

g and *k*; he believes that the word *Geloni* may take another form and begin with a vowel (*Elóni*, *Alóni*). Seeing that their locality is nearly that of the *Alani* of a later period; seeing that the middle syllable in *Alani* (in one writer at least) is long—*ἀλκήεντες Ἀλαῦνοι*; seeing that Herodotus, who mentions the *Geloni*, knows no *Alani*, whereas the authors who describe the *Alani* make (with an exception about to be noticed) no mention of the *Geloni*, he identifies the two populations, *Geloni* and *Alani*, or *vice versá*. He deduces something more from this root *l—n* (*λ—ν*). Let the name for the *Alans* have reached the Greeks of the Euxine through two different dialects of some interjacent language; let the form it took in Greek have been parisyllabic in one case, whereas it was imparisyllabic in the other, and we have two plurals, one in *-οι*, as *Γέλωνοι*, "*Αλαυνοι*," "*Αλανοι*," and another in *-ες*, as *Γέλωνες*, "*Αλαυνες*," "*Αλανεες*,"—possible, and even probable, modifications of the original name, whatever that was. Now, name for name, *Αλανεες* comes very near *Ελληνες*; and in this similarity may lie the explanation of the statement of Herodotus as to the existence of certain *Scythian Greeks* ("*Ελληνες Σκύθαι*")—iv. 17. 108.

These *Scythian Greeks* were *Alans*.

The exception, indicated a few lines above, to the fact of only one author mentioning both *Geloni* and *Alani*, is to be found in Ammianus Marcellinus (xxxi. 2. 13. 14). The passage is too long to quote. It is clear, however, that whilst his *Alani* are spoken of from his own knowledge, his *Geloni* are brought in from his book-learning, *i.e.* from Herodotus.

II. "Jottings in Legal Etymology;" by JOHN MALCOLM LUDLOW, Esq., of Lincoln's Inn.

1. "LORD PARAMOUNT AND TENANT PARAVAIL." The highest lord and the lowest tenant of the fee respectively. *Paramount*, from the French *par*, that is *per*, and *monter*, *ascendere*; and *paravail*, (1.) because it is presumed he hath profit and *avail* of the land, or (2.) because the lord "*availeth*" him. So say

our legal sages ; Coke, 2 Inst. 296 ; Blackstone, 2 Comm. 60, and the like. Even Serjeant Stephen repeats the lesson.

Now, why the lowest tenants should have more "profit and avail" of the land than those in authority over them, is rather difficult to discover ; and the fact would stand at least in solitary contrast to the social economy of all known countries. Generally speaking, the "profit and avail" of the land is well nigh all squeezed out, before the lowest tenant is allowed to pick up what he can out of it. At all events, the Arcadian view of the Feudal System indicated by etymology number 1, is in direct opposition with etymology number 2, "Because the lord availeth him," that is, the highest or paramount lord ; the second, or *mesne*, lord contributing no avail apparently to his immediate tenant, and being probably rather availed against by his own superior. Historically, I have no doubt that this etymology was often true, and that the only avail which the lowest tenant had against his 'mesne' was the protection of the superior or paramount.

But it is wonderful that a direct opposition clearly existing in the two words, *paramount*, *paravail*, should not have struck our etymologists ; still more wonderful, when one observes that Sir E. Coke, for instance, had under his eyes in the text of Littleton (Tenures, Sect. 231) the literal French form *paramont*, giving the clue to both.

Par-amont and *par-aval* mean simply "by-above," "by-below." The words *amont*, *aval* (*ad-montem*, *ad-vallem*, mount-ward, vale-ward) are to this day in constant use amongst the French sailors of the Channel, the descendants of the old Normans, with the meanings of up-stream, down-stream, as in the expressions "*vent d'amont*," "*vent d'aval*." The "lord paramount" is thus simply the "lord above," the "tenant paravail" the "tenant below," as distinguished from the "*mesne*" or "middle" lord, between the two.

Of the two words thus evolved, the former, *amont*, clearly gives our *amount*,—that which a thing mounts to, is the accumulation of.

A-val, on the other hand, occurs under a corrupted form in literary French, in another expression which must often have

puzzled the English reader, *à-vau-l'eau*,—really *aval-l'eau*, signifying anything that floats away with the current. *Aval* is, again, the obvious primitive of *avalier*, to swallow down. But it is also connected with *dévaler*, at present only a vulgarism and provincialism, but to be found in some French Protestant Bibles, *e.g.* in the passages on the healing of the man sick of the palsy; to let down.

