XXXI. *Extract from a Record explanatory of Grants by Henry II. and Edward I. to certain Ostmen in Waterford of the privilege of "Lex Anglicorum in Hibernia."* Communicated by Sir THOMAS PHILLIPPS, Bart., F.S.A.

Read February 26, 1857.

THE original record, from which the Extract that follows was taken, has been preserved in the Bermingham Tower, Dublin. It contains the Pleas of the Crown and Gaol Delivery at Waterford, before John Wogan, Justiciary of Ireland, on Thursday the morrow of St. Matthias the Apostle (February 25), in the fourth year of the reign of Edward II. (1311), and will be seen to be somewhat illustrative of the social condition of the inhabitants of that part of Ireland at the time of the invasion by Henry II. and also at the commencement of the fourteenth century.* The Ostmen mentioned in it were the descendants of the Norwegians, commonly spoken of as Danes, who had many years before formed permanent settlements on the coasts; as to whose history Worsaae's volume on the Danes and Norwegians in England, Scotland, and Ireland may be consulted with advantage. A few preliminary observations may serve to render the document more readily intelligible.

One Robert le Waleys, clerk, had killed one John, son of Yvor MacGillemorey, and on his trial at Waterford he admitted having killed the deceased, but pleaded that it was no felony, because he was a mere Irishman and not of free blood, and that he would be ready, on the demand of the lord whose Irishman John was at the time of his death, to pay for him as justice required. To this, one John, son of John, son of Robert le Poer, who appeared for the Crown, replied that the deceased was entitled to the benefit of the law of the English in Ireland; and he alleged in support of such reply a charter of Henry II., and another of Edward I. which recited and confirmed the former. The latter only was produced, and by it that privilege was granted to Gillecrist, William, and John MacGillemorey, and other Ostmen of the city and county (or of the citizens and commonalty) of Waterford who were descended from certain Ostmen of King Henry II. of the

* It is due to Sir Bernard Burke, Ulster King of Arms, to state that by his kindness an opportunity has been afforded of collating the Extract here published with another gratuitously furnished by him from the original roll, which is among the records under his care in Dublin.

surname of MacGillemory. And the prosecutor prayed judgment against Robert le Waleys for the death of John, son of Yvor MacGillemory, who, he said, was of the family of the Gillecris, William, and John MacGillemory named in the charter produced. The Justiciary, however, referred the matter to be inquired into by a jury, and from their answer we learn the occasion of the original charter. It appears that when Henry II. first went to Ireland, there was a certain (Ostman) chief, named Reginald (or Reynold) MacGillemory, who resided at Reynaud's Castle near the port of Waterford, where in the jurors' time there was an ancient deserted *mote*, and, having heard of the king's coming, and of his intention to land his army at Waterford, endeavoured, by means of three large iron chains thrown across the harbour, to frustrate the attempt. The King succeeded, and, having taken Reginald and his adherents prisoners, he hanged them as rebels: and he expelled all the other Ostmen whom he found dwelling in the city, except one faithful man named Gerald MacGillemory, who lived in a tower, which at the time of the inquiry was very old and ruinous, opposite the Friars Preachers' Church within the walls. To those expelled the King assigned certain places without the walls for their abodes, and they built there a town, which at the time of the inquiry was called the Town of the Ostmen of Waterford.^a Within the city the King placed divers men who had accompanied him, and granted them various privileges. In consequence of the great fidelity of the Ostman Gerald MacGillemory, he had security for life and limb, and he and his people were allowed to continue to reside in his tower within the walls. Sometime after Henry had gone back to England, probably on a Sunday or some holiday, when many of the citizens had come out of the city with their wives and others of their families to divert themselves in the fields, the Ostmen that dwelt outside the walls attacked them, and, having killed the men, carried off their wives. This led to a war between the citizens and the Ostmen of the Ostmen's town, which lasted a considerable time. Gerald MacGillemory, who was still living in his tower, faithfully defended the city, as well against the Ostmen who had been expelled, some of whom were his kinsmen, as against all others who were on their side, until the King's second arrival. Henry, having heard of his fidelity, upon his request granted to him, and to others of his kindred who were Ostmen of Waterford, that they should thenceforth have the benefit of the law of the English in Ireland. The jury found also (among other things) that the deceased was a descendant of the Gerald MacGillemory to whom the original grant had been

^a There was an Ostmen's town also by Dublin, now Oxmantown, and, according to Sir John Davys' Reports, fol. 23 verso, there were the like at Cork and Limerick.

made; and that he was killed by the accused Robert le Waleys, because he had been one of a jury who had charged the accused with being a robber, and harbouring robbers; and also that all the MacGillemorys were reputed to have come from Denom or Devoin (for the word is obscure) in Ireland, long before the conquest of it by the English. The result was, that the accused was sent back to prison to await judgment, but was afterwards let out on bail.

