Kings Majestie, the mannage of the privileges of that Honourable Table.

The next is the Lord Privy Seal, an especial Ensign of credit belonging to this Kingdom, having custodie and charge of the Kings Lesser Seal, which gives testimony of the Kings favours and bounty, but also making the way clear and accessible to the Great Seal, in which consists the strength of his Majesties confirmations; these first four great Officers are civil, and judicatorie, as depending on the publick State: after whom follow six other, which are as well Military as Civil, having the manning of all matters of honour, and warlike proceedings.

The first of which is the L. Chamberlain of the kingdom, whose Office is of the greatest imployment in all publick Assemblies, as Coronations, Par-

Parliaments, Triumphs, or any Solemnity where the King himself rideth in person : which Office is not Officiary, but Honorary, depending by a feudal right unto the Noble House of the Earls of *Oxford*.

After this is the Lord Constable of the Kingdom, who was the first and principal General under the King of all the land-Forces, and in all occasions of Martial affairs, had the principal nomination of Officers, and ordering of Munition for such imployment.

Then is the Lord Marshal of the land, a great and renowned Officer, in whom consists the solution of all differences in Honour, and dispensation of all things appertaining to the great or lesser Nobility. Next followeth the Office of the Lord Admiral of the Land who is the Kings General, and chief Commander at Sea, and hath care and charge of all his Majesties Royal Navy, and the censuring of all Marine causes whatsoever.

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The next following is the Lord Steward of the Kings Household, in whose trust and government is reposed the ordering of all the great and Noble Families, the discussion of all controversies, the placing and removing of Officers, and the disposing of all things therein for his Majesties renown and dignity.

The last of these great Officers is the Lord Chamberlain of the Kings Royal Household; unto whose great trust, faith and integrity is committed the guard of the Kings Royal person, he hath the controll and commandment of all Officers, and others whose dependence is on the Kings person; and howsoever some would limit his rule above the Stays, yet it is over the whole Court, and in all places wheresoever the King is present; with many other priviledges which at this time cannot be fully recited.

After all these great Offices and Officers, I must necessarily add one great Officer more, namely the
Kings

Kings chief and Principal Secretary of Estate, who deserves a due respect by his High and Honourable Place, in regard he is so intimate and nigh to all affairs of his Majesty, either private or particular.

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