VII.—*Original Documents illustrative of the Administration of the Criminal Law in the time of Edward I.; with Observations by FRANCIS MORGAN NICHOLS, Esq., M.A., F.S.A.*

Read March 3rd, 1864.

I PROPOSE to lay before the Society this evening some documents which appear to possess a certain interest as illustrating the administration of the Criminal Law in the reign of Edward I. One of these papers relates to the tribunal held under the presidency of the Justices of Trailbaston, the institution of which is one of the obscure events in our legal annals. I have written a few observations with a view to explain the nature of these papers, and their bearing upon the legal and social history of the country.

There are various indications that towards the middle of the reign of Edward I. the existing means for the prevention and punishment of robberies and crimes accompanied with violence were felt to be unequal to the necessities of the time. Whether crime was upon the increase, as was then frequently asserted, or whether only the necessity of repressing it was more urgently felt, the government of Edward found it necessary to exert itself to improve the system of police, and to deter offenders by more speedy and certain punishments.

The great revolution in our legal system, by which the judicial business of the country was transferred from the local and territorial tribunals to the Royal Courts, was approaching its successful termination, and it would seem that the work of demolition had in some degree outstripped the work of construction, and left a gap in the administration of justice which was not filled up for some time. An important remedy, I may observe, was subsequently found in the institution of Justices of the Peace, which took its rise in the commencement of the reign of Edward III. The institutions existing under our early Norman Kings, adapted as they were to a less advanced state of society, appear yet to present a more complete and efficacious system of police, and more adequate means for the repression of crime, than we find in operation at the close of the thirteenth

century. The institution of Frankpledge, by which the peasants were made mutually answerable for each others' conduct, having been adopted from the native law, was brought into vigorous use under the Conqueror and his immediate successors;^a and no better means could possibly have been devised, in a rude and stationary condition of society, for the prevention and punishment of crime. There is reason to think that this institution, though it remained in theory a part of the law, was in practice growing obsolete in the reign of Edward I.^b Another ancient institution was the Sheriff's Tourn, which in former times had been active in the repression of theft and of acts of violence not amounting to homicide. And batteries, affrays, and woundings had been ordinary subjects of cognizance in the courts leet of Lords of Manors, even where no special franchise of Infangthef or Utfangthef gave them jurisdiction in cases of felony, with the privilege of having their own gallows. These courts had, however, before the time of Edward I., lost much of their usefulness. The authority of the Sheriff in criminal cases was curtailed by Magna Carta, and the territorial jurisdiction of Lords had been discouraged by every means which the Government could command.

The mode in which it had been customary to procure the conviction of offenders was also unfavourable to the suppression of crime. According to the practice of the thirteenth century, acts of violence to individuals, as woundings and batteries, appear to have been generally left to be punished at the prosecution of the sufferers by what was called an appeal.^c The Coroner, who was considered the principal guardian of the King's peace,^d and whose business it was to inquire into circumstances furnishing matter for prosecution at the suit of the Crown, does not appear to have made any inquest *ex officio* in cases of wounding or battery, unless the wound was so serious that it was likely to cause death.^e Robberies and thefts seem also to have been more frequently the subject of appeals than of prosecution at the King's suit.^f Now the system of prosecution by appeal was attended with so much inconvenience and disadvantage to the appellor, that, in a large proportion of cases, the sufferer preferred to submit to injury rather than to seek redress in the manner provided by the ancient law. In the first place the appellor, if a man in full possession of physical powers, was bound to offer to prove his case upon the body of the appellee by trial of battle.^g

^a Palgrave, *English Commonwealth*, vol. ii. p. 123. ^b See Britton (Oxford, 8vo. 1865), vol. i. p. 181, note.

^c Bracton, f. 122b, 143, 144.

^d Britton, vol. i. p. 8.

^e Bracton, f. 121, 122; Britton, vol. i. p. 8.

^f Bracton, f. 146, 150b.

^g Britton, vol. i. p. 100.

We may easily conceive that injuries to person and property were for the most part unpunished, when the party injured could in general obtain redress only by means of a judicial combat with the ruffian from whose violence or dishonesty he had suffered. If we add to this the fact that the appellor, if he failed to prove his case, was liable to be amerced or imprisoned for his false suit,^a we cannot be surprised that a system of law which trusted habitually to such a mode of prosecution, was found ineffectual for the repression of robbery and violence.

It is true that such acts might be made the subject of presentment by the neighbours at the Sheriff's Tourn or at the Court Leet, and upon such presentment, if the acts amounted to felony, the parties accused might be arrested by the Sheriff and detained in prison until the next Eyre of the Justices Itinerant or the arrival of the Justices assigned to deliver the gaol; or the same persons, with or without such previous presentment, might be indicted by the grand jury in the Eyre. But this remedy by presentment and indictment was at this period very partial and uncertain, especially when the complainant was a stranger and the person under suspicion one who was either feared or favoured as a neighbour. The Statute of Winchester, passed in the thirteenth year of Edward I., which was the principal measure of that King for the improvement of the police of his realm, commences by reciting, that "from day to day, robberies, homicides, and arsons are more often committed than heretofore, and felons cannot be convicted by the oath of jurors, which more readily suffer felonies committed against strangers to pass without punishment than indict offenders, the great part of whom are of their own country; or at the least, if the offenders are of another country, their abettors and receivers are persons of the neighbourhood." The principal remedies provided by this statute for the state of things described in the above preamble were, first, a new law whereby the hundred in which a robbery or other felony was committed was made answerable for the damage, unless the offenders were discovered and convicted; and, secondly, several regulations of police, providing, among other things, for the stricter watch of cities and towns, the improvement of highways, especially by the removal of trees, bushes, and other covert from their immediate proximity, and the more effectual following of the hue and cry, when offenders were pursued by the force of the country.