The charter of Edward I. has been quoted by Leland in his History of Ireland,^a as shewing that Henry II. had granted great privileges to the Ostmen who were the inhabitants of Waterford, as if the inhabitants generally were Ostmen. Evidently the writer was not aware of the privilege having been confined to a particular family, or of the citizens having been chiefly English. A copy of that charter is also given by Worsaae,^b which was furnished by Mr. Thomas Duffus Hardy from the Patent Rolls, where the word *Custumanni* is written by mistake for *Oustmanni*. The capitals C and O at that time were often so much alike that it was not easy to distinguish them. In that copy the contracted words are extended, and we have “de civitate et communitate Waterford,” which certainly appears at first more consistent with the tenor of this record than “de civitate et comitatu Waterford” as the words are given by Leland, who should seem to have derived his copy from the original record at Dublin. On inspecting the Patent Roll from which Mr. Hardy furnished the copy, the words are found to be “de civitate et com’,” which is equivocal.^c However there was a county of the city of Waterford, and it is not improbable that the grant by Edward I. may have extended to the descendants of Gerald MacGillemory who were resident in that *county*, as well as to those in the city of Waterford; for the descendants of the hostile Ostmen of his kindred, who were dwelling in the Ostmen’s town in the reign of Henry II., may have been good subjects under Edward I.

Leland^d and Sir John Davys^e mention five families who in early times had the privilege of the law of the English in Ireland, and give their names, but MacGillemory is not one; so that this would appear to have been a sixth family that was so privileged, and was little known. There is a plea in the 3rd Edward II., the year before this record, in which the “quinque sanguines” so privileged are named: they are O’Neil de Ultonia, O’Conoghor de Connacia, O’Brien de Thotmonia, O’Molaghlin de Midia, and MacMurghogh de Lagenia^f.

^a Vol. i. p. 82.

^b Appendix I.

^c The copy, furnished by Sir Bernard Burke of this portion of the original record in Dublin, shows that the words of the charter as there enrolled are *literatim* the same as on the Patent Rolls.

^d Vol. i. p. 82.

^e Davys’s Reports, fol. 38.

^f Ibid.

Reynold's Castle is mentioned by Leland^a as a rallying place of the Ostmen in the time of Henry II. A low circular tower on the quay at Waterford, of which Worsaae has given a wood-cut, is still so called, and by some supposed to be as early as the reign of that King or even older. From this record, however, it appears that in the 4th Edward II. the original castle so called was reduced to *antiqua mota deserta*. If *mota* were there used for the Irish *mothan*, it meant a circular intrenchment of earth; but otherwise at that period it generally signified a mound on which there was or had been a tower or castle.

These remarks having been premised, the Extract from the record follows, with the contracted words at length, except in a few instances where they may be thought doubtful. The frequently recurring &c. is in the original, and is not unusual in similar records.

De Placitis de Corona et Deliberatione Gaole apud Waterford coram Johanne Wogan, Justiciario Hibernie, die Jovis in crastino Sancti Mathie Apostoli, anno regni Regis Edwardi filii Regis Edwardi quarto.