Avaler, *dévaler*, in turn, indicate a primitive *valer*, which I do not recollect ever to have met with in French, but which has come down to us under an English shape in our own word to *vail*, to let down,—generically distinct, I need not observe, from *veil* and to *veil*, from *velum*.

The ignorance of such men as Coke and Blackstone respecting the origins of English Law is shown by the fact that the word "*paraval*" actually occurs in the statute-book, with the unmistakable, and indeed recognized, sense of "beneath," "lower down the stream than." Thus, in the 3rd chapter of the 15 Rich. II., "In what places the admirals jurisdiction doth lie:" "Nientmeyns de mort de homme et de maheym faitz es grosses niefs esteantz et hoverantz enmy le haut fil des grosses rivers tantsoulement *paraval* les pointz de mesmes les rivers pluis proscheins al meer et en nul autre lieu de mesmes les rivers eit l'admiral conissance." Translated: "Nevertheless, of the death of a man, and of a maihem done in great ships, being and hovering in the main stream of great rivers,—only *beneath* the bridges of the same rivers nigh to the sea, and in none other places of the same rivers, the admiral shall have cognizance."

I would trouble any one to extract the idea of "availing" from the above passage, in accordance with the received etymologies of "*paravail*."

Indeed, our own verb "to avail" seems rather to be derivable from *vallum*, wall of defence, than from *vallis*, and to be really *ad-vallare*, to fortify, from whence "an avail," meaning a succour, a relief*.

* The derivation from *ad-valere*, suggested to me by Mr. Wedgwood since writing the above lines, appears, however, the more probable one.

At the same time, the connection between *vallis* and *vallum* is not to be denied. It is probably exactly that between *ditch* and *dyke*. And indeed "ditch" in Ireland habitually means a bank, whether of a ditch or not; whilst "dyke" in England is often applied locally, in the names of places, to a rift instead of an embankment,—the two ideas, of the hollow, and of the bank which bounds it, seeming to run naturally into one another; much as we may find ourselves constantly using the word "circle" when we mean "circumference," or speaking of "the rail" instead of "the railway,"—*i. e.* the limit for the thing limited, and *vice versâ*.

To return, however, to the thread of our etymology. Does not the group of words and expressions, *paravail*, *aval*, *à-vau-l'eau*, *avalier*, *dévaler*, to *vail*, suggest a meaning for another word, *vavator*, now only in common use amongst us and with the French in the shape of a proper name, as *Vavasour*, *Va-visor*; Fr. *Vavas seur*, *Levavas seur*?

These *vavators* have greatly puzzled our antiquarians. It seems agreed that they held their fees, not from the king, but from a royal vassal; or at least not from the king as such, but by virtue of his being entitled to some honour distinct from the crown. Now, does not *va-vasor*, *val-vasor* (for the *l* remains distinctly in the Latin) represent in the feudal hierarchy exactly what *paravail* does in the feudal tenures? Is it not *vassallus ad-vallem*, vassal below, under-vassal? Does not the etymology strictly correspond to the fact?

The truth of this would of course mainly depend upon whether there was ever a form *vassor* in use, synonymous with *vassallus*. I cannot assert it; but its existence is suggested by that of the French family names *Vasseur*, *Levasseur*, and rendered all but certain by the form *Levassor*, which the latter name takes in the South of France.

Whether, lastly, the above group of words is or is not connected with *vassallus* itself, or by the interchange of *v* with *b*, with the French *bas*, Ital. *basso*, Low-Latin *bassus*, I must leave to others to determine. An idea of inferiority, of *lowerness*, certainly runs through them all.

2. AVERAGE, as between merchants; being the loss incurred

by casting goods into the sea, for the safety of the ship, or the persons or things within it. So called, we are told, because it is "proportioned and allotted after the rate of every man's goods carried." It is obvious that in this view the primary sense of "average" is taken to be its now more usual one, of a mean between various quantities. It would be connected, I suppose, with *avoir*, subst., meaning fortune, possession; Low-Latin *averium*, *averia*.

But the case is in fact exactly the reverse. "Average" in French is "*avarie*," and is evidently only "*avariage*," a form of the word not now in use. *Avarie* is a term specially applied to sea-damage, and is derived, I suppose, from some Low-Latin verb, *a-variare*, to alter. "Average" is therefore originally not "apportionment," but "damage;" "general average," a "general damage." This may be followed out in other uses of the word, according to its primitive sense, as when it is applied to the payment made for care, over and above freight. Here the idea of apportionment amongst several is obviously excluded, and the only admissible one is that of a damage to be guarded against. In fact, the "average" is paid for care *beyond the average*.

The "average of corn-fields," meaning the stubble after harvest, is another expression illustrating the original meaning of the word; the "average" being that which has been "damaged" by the reaping, just as the synonymous Saxon word "roughings" means that which has been "made rough" by it.