With respect to the compensation which was to be made to the sufferers by the hundred, the statute did not point out any special mode of recovering it, but

^a Britton, vol. i. p. 103, 107, 124.

enacted that the country should have no longer space than forty days, within which it should behove them to make satisfaction for the robbery or offence, or answer for the bodies of the offenders.^a It was the practice, under this statute, for the persons aggrieved to bring actions, *tam pro Rege quam pro seipsis*, against the inhabitants of the hundred for their damages,^b and Lord Coke cites precedents of actions so brought as early as the second year of Edward III.^c In a manuscript collection of statutes and law treatises made in the reign of Edward II. and preserved in the Cambridge University Library,^d in the margin of the page containing the Statute of Winchester, there are copies of two writs of King Edward I. to the Sheriff of Gloucester, issued shortly after the date of that statute, which seem to show that, according to the view taken by the King's lawyers at that time, a more speedy remedy might be given by an inquest before the sheriff, without the necessity of proceeding by action.

The first of these two writs, after reciting the statute lately promulgated at Winchester, orders the sheriff, that having heard the complaint of Philip Russel and William Baron, merchants of Northampton, concerning a robbery done upon them between the townships of Pynnocksyre and Farnescote, in the county of Gloucester, he should make due and speedy fulfilment of justice to the said Philip and William according to the form of the said statute. The second writ, after referring to the former, recites that the sheriff had signified by his letters, that it appeared upon an inquest made before him that the same Philip and William on the Sunday before the feast of St. Kenelm, in the 19th year of the King,^e were robbed of their goods and chattels by three thieves at Pynnoksyre, in a place called Brodeswelle, within the liberty of the Abbot of Hayles, in the hundred of Lolleford and Greston,^f but that the sheriff had no knowledge of the value of the

^a Stat. Winton. (13 Edw. I. Stat. 12) c. 2.

^b The Statute of Winchester was repealed by Stat. 7 and 8 Geo. IV. c. 27.

^c Coke, Institutes, part ii. p. 569.

^d MS. Dd. vii. 6. This is a very fine collection of statutes and law treatises, which appears, from internal evidence, to have been prepared for the use of Sir John de Longueville, a lawyer employed in the business of the Crown in the reign of Edward II. See Britton, Introduction, p. 61. It is remarkable that this manuscript is described in the Record Commission Report of 1837 as of the time of Henry VI., and in the Report of 1819, made with a view to the publication of the Statutes of the Realm, as a manuscript of little value.

^e 16 July, 1291.

^f The name "Bradwell's Head Barn" may be found in the Ordnance Map between the hamlet of Farncot and Pinnock Farm, about two miles from the site of the abbey of Hayles. These places are now

goods or of the names of the offenders, and that restitution was not made to the said Philip and William according to the form of the statute, to their no little cost and grievance. The sheriff is then ordered to levy within half a year of the robbery, out of the goods and chattels of the inhabitants of the hundred, money to the value of the goods taken, according as the same Philip and William could prove the same before the sheriff by the law of merchants or other lawful means, and cause the same money to be delivered to them; or else that the sheriff should answer for the said robbers within the same term.^a

Whatever may have been the effect of the Statute of Winchester, the general complaint of the prevalence of crimes accompanied with violence still continued, and towards the end of Edward's reign grew into a panic, which our recent experience of garotte robberies may in some degree enable us to understand. Various parts of the country were infested by a class of people who appear to have been armed with sticks or clubs, and who were ready for the commission of any violence either on their own account or as the instruments of others. Peaceable subjects were beaten, and their houses broken into and robbed, almost with impunity, for so great was the dread generally felt of the perpetrators of these outrages, that they very frequently succeeded in evading punishment, the injured parties being deterred from complaining, or the jurors from indicting or convicting them, by threats of further atrocities. At every fair and market they were the terror of their more peaceable neighbours, making a practice of seeking quarrels and insisting upon reparation from those whom they had forced to defend them-

in Kingsgate hundred, but in Domesday Book Fernecote and Pignoscire are described as in the hundred of Holeford, and Heile as in Gretestan hundred.

^a I append copies of these writs, for which I am indebted to Henry Bradshaw, Esq., Fellow of King's College, Cambridge, and of this Society. The admission of proof *per legem mercatoriam*, as binding upon the hundred, is remarkable, and the kind of evidence intended requires further explanation. Another observable point in these writs is, that the period within which the compensation was to be made is half a year; and in the first writ, where the effect of the statute is set forth, it is recited as if that period was mentioned in it. I refer to this as illustrating a question which exists as to the proper reading of the Statute of Winchester, the time named in the copy found upon the Statute Roll being forty days (xl. iour³), while in a small Roll preserved in the Exchequer, and in many early manuscript copies, it is half a year. See Statutes of the Realm (Record Commission), vol. i. p. 96, note; Saunders's Reports, vol. ii. p. 375. Fleta (which was written about the 20th of Edward I.) refers to the statute as naming the longer period; and Lord Coke, relying upon that authority, says that the book of statutes then lately printed is mistaken in mentioning forty days, and should be reformed accordingly. (Coke, Institutes, Part II. 569.) The language of these writs, issued so early after the date of the statute, is confirmatory of the reading approved by Coke.

selves. At night the country was especially unsafe, and burglaries, arsons, and homicides were frequent. The evil demanded the more vigorous treatment, inasmuch as these "trailbastons," as they were called, were often maintained and abetted by persons of higher position, who availed themselves of their services to satisfy their private animosities, the ruffians having actually in some places a scale of prices at which they might be hired to commit a more or less murderous assault upon their victims. In the forcible usurpation of the possession of land, one of the common oppressions of that time, the services of the trailbastons were also employed.