WATERFORD.—Robertus le Waleys, rectatus de morte Johannis filii Yvor MacGillemory felonitèr per ipsum Robertum interfecti, &c. venit et bene cognovit quod predictum Johannem interfecit; dicit tamen quod per ejus interfectionem feloniam committere non potuit, quia dicit quod predictus Johannes fuit purus Hibernicus, et non de libero sanguine, &c.; et cum dominus predicti Johannis, cujus Hibernicus idem Johannes fuit die quo interfectus fuit, solucionem pro ipso Johanne, Hibernico suo sic interfecto, petere voluerit, ipse Robertus paratus erit ad respondendum de solucione predicta, prout justicia suadebit. Et super hoc venit quidam Johannes, filius Johannis, filii Roberti Le Poer, et dicit pro domino Rege, quod predictus Johannes filius Yvor MacGillemory, et antecessores sui de cognomine ipsius Johannis filii Yvor MacGillemory, a tempore quo Dominus Henricus Rex, filius Imperatricis, quondam Dominus Hibernie, tritavus Domini Regis nunc, fuit in Hibernia, antecessores de cognomine predicti Johannis filii Yvor MacGillemory, legem Anglicorum in Hibernia usque ad hunc diem habere, et secundum ipsam legem judicari et deduci debent et solent. Et unde dicit, quod predictus Dominus Henricus Rex, per cartam suam a tempore primi conquestus Hibernie libertatem predictam omnibus de cognomine de MacGillemoryes dedit et concessit; quam quidem cartam Dominus Edwardus, quondam Rex Anglie, pater Domini Regis nunc, per literas suas patentes ratificavit et confirmavit; et profert literas predicti Domini Edwardi Regis, patris Domini Regis nunc, de confirmatione predicta, que hoc testantur in hec verba:—Edwardus, Dei gratia Rex Anglie, Dominus Hibernie, et Dux Aquitanie justiciario suo Hibernie et omnibus aliis ballivis et fidelibus suis in Hibernia, ad quos presentes litere pervenerint, salutem. Quia per inspeccionem carte Domini Henrici Regis filii Imperatricis, quondam Domini Hibernie, proavi nostri, nobis constat quod Oustmanni nostri Waterford legem Anglicorum in Hibernia habere et secundum ipsam legem judicari et deduci debent, Vobis mandamus quod Gillecrist MacGillemory, Willielmum et Johannem

^a Vol. i. p. 101.

MacGillemory, et alios Oustmannos de civitate et com' Waterford qui de predictis Oustmannis predicti Domini Henrici, proavi nostri, originem duxerunt, legem Anglicorum in partibus illis juxta tenorem carte predictae habere, et eos secundum ipsam legem, quantum in vobis est, deduci faciatis, donec aliud de consilio nostro inde duxerimus ordinandum. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste meipso apud Acton Burnel quinto die Octobris anno regni nostri undecimo.—Unde predictus Johannes, filius Johannis, filii Roberti le Poer petit pro Domino Rege, quod procedatur ad iudicium versus predictum Robertum le Waleys pro morte predicti Johannis filii Yvor MacGillemory, qui est de stirpe predicti Gillecrist MacGillemory, Willielmi, et Johannis MacGillemory, quos (*sic*) predictus Dominus Edwardus Rex, pater Domini Regis nunc, lege Anglicorum in partibus Hibernie uti, et per hujusmodi legem deduci concessit, prout in predictis literis patentibus plenius continetur. Et Justiciarius hic, &c. plenius volens certiorari pro quali predictus Johannes filius Yvor MacGillemory habebatur dum vixit, et utrum ipse et antecessores sui a tempore confeccionis cartarum predictarum poni consueverant in juratis et assisis, sicut et ceteri Anglici de partibus Hibernie, necne, processit ad inquirendum super premissis plenius veritatem per juratores subscriptos, viz.—

JOHANNEM LE BUTILLER, }
 JOHANNEM filium WARINI, } Milites,
 ADAM LE POER, juniorem,
 HENRICUM DE WHITFELD,
 REYMUNDUM LE TAILLEUR,
 JOHANNEM DE BARRY,
 THOMAM LE POER de Boryn,
 BARTHOLOMEUM DE KERDIFF,

PHILIPPUM filium Johannis LE NORRAGH,
 HENRICUM DE RUDEBERD,
 JOHANNEM BARUN de Porthallock,
 WILLIELMUM SAVAGE,
 MATHEUM BELESCOTE,
 THOMAM DE NORHAMPTON,
 Et GALFRIDUM filium DAVID.