It is easy to see how from the idea of general damage or average, to be proportionably borne by all the owners of goods shipped, would grow the idea of average itself as a proportion, in the sense in which we now habitually apply it.

3. GRANT.—Mr. Sweet, in his edition of "Jarman's Conveyancing," rightly identifies this word with "*garantir*." The word is thus only another form of "warrant." But the derivation illustrates so perfectly all the old law-uses of the term, that it is worth a moment's consideration.

I may say that the identity of the two words "grant" and "*garantir*" originally occurred to me in looking over an old

French purchase-deed, when the form "*je donne et garantis*" immediately suggested the old English one of "give and grant." From the parallel use of the words in the law-language of the two nations let us, however, proceed to the rationale of its application.

"Grant," we are told, is the common-law method of transferring the property of incorporeal hereditaments, such as advowsons, rights of common, rents, &c. Of course, since such things could not pass by "livery" (*delivery*), by manual or physical tradition; so that the owner could only *warrant* the enjoyment of them to his donee. And so, in like manner, with respect to future interests, such as reversions and remainders after a life-estate. Here also physical tradition was impossible; all that could be done was to *warrant* the enjoyment at the stated period.

Again, a term of years was said to be "granted." Why? Because the possession of land for years gave no seizin, created no freehold, was altogether beyond the pale of the feudal system, and therefore was deemed unfit for that physical tradition by "livery" which was the inauguration of the feudal tenancy. The "grant" of a lease for years was thus only the "warranting" of a temporary occupation. Hence the learning about "implied covenants" in leases, by the words of the demise, as, "for quiet enjoyment."

The true meaning of the word is indeed clearly conveyed in the dictum, obviously tautologous, that "grant implies a warranty." But our legislators, in passing a law "to amend the law of real property" (8 & 9 Vict. c. 106), enact, 1st, that the freehold of corporeal tenements shall "lie in grant as well as in livery" (s. 2); next, that the word "grant . . shall not imply any covenant in law" (s. 4). Or, in other words, "the freehold of land shall pass as well by being warranted or guaranteed to a new owner as by being actually delivered or handed over to him;" which is perfectly rational and proper; but so that "the warranting or guaranteeing shall not imply any engagement at all on the former owner's part"!

Parliament is indeed omnipotent; but why should it use its omnipotence to take away all meaning from an honest word

which it had been itself applying, and solemnly to enact—not that black shall mean white (that it has done many a time before), but,—that black shall not mean black, which is a very poor, vague, and bewildering conclusion to come to?

Though not strictly etymological, let me observe on one most mischievous corruption of our honest old law-language, in the severing from the word “Corporation” the idea of “limited liability.”

Where any number of men join together as partners, without being recognized as a new *body* in the state, the law treats them merely as an aggregation of individuals, and therefore liable each to the full extent of his fortune, as any one of them might be, for partnership debts.

But where Parliament or the Crown created a *corporation*, a new *body* in the state, it used to be held that the individuality of the person or persons composing that body, whether only one, as a parson, or many, as in the case of a municipal body, or incorporated company, entirely merged in that of the body itself. Hence, there could be no individual liability for debts. To admit it, would have been to break up the personality of the body itself, which had just been called into creation.

But the repeal of the Bubble Act, 6 Geo. IV. c. 91, introduced in the Lords by Lord Chancellor Eldon, has utterly confounded the simplicity of this idea, by allowing the Crown to create corporations without limited liability. Since then we have had Registered Companies, incorporated by Act of Parliament with unlimited liability; and Joint-Stock Banks, which the Crown is to incorporate in like manner. That is to say, the State has been flooded with new ideal *persons*, which really are no persons at all, but only aggregations of individuals, without any outward mark of distinction from the true ideal persons of the old common law. The confusions flowing from this piece of bad logic are incalculable.

PHILOLOGICAL SCRAPS.

[Read April 28.]

On the Etymology of the word GRANT.—The etymology of the word *grant*, which was discussed at a late meeting, is open to a good deal of question. The derivation from Fr. *garantir*, put forwards by Skinner, treated as manifest by Junius and ably supported by Mr. Ludlow in his communication to the Society, seems liable to serious objection, both as to the form of the word and the meaning. The origin of *garantir* and the English equivalent *warrant*, is, doubtless, the Teutonic verb signifying ‘to look’ or ‘see,’ and hence ‘to take care,’ ‘to guard,’ which has given rise to the English *ware*, *aware*, and Fr. *gare*! the primitive meaning of *garant* being apparently a witness. Now the contraction of such