The ordinary means of administering justice were found inadequate for securing the peace of the country, and in the thirty-third year of Edward I. (A.D. 1304-5), several commissions were issued for inquiring into and punishing those breaches of the peace, which had given occasion to so much alarm. The justices appointed by these commissions acquired, after a time, the popular name of Justices of Trailbaston; and Commissions of Trailbaston, as they were called, were issued at various intervals until the middle of the reign of Richard II. The form of the commission is printed in Rymer's *Fœdera*, and also in the volume of Parliamentary and other Writs of the reign of Edward I., published by the Record Commission;^a and an ordinance, entitled "*Ordinatio de Trailbastons*," passed in the Parliament held at Westminster in the thirty-third year of Edward I., is printed in the Rolls of Parliament.^b The best account of the origin of this tribunal is to be found in the third volume of Mr. Foss's work upon the Judges of England.^c It appears that originally the duty of Justice of Trailbaston was intended to be principally performed by the barons or knights resident in the several districts, one or two only of the King's regular justices being included in a numerous commission. We may find in this a partial anticipation of the institution of Edward III., whereby the custody of the King's peace was committed to some substantial persons resident in every county. After two or three years, however, the choice of Justices of Trailbaston appears to have fallen upon the same persons who were ordinarily employed in the business of assizes and as justices itinerant.

The name of Justices of Trailbaston, applied to the judges acting under this commission, has by some writers been derived from their "carrying the staff of justice;" and by Lord Coke is referred to the rapidity of their action, "because

^a *Fœdera*, vol. ii. p. 960; Parliamentary Writs, vol. i. p. 407.

^b Rot. Parl. vol. i. p. 178.

^c Foss, *Judges of England*, vol. iii. p. 28—38.

they proceeded as speedily as one might draw a staff." But Mr. Foss has shown that the word "Trailbaston" was first applied to the offence or the offenders, and afterwards to the justices. He also cites some interesting extracts from the songs of the period, published by Mr. Wright, which exhibit the various opinions which were popularly entertained as to the proceedings of the government and of the judges upon this occasion.

The second document appended to this paper contains the detailed instructions respecting the nature of the offences for the suppression of which these justices were appointed. It is extracted from the same manuscript which has been before referred to,^a and is entitled "Articles of Lincoln, which are called Trailbaston, concerning which King Edward, father of King Edward that now is, commanded to be inquired throughout all England." The title, "Articles of Lincoln", would seem to imply that the instrument was prepared at that place. The first Commissions of Trailbaston are dated the 23d of November, 1304 (33 Edw. I.), at Burstwick, in the county of York,^b where the King appears to have been for some days, as there are other writs dated at the same place on the preceding 12th of November. But during the next month he was at Lincoln, whence he dates a letter to the Pope on the 31st December 1304;^c and a Commission of Trailbaston for the counties of Norfolk and Suffolk bears date at Lincoln the 9th of January, 1305. It was probably at this time that these instructions for the conduct of the tribunal, which are in French, and are far more detailed than the Latin Commissions, were settled by Edward or his Council.^d

The articles are divided into thirteen heads, which present a curious and interesting picture of the abuses under which society was labouring. The first offence is one not at all alluded to in the commission. It is that of those who

^a MS. in Cambridge University Library, Dd. vii. 6. Another copy of the same "Articles" is to be found in Hargrave MS. 336 (in the British Museum), where the document is entitled "Les Articles de Traynebaston." I have looked through this copy, and have added at the foot of the copy hereafter printed the principal varieties of reading found in it. While preparing this paper for the press, I have found that the Articles of Trailbaston have been printed from a less perfect copy in the edition of the Chronicle of Walter de Hemingburgh (or Hemingford), published by the English Historical Society, vol. ii. p. 237. In Hearne's edition of Walter de Hemingford, two blank pages occur in the place of these Articles, vol. ii. p. 211.

^b Parliamentary Writs, vol. i. p. 407.

^c *Fœdera*, vol. ii. p. 955.

^d The "Articuli inquisitionis super Statutum Wyntonie," printed in the old collections of Statutes as a Statute of the 34th year of Edward I., and by the Record Commission as a Statute *temporis incerti*, is an instrument of the same nature as the "Articuli Lincolnie."

forcibly enter upon the tenements of others, and when they are about to be ousted by legal proceedings, deliver the tenements into the hands of great lords, in order to continue by force and power their original wrong.

The second offence is one mentioned in the Commission of Trailbaston, but is here more vividly described : “ Of those who have disturbed the jurors on assizes, that they dare not speak the truth, for if they do so they cause them to be so beaten and illtreated that many lose their lives, or are maimed for ever after, so that for fear of them the truth cannot be known before the King’s justices.”

The third article is more especially aimed at the particular offence the prevalence of which appears to have occasioned the creation of the tribunal, and to have given it its name, and the terms in which this abuse is described are certainly very remarkable. Inquiry is to be made of those who are guilty of the great batteries which are committed in the country, and are ready to be hired to beat others according as may be bargained, for a greater or less battery, that is to say, a battery of two or three shillings, or of a half mark, or of ten or twenty shillings, and who they are that abet or maintain such proceedings.

The next offence is the obtaining of purchases or leases of land by threats of personal violence.

The fifth article describes those who have plundered the householders of the country, and if the sufferers make complaint among their neighbours, cause them to be informed that if they do not hold their peace they will lose their lives as well as their goods.

The sixth article is directed against forcible disseisins by persons hired for the purpose ; so much oppression of this kind was practised, that it is plaintively added that it would be a work of great charity and alms to restrain the malice of the offenders, and to convict their abettors.

The next offence is the impeding of constables and bailiffs and King’s officers in their duty of keeping the peace. This is followed by an article against the corrupt conduct of such officers themselves.

The ninth article shows that the “ Crouner’s quest ” was already in disrepute, and illustrates in a remarkable way the chapter of the Statute of Westminster the First, which recites that people of small account were then commonly chosen for the office of Coroner.^a It is headed “ De inobedientibus Coronatoribus,” that is, of those who refuse to obey the Coroners ; and the abuse described is this : that poor and ignorant people were put upon Coroners’ inquests, and the better

^a Statute of Westminster I. (3 Edw. I.) c. 10.

class, although they might be actually present and ordered by the Coroner to "go to the book," refused to be sworn on the inquest, or to obey his order, in despite of the Coroner and the dignity of our lord the King and his peace, whereby felons and other misdoers of the country remained unpunished.

In the tenth article the offence described is the violent resistance to the King's officers in levying the King's dues, by beating and maltreating the bailiffs.

The next article is directed against homicides, murders, and arsons committed by day or night. In the twelfth and thirteenth the characteristic proceedings of the Trailbastons again appear. The former is directed against those who go by night with force and arms against the peace, and beat people and break the doors and windows of honest folk, and commit other enormities against the peace, when quiet people ought to be in their beds.

The last article is headed "*De quærentibus occasiones contentionum ut faciant de injuria justitiam*," that is, of those who seek occasion of quarrel in order to demand redress for their own wrong, and it describes a class of persons who were in the habit of frequenting markets and populous places and so conducting themselves as to provoke quarrels, and who then pretended that they were the injured parties, and would not be satisfied until their victims had purchased their peace by money, chattels, or wine; so that the amends were paid by the party injured and received by the offenders.

The document which I have thus shortly described presents a singularly graphic enumeration of the offences with which the Justices of Trailbaston had to deal.

The remaining document which I wish to bring under the notice of the Society relates to another measure taken by King Edward I., at nearly the same period, for securing the peace of the country. It is found upon the Close Roll of the 34th year of Edward I.,^a and is a circular addressed to the Sheriffs respecting the observance of the Statute of Winchester. A copy of the writ, as received by the Sheriff of Northampton, is contained in the same manuscript to which I have already referred,^b where it is entitled, at the commencement, "*A Statute made at Westminster in the 34th year, founded upon the Statute of Winchester*," and at the conclusion, "*The Statute of the imprisonment of suspected persons*." It is in form a writ addressed to the Sheriff, giving him directions for the preservation of the peace of his district, and is dated at West-

^a Rot. Claus. 34 Edw. I. m. 9.

^b Cambridge University Library, MS. Dd. vii. 6.

minster the 7th of June, 34 Edward I. (A.D. 1306).^a It is well known that the word statute was not strictly confined by the usage of the period under discussion to Acts of Parliament, but was frequently applied to royal ordinances and writs of general interest and of a more or less legislative character. Several examples of this kind may be found in the various collections of early Statutes. The *Statutum de militibus*, which was a royal ordinance of the sixth year of Edward I.^b and the Statute entitled *Circumspecte Agatis*, a writ or circular which is ascribed to the thirteenth year of the same King, are instances, among many others, of a like nature. The document which we have now before us belongs to the same class of instruments, and might well have found a place in the Statute Book along with those which I have mentioned. Its principal object is to enforce the observance of the Statute of Winchester during the intended absence of the King in Scotland, but it so far lays claim to a legislative character inasmuch as it purports to repeal or suspend the operation of a very important chapter of the Statute of Westminster the second, (13 Edward I.) passed for securing the liberty of the subject, by which Sheriffs were forbidden to arrest or imprison any persons who were not first indicted by an inquest of at least twelve jurors.

The following is an English translation of the instrument under consideration, with the titles prefixed and appended to it in the Cambridge Manuscript :

A Statute published at Westminster in the 34th year, founded upon the Statute of Winchester.

Edward, by God's grace King of England, Lord of Ireland, and Duke of Aquitaine, to the Sheriff of Northampton, greeting. Whereas for the quiet and peace of the people of our realm, and for the repressing of the malice of evil-doers and disturbers of our peace, we formerly caused a certain Statute to be made at Winchester by the common advice of the said realm, which Statute, in regard to the better keeping of our peace, and especially when we are about to go into the parts of Scotland to suppress by God's help the rebellion of Robert Bruce, our enemy and rebel, we consider highly profitable, and will have it observed in all points ; and whereas it is notorious that evil-doers and felons, and numberless other persons of whom there is a manifest suspicion of larceny and felony, perpetrating robberies and other like enormities by night and day, as well openly as secretly, do roam, wander, and are received and maintained and make open abode, as well in your bailiwick as in divers other counties of our realm, which evil-doers, and their receivers, abettors, and maintainers might be taken and arrested by you, who are specially bound to keep our peace in your said bailiwick, if you were as diligent therein as you ought to be, inasmuch as

^a The date upon the Close Roll is June 16, 34 Edw. I.

^b See *Archæologia*, Vol. XXXIX. p. 216.

the *posse* of the said county on these and the like occasions is subject to your summons and jurisdiction: therefore we hereby strictly enjoin and command that in your county, and in all cities, boroughs, hundreds, market towns, and other places in your bailiwick, as well within liberties as without, and wheresoever you shall deem expedient, you cause the said Statute to be publicly read and in all its points observed.

Further, inasmuch as that is not unknown to us which is bruited in the ears of all, to wit, that divers robbers and felons will not submit to be tried before our Justices assigned to hear and determine felonies and trespasses committed in divers counties of our realm against our peace, but when they are put in exigent do remove themselves to other counties, and do there lurk and abide, so that a manifest suspicion of felony and wickedness, by reason of their coming from foreign parts and their nightly journeyings, and sometimes by their luxurious expenses, may be and is had concerning them; and albeit it is contained in our Statute of Westminster that none be taken or imprisoned unless first he be indicted by the oath of twelve jurors, and their indictment be testified by their seals; nevertheless we will and command that all such whereof a manifest suspicion of felony or larceny is had, and whom you shall find in your bailiwick, as well within liberties as without, although they be not so indicted, be by you without delay arrested and safely kept in our prison until they be delivered therefrom according to law and the custom of our realm. These premises you shall so put in execution as you regard yourself, and would be free and clear of the receiving and consent to the said evil-doers, and that we may not be obliged to proceed against you as guilty of the said crimes; and shall apply such and so great diligence against such suspected malefactors and manifest felons, as well by yourself as by the *posse* of the said county, that it may not and ought not to be imputed to you, after our present command, that such intolerable offences are perpetrated in your bailiwick by your negligence or consent. We will also that in our behalf you command and strictly enjoin all bailiffs of your county, as well within liberties as without, that they apply the same diligence for the keeping of our peace in their wards, and so behave themselves in that behalf that they incur not the penalty in the said Statute contained, and be furthermore imprisoned during our pleasure, and be thereout heavily ransomed. And if they shall fail herein, you shall yourself, in default of the said bailiffs, enter the said liberties as often as shall be occasion, and cause the premises in form aforesaid to be strictly performed and observed; and you shall apprehend all those whom you shall find despising this our command, remiss or negligent in executing it, or wholly unwilling so to do, and shall instantly upon such apprehension cause their names to be laid before our Justices assigned to hear and determine felonies and trespasses committed in your county against our peace, that the same persons so apprehended may appear before the said Justices to answer the contempt aforesaid, and to perform that which the court shall consider in that behalf. Witness ourself, at Westminster, the 7th day of June, in the 34th year of our reign.

The end of the Statute for the imprisonment of suspected persons.

The clause of the Statute of Westminster, the operation of which is suspended

by the above Writ, has so important a bearing upon the general subject of this notice, that it may be worth while to read it in its entirety. The printed English translation runs as follows :

Forasmuch as sheriffs, feigning many times certain persons to be indicted before them in their Turns of felonies and other trespasses, do take men that are not culpable nor lawfully indicted, and imprison them, and do exact money from them, whereas they were not lawfully indicted by twelve jurors, it is ordained that sheriffs in their Turns, and in other places where they have power to inquire of trespassers by the King's precept or by office, shall cause their inquests of such malefactors to be taken by lawful men, and by twelve at the least, which shall put their seals to such inquisitions, and those that shall be found culpable by such inquests they shall take and imprison, as they have used aforetimes to do; and if they do imprison other than such as have been indicted by inquest, the parties imprisoned shall have their action by a writ of imprisonment against the sheriffs, as they should have against any other person that should imprison them without warrant. And as it hath been said of sheriffs, so shall it be observed of every bailiff of franchise.

It is observed in Lord Coke's Commentary upon this Statute, that such corrupt and partial proceedings upon presentments and indictments before the Sheriff *ex officio* were, notwithstanding all these provisions, in tourns and leets continued, until by the Statute of 1 Edward IV. the power of them, save only to take presentments and indictments, and to deliver the same to the justices of peace at the next session of the peace, &c. is taken away, and by that act authority is given to justices of peace to award process upon all such presentments and indictments delivered to them.

I am unable to say how far the non-observance of this Statute, observed by Lord Coke, is to be attributed to the directions for its contravention issued in the Ordinance, a translation of which has been given above.

I have said enough to explain the nature of the documents which I desire to bring to the notice of the Society, and which I trust will be thought not altogether devoid of historical interest, as exhibiting one aspect of the social condition of England at the end of the 13th century, and as showing the efforts made by a vigorous monarch to secure the internal tranquillity of the country at a time when his principal attention was occupied with foreign conquest.

I have now only to submit to the Society accurate copies of these documents, as they have been transcribed from the manuscript to which reference has been made.

I. Two writs for enforcing compensation by the Hundred for a robbery, pursuant to the Statute of Winchester, 13 Edw. I. stat. 2, c. 2, transcribed from the Cambridge University MS. Dd. vii. 6, f. 21 b.

1. Edwardę ꝛc. vič Glouč ꝛ custodibus pacis sue in eodem Coñ seruande salutem.

Cum in statutis n^{ris} apud Wyntoñ nuper editis contineatur quod in singul Coñ hundred mercatis feriis et omnibus alijs locis vbi sollempnis congregō gentium erit sollempniter proclametur Ita quod nullus per ignoranciam se possit excusare quin quelibet patria sic decetero custodiatur quod post robberias et felonias fčas fiat recens secta de villa in villam de patria in patriam Inquisitiones etiam si necesse sit fiant in villę per illum qui superior est ville et postea in hundred libertatibus et Comitatus et alñ in duobus tribus et quatuor Coñ qñ felonie erunt fce in confiniis Comitatum ita quod malefcores possint attingi seu apprehendi: Et si patria de talibus malefcoribus non rñdeat quod homines in patria commorantes respondeant de robberijs et de dampnis fčis/ Ita quod totum hundredum vbi robberia erit fča de eadem robberia respondeat vna cum libertatibus infra eadem hundreda existentibus: Et si robberia fiat in confinio duorum hundredorum ambo hundreda respondeant vna cum libertatibus infra eadem hundreda existentibus et hoc infra dimidium annum post robberiam et feloniam fčas/ Infra quem terminum oꝝ quod satisfaciant de robberia et malefacto vel quod respondeant de corporibus malefactorum: Vobis mandamus quod audita querela P. et W. mercatorum Norht super quadam robberia eis nuper inter villas N. et N. in Com' predicto fča vt dñ eisdem P. et W. debitum et festinum iusticie complementum iuxta formam eiusdem statuti sic faciatis/ Ne clamor ad nos inde veniat iteratus. Tę ꝛc.

2. Edwardę etc. Vič Glouč et Custodibus pacis sue in eodem Coñ S'.

Cum nuper vobis mandauerimus quod vos audita querela Phī Russel et Willī Baron mercatorum Norht super quadam robberia eis inter villas de Pynnokęsyre et Farnescotes in Coñ predicto facta vt dñ eisdem P. et W. debitum et festinum iustitie complementum iuxta formam statuti nñi apud Wyntoñ editi fieri faceretis. ac vos fča super hoc in presentia vñ in inquisitione nobis per lñas vñas significaueritis, quod iidem P. et W. die dominica proxima ante festum sçi Kenelmi anno r. n. xix^o. apud Pynnokęsyre In quodam loco qui vocatur Brodeswelle infra libertatem Abbatis de Hayles In hundredo de Lolleford et Grestoñ de bonis et catall suis per tres latrones depredati fuerint/ Sꝫ de pretio eorundem bonorum et catallorum et de malefcoribus et eorum nominibus penitus ignorastis/ per quod de eisdem bonis et catall in forma predča depredatis predictis Phō et Wilfo secundum formam statuti nñi predicti aliqua restitutio non fuit fča in ipsorum P. et W. dispendium non modicum et grauamen vt ex querela sua accepimus: Nos eis prout iustum fuerit subuenire volentes in hac parte vobis mandamus quod de bonis et catallis hominum infra hundredum predictum commorantium pecunia (*sic*) ad valentiam dčorum bonorum et catallorum depredatorum prout ijdem P. et W. secundum legem mercatoriam vel alio modo legitimam coram vobis probare poterint se ipsos de valore bonorum et catallorum suorum esse depredatos infra dimidium annum post dčam robberiam leuare et illam eisdem P. et W. secundum formam statuti predicti habere faciatis seu de dictis latronibus infra terminum illum respondeatis/ Ne clamor ad nos inde veniat iteratus per quod ad vos ob vestri defectum in hac parte grauiter capere debeamus. Tę ꝛc.

II. The articles of Trailbaston, transcribed from Cambridge University MS. Dd. vii. 6, f. 61.

Incipiunt Articuli Lincolnie qui dñr Traylebastoun. De quibz Dñus Edwardus Rex p̄ Rege Edwardi nunc p̄cepit inquire p totam Angliam.

Articlm p̄mū. De disseisitoribus.

Fayt a sauoyr ^aqe ceo fayt a enquerre^a de ceux qui p force e atort e encontre la pex n̄re seigneur le Roys^b sunt entreez altrui^c teneñtz. E qnd il ne pount lur tort^d mayntenir ne lur force pur pleyntes qe sunt faites uers eux p la ley. adunc^d bayllent e mettent les p̄res e les teneñtz torcenuseñt^e entreez en^e les mayns des g^{nds} seignurs pur ^fcontinuer p force e p poer lur pmyer tort.^f

Ar. ij. De Minis.

De ceux qui vnt destreynt^g les assisurs p manaces qe il ne osent dire la v̄ite. Car si il dient rien encont^e lur v̄ite^h il les funt batre e ensi defolier p quoy plusurs p̄dent lur vies e sunt Mahaigneez pur toz iours. Ensi qe pur doute de eux la v̄ite nen poet estre conue deuant les Ministres n̄re seigneur le Rey.

Ar. iij. De verberatoribz.

De ceux qui ⁱsunt batus e funt les g^{nds} bateriesⁱ el pays. e qui sunt prestz e apparaylleez de ^kestre loweez de ^ktiele chose fayre solum ceo q̄ hom les vodra loweer ou purpleer la baterie greyndre ou meyndre. Ceo est a sauoir baterie de .ij. solz. ou de .iij. ou de dī M^{rc}. ou de .x. s̄q̄ ou de .xx. le quex icels sunt. e lur abetturs. E les quex a ytieles choses les abettent auowēt ou Mayntenūt.

Ar. iiij. De desideratib' res aliorum.^g

De ceux qⁱ coueytent les t̄res de lur poure veysins/ ^lsi il ne les ne voyllent vendre ne lessir a lur voleynte il les funt batre ou defolier sans ^msufferir les el pays.^m si la qe lur voleynte seyt acomplie.

Ar. v. De depredatoribus.

De ceux qui vnt robbee e despoillee les prudoms el pays de lur biens. E si les greuee en facent pleyntes de lur pertes entre lur voysins: Meyntenant sunt remandeez p mesmes les robburs, qe il ne en plent mes. ⁿkar il leⁿ facent: qe il perdrunt lur vies apres lur chatels.

Ar. vj. De eiectoribus et dissitoribz sc̄darijs.

De ceux qui demoeent el pays e sunt prestz de estre loweez a prendre seysines des eglises e de entreer p̄res ⁊ teneñtz p force e as armes encontre diex e droiture. ^oe colur donēt e ensample as

^{a.a} om. H.

^b Edward add. H.

^c t̄res et add. H.

^{d.d} et lour force sustiner H.

^{e.e} entre H.

^{f.f} lour p̄mer tort continuer et meintener p' force H.

^g destourbe H.

^h volūte H.

^{i.i} fount les bateries H.

^{k.k} om. H.

^l et add. H.

^{m.m} lesser eus en pees H.

^{n.n} et si il H.

^{o.o} om. H

aut^s el pays de contrefaire lur maluesteez. E Mult serroyt gnd almygne e oeure de charite de restreyndre lur malice e lur recetturs e lur abetturs atteyndre^o.

Ar. vij. De impediētibz Ministros dñi Regis.

De ceux qⁱ desturbent les Conestables des villes ou les bayllifs ou les autres Ministres n^{re} seigneur le Rey/ qe il nen puissent lur office fere come il sūt chargeez de pt n^{re} seigneur le Rey pur la pex de sa ŷre gardeer.

Ar. viij. De falsis Ministris domini Regis.

De ceux qui sunt Conestables des villes ou bayllifs n^{re} seigneur le Roy qui vnt lur garant de attachier les felōs e les desturbors de sa pex. e p^{nt}ent dons ou p amisteez ou p autre enchesun lessent aleer les felons ou les funt garnir/ p quey les mandeñt n^{re} seigneur le Roys nen purrunt estre pfurni; en nul poynt.

Ar. ix. De Inobedientibus Coronatoribz.

De ceux qui qnd les Coron^s ou altres Ministres le Rey deyuēt enŷrre p le pais des homicides e des Murdres ou des aut^s murdersurs e trespassurs encontre la pex/ ^ales bayllifs^a funt venir deuant eux les poueres gentz e nyent sachantz/ qui ne scieuent ne ny osent la vīte dir^o. e p^{nt}ent conseil e eyde de Meillur^o gentz qe miex scieuent la vīte. E si Coronyer ou aut^e Ministre troeue la en p^sent meillure gentz p les quex la vīte poet estre enquisē e les comande de p le Roy de aleer al liure: eux en despisant ^ale Coroneer^a e la dignete n^{re} seigneur le Roys e sa pex ne voyllent ŷment fayre/ ny a ceux en nul poynt obeir. dunt ensi demoerent les felons e les autres malueys del pays despuni.

Ar. x. De hiis qⁱ īpediūt viridā ceram leuari.

De ceux qⁱ qnd n^{re} seign^r le Rey enuoye ses bayllifs pur leueer la verte cire ou aut^s dettes par Mandemēt de la Eschequer^o ou de ses Justices: teles gentz s^r les quex le mandemēt vient: funt batre les baillifs ou defolier. issi qe il ne pount ne ny osent les dites dettes leuer ^bny aprochier.^b

Ar. xj. De homicidijs diut^rnis siue nocturnis.

De ceux qⁱ funt les homicides e les Murdres e ^carsons des Mesuns ou des autres choses ou ^cde iour ou de noyt ^dpriveez ou apertez.^d le quex il sunt e p qui abetteñt il le funt E qui les meyntienēt. E qⁱ les recettent ap^s la felonie faitē.

Ar. xij. De vagantibz malefcoribz noctāt^o.

De ceux qⁱ vunt noyttante a force e as armes encētre la pex. e funt ^ebate les gentz^e e debruseer sus les hux e les fenestres^f des bone gentz. e funt aut^s malueysteez encont^e la pex qnd tēps serroit^s de dormir e de auoir repos. Queles gentz ceo sunt. E q^{les} gentz les recettent e les mayntenēt a tieles choses fayre en tēps ou en hure nyent couenables.

^a.^a la Corone *H.*

^b.^b ne demaunder *H.*

^c.^c larcines *H.*

^d.^d p^lueement ou ap^tement *H.*

^e.^e batre *H.*

^f de mesons *add. H.*

^s a lele gētz, *add. H.*

Ar. xiiij. De querentibus occasiones contentionū vt faciant de Iniuria i^o titiā.

De ceux qui en les villes Marchandes ou en ville champestr^o vount hurtant les gentz ou botant des espaulles^a pur q̄rre contek. ^bE puis sen vunt mesmes ceux qⁱ issi hurtent e boutent/ Manascant de vie e de Menbre^b Iesqe tant qe il eyent fayte ^cvne fin^c a lur voleynte^d ou ceo^d ou en denyers^e ou en chatiels ou en vyn.^e Ensi qe les batours p̄nent les amendes e ne mie les batu;. ¶ Explice.

III. Precept for the imprisonment of suspected persons, dated 7 June, 34 Edw. I., A.D. 1306, transcribed from the Cambridge University MS. D. vii. 6, f. 27.

Incip̄ statutum editum ap̄ Westm̄ Anno .xxxiiij. sup stat̄ Wincestr^o fundatum.

Edwardus dei gr^a Rex Angl̄ Dñs Hibernie ⁊ Dux Aquite vice Norht salm. Cum p̄ t^o tranquillitate ⁊ pace populi regni n̄ri Necnon ad malitiam malefactor̄ ⁊ pacis nostre pturbatoz rep̄mendam quoddam Statutum ap̄ Wintoniam de cōi consilio eiusdē Regni dudū fieri fecimus conseruandū^f et m̄xime dū ad rebellionem Robti de Brus inimici ⁊ rebellis n̄ri p̄ Dei adiutorium refrenandā ad ptes Scotie sim^o pfecturi/ valde vtile fore reputamus t̄ qd̄ in om̄ibus suis articulis firmi^l volum^o obseruari/ ac satis notorium existat qd̄ malefcores ac felones ac ce^{le} innu^oabiles psone quibz manifesta suspitio lat^ocinij ac felonie h̄etur tam in balliua tua q^u alibi in diūsis Comitatribz Regni n̄ri dep̄dationes hi^o ⁊ alia enormia nocte dieq̄ clam ⁊ palam contra pacem n̄ram ppet^ontes vagantur disc̄rūt receptantur manutenētur ⁊ moram faciunt manifestam. quos malefcores receptatores manutenentes ⁊ eis consentientes tu qui pacē nostram in dicta balliua tua spalit^o cons^ouare teneris si p̄ ea ibidem cōseruanda diligentiam appon^oe curares ut debes. Desicut posse Com̄ p̄dicti in quibzcumq̄ hi^o ne^o citatibz ad tuam sumonitionē ⁊ distr̄ctionē est subiectum/ cape p̄ses ⁊ arestare/ tibi f^o miter iungēdo p̄cipim^o qd̄ statutū illud in Com̄ tuo n̄nō in Ciuitatibz Burḡ hundr̄dis villis m̄icatorijs ⁊ locis alijs in ballia tua tam infra lib^o tates quā ex^o ⁊ vbi expedire videris publice facias recitari ⁊ in singulis suis articulis ten^oi. Pretea q; nō est nobis incognitum qd̄ singulor̄ auribz inculcatur: vidēt qd̄ diūsi p̄dones ⁊ felones coram Justice n̄ris ad felonias ⁊ t^o nsḡrones in diūsis Comitatribz regni n̄ri contra pacē n̄ram factas audiend̄ ⁊ terminandas assignatis se iustitiani nō permittunt. s; cū in exigendis ponantur ad diversos Comitatus se t^o nsferunt ⁊ in eis latitāt morant^o ⁊ ita qd̄ de eis manifesta suspitio felonie ac mali p̄ eoz ex^o neos adueni^o variosq̄ incessus ⁊ nocturnos ⁊ q^u ndoq̄ p̄ eoz voluptuosas expensas h̄ri po^l ⁊ h̄etur: Et lic; in statuto n̄ro Westm̄ contineatur qd̄ nullus capiatur vl̄ imp̄sonetur n̄i p̄ius p̄ sac̄m duodeci iuratore fuit indictatus et eore indicat̄m̄tum p̄ sigilla sua postmodū fuit testificatum volum^o tñ ⁊ p̄cipim^o qd̄ om̄s t̄tes de quibz manifesta suspitio felonie aut lat^ocinij h̄etur/ quos in balliua tua tam infra lib̄ tates q^u ex^o inueniri q̄tig^o it/ q^u m̄q̄ inde sic indictati nō fūint sine dilōne arestari ⁊ salvo ⁊ secure in p̄sona n̄ra c^o todiri facias donec sc̄dm̄ legem ⁊ cōsuetudinē regni n̄ri de ea delibentur. Et hec p̄missa taliter executiōi facias

^a en feires et en marchez *add. H.*

^b et les gentz de vie et de membre manasent *H.*

^c lour gre *H.*

^d om. *H.*

^e ou en vin ou en chiuals *H.*

^f quod pro pace nostra firmitus conservanda *Rot. Claus.*

demandari sicut teipm diligis ⁊ de receptatione ⁊ cōsensu p̄dictōꝝ malef̄cōꝝ lib̄ esse volūis ⁊ imunis. et ne ad te tāq̄ de p̄dictis maleficijs culpabilem nos cape deāam⁹. Et talē ac tantam diligentiam cont̄ hi⁹ malef̄cōres suspectos ⁊ manifeste felones tā p te q̄ p posse dicti Comitatus apponas ne tibi p̄t p̄sens mandatū n̄rm imputari possit seu debeat/ qđ p tuā neḡtiam ⁊ cōsensum talia intolerabilia infra balliam tuam amodo p̄petrent. volum⁹ t̄ qđ ex pte n̄ra p̄cipias ⁊ f̄miū iniūgas oībz ballis Coñ tui tam infra lib̄tates q̄ ex qđ ip̄i eamdē diligentiam p pacis n̄re q̄s uatione in suis custodijs apponant ⁊ taliū se hant in hac pte ne penam ī dicto statuto cōtētam icurrant ⁊ nichomin⁹ p voluntate n̄ra imp̄sonētur ⁊ ab ea ḡuiū redimanū. Quod si nō fec̄int tu ip̄e in def̄cū eorumđ ballioꝝ lib̄tates illas ingrediaris/ quotienscūq̄ n̄ce f̄uit/ ⁊ p̄missa in oībz in forma supradicta stric- tius f̄i⁹ facias ⁊ obseruari. Et quos hi⁹ (*sic*) mandatū n̄rm cōtēpnētes in ip̄o exeq̄ndo remissos seu negligentes v̄l oīo exeq̄i nolētes inuen⁹is capias. ⁊ de noībz eorumđ Justice n̄ris ad felonias ⁊ t̄nsḡfones ī Coñ tuo cont̄ pacē n̄ram factas aud ⁊ p̄minand assignatis instanū p̄tq̄ eos sic cepis constare facias. vt ijdem sic capti nob̄ de cōtēptu pred̄cō coram eis veniant responsuri ⁊ facturi qđ Cur⁹ q̄sidaūit in hac pte. Teste meip̄o ap̄ Westm̄ .vij. die Junij. Anno r⁹ n̄ .xxxiiij.—
Explicē Statutē de s̄pectis ip̄sonād.