Qui juratores dicunt super sacramentum suum, quod, a tempore quo predictus Dominus Henricus Rex, filius Imperatricis, primo venit in Hiberniam pro conquestu faciendo, fuit quidam magnas nomine Reginaldi MacGillemory, qui fuit dives homo et valde potens in comitatu isto, et fuit manens apud Reynaudes Castel prope portum de Waterford, ubi modo est antiqua mota deserta, et ipse Reginaldus, audiens de adventu predicti Domini Henrici Regis, filii Imperatricis, &c. in Hiberniam, pro conquestu faciendo, &c., et quod idem Dominus Henricus Rex ordinavit applicare cum exercitu et navigio suo in portu Waterford, et in dominio ipsius Reginaldi MacGillemory, idem Reginaldus condere fecit tres magnas cathenas ferreas, quamlibet earum de tanta longitudine quanta tunc fuit latitudo portus Waterford inter predictam motam que vocatur Renaudes Castel ex parte Waterford et terram de Dunbrothy ex opposito, que est in libertate Weysford, et predictas tres cathenas portare (*sic*) fecit ultra portum predictum, et quamlibet cathenarum illarum ex utraque parte portus tendere (*sic*) fecit et firmare (*sic*), intendens per ingenia illa impedire predictum Dominum Henricum Regem (et) magnum (*sic pro navigium*) et exercitum suum ne ibidem possent applicare. Et, cathenis illis non obstantibus, predictus Dominus Henricus Rex cum navigio et exercitu suo ibidem applicuit, et cito postea idem Dominus Henricus Rex cepit predictum Reginaldum MacGillemory, dominum partium illarum, qui cathenas illas construxit, et ipsum, et omnes adherentes sui in comitiva sua inventos, ducere (*sic*) fecit ad villam

Waterford; qui omnes cito postea, per iudicium curie ipsius Domini Henrici Regis, pro eorum rebellionem tracti fuerunt et suspensi. Et omnes alii, quos idem Dominus Henricus Rex manentes invenit in predicta villa Waterford, per ipsum Dominum Henricum Regem expulsi fuerunt extra eandem villam, excepto uno solo fideli homine de cognomine des MacGillemoryes, qui vocabatur Geraldus MacGillemory, qui semper fideliter se gessit ad pacem ipsius Domini Regis, et qui fuit manens in quadam turre, que modo est valde antiqua et diruta, ex opposito ecclesie Fratrum Predicatorum infra muros ville Waterford. Et idem Dominus Henricus Rex assignavit certa loca extra muros ville predictae singulis eorum, quos sic expulsi a villa predicta, ad faciendum ibidem manones suas. Et ipsi sic expulsi construxerunt quandam villam ibidem, que modo vocatur Villa Oustmannorum Waterford. Et infra muros ville predictae, ex qua ipsi sic expulsi fuerunt, feoffavit de tenementis ipsorum sic expulsorum diversos homines de comitiva sua, et diversas libertates eis concessit. Et pro magna fidelitate, quam predictus Dominus Henricus Rex invenit cum predicto Geraldo MacGillemory, qui fuit manens in predicta turre infra muros predictae ville Waterford, non expulsi ipsum Geraldum MacGillemory, set concessit ei vitam et membra, et quod ipse et sui manere possent infra villam predictam, sicut prius manserunt. Et postea, per lapsum temporis post reditum predicti Domini Henrici Regis in Angliam, contigit quod burgenses predictae ville de Waterford, et uxores, et alii de familia eorum, quodam die eomeno (*sic, sed quære pro dominico*) exierunt muros ville predictae causa ludendi in campis. Et omnes de predicta villa Oustmannorum, primo expulsi ut predictum est, inierunt consilium, ut burgenses ville predictae et suos interficerent, et consilium illud miserunt in actum, et interfecerunt die illo omnes burgenses ville predictae quos extra muros invenerunt, et eorum uxores ceperunt, et cum ipsis duxerunt. Ob quod orta fuit guerra inter ipsos de villa Oustmannorum Waterford, qui predictos burgenses sic interfecerunt, et illos qui residui fuerunt infra muros ville predictae, post occasionem predictam, et duravit guerra et dissensio illa per magnum tempus. Et predictus Geraldus MacGillemory, qui fuit manens in predicta turre infra muros ville predictae, fideliter et viriliter per se et suos custodivit villam predictam et eam defendidit, tam contra omnes Oustmannos primo expulsos, ut predictum est, et de quibus aliqui fuerunt parentes ipsius Geraldi MacGillemory, quam contra quoscunque alios qui fuerunt ex parte predictorum Oustmannorum, usque ad iteratum adventum predicti Domini Henrici Regis in Hiberniam. Et quando Dominus Henricus Rex in adventu suo apud Waterford audivit de magna fidelitate predicti Geraldi MacGillemory, et qualiter bene se gesserit in defensione ville predictae, tam contra Oustmannos qui fuerunt de parentela et cognomine ipsius Geraldi MacGillemory, quam contra omnes alios Oustmannos primo expulsos, &c. ut predictum est, idem Dominus Henricus Rex, ad instantiam et rogatum ipsius Geraldi MacGillemory, concessit tam ei quam aliis de parentela sua Oustmannis Waterford, quod ipsi a tempore illo legem Anglicorum in Hibernia haberent, et secundum ipsam legem iudicati et deducti fuissent. Requisiti, si predictus Johannes filius Yvor MacGillemory, quem predictus Robertus le Waleys interfecit, sic de stirpe predicti Geraldi MacGillemory (fuit) cui predictus Dominus Rex libertates predictas concessit; dicunt, quod sic. Requisiti, si predictus Johannes filius Yvor MacGillemory, seu aliquis antecessorum suorum post cartam et confirmationem predictas, poni consueverunt in iuratis et assisis sicut Anglici, &c.; dicunt, quod quidam Willielmus MacGillemory, consanguineus predicti Johannis, est liber tenens in isto comitatu; et tenet omnes terras suas de domino Rege in capite in eodem comitatu, faciendo [sectam] com' Waterford de com' in com'. Et tam predictus Johannes, quam predictus Willielmus, hactenus

poni consueverunt in juratis et assisis, sicut et ceteri Anglici comitatus, &c. Requisiti, si aliquis de stirpe et cognomine predictis hactenus interfectus fuit, et ille qui ipsum interfecit captus et in curia Domini Regis de morte illa arenatus; dicunt, quod quidam Robertus filius Watyni le Poer, tempore Domini Edwardi nuper Regis Anglie, patris Domini Regis nunc, interfecit quendam Gillecris Mac Gillemory, et de morte illa arenatus fuit in curia Domini Edwardi Regis, patris, &c., jam circiter viginti annos elapsos, et ipse Robertus in eadem curia dixit, quod clericus fuit, et quod non potuit nec debuit ibidem inde respondere. Et super hoc venit Episcopus Waterford qui tunc fuit, et petiit ipsum Robertum ei liberare (*sic*) tanquam clericum, &c. Et comperto per inquisitionem xii juratorum, &c. quod predictus Robertus filius Watyni le Poer culpabilis fuit de morte predicta, idem Robertus liberatus fuit predicto Episcopo, tanquam clericus de morte predicta convictus, et custodiendus sub pena in hujusmodi casu provisa. Requisiti, qua de causa predictus Robertus le Waleis prefatum Johannem filium Yvor MacGillemory interfecit; dicunt, quod idem Johannes jurator fuit in quadam inquisitione, simul cum aliis juratoribus, &c. coram Vicecomite Waterford ad dicendum qui fuerunt latrones et receptores latronum in comitatu isto, et similiter ad dicendum veritatem coram eodem Vicecomite de aliis articulis placitorum coronæ Domini Regis; et quia predictus Robertus le Waleys in inquisitione illa indicatus fuit, ipsum predictum Johannem filium Yvor MacGillemory interfecit, ut predictum est. Requisiti, a qua terra le MacGillemoryes successores (*sic pro antecessores*) predicti Gerald MacGillemory primo venerunt, et utrum fuerunt Hibernici in terra Hibernica, necne; dicunt, quod per relatum antiquorum hominum hactenus audiverunt, quod omnes les MacGillemoryes venerunt de Denom in Hibernia, diu ante conquestum quem predictus Dominus Henricus, filius Imperatricis, fecit in Hibernia, &c. IDEO predictus Robertus le Waleis recommittatur gaole pro judicio suo expectando, &c. Et data est dies ei de judicio suo audiendo coram, &c. a die Pasche in xv dies ubicunque, &c. Postea de gratia, &c. predictus Robertus le Waleis dimittitur per manucapcionem, et de ejus manucapcione patet in Rotulo de manucapcione de hoc termino, &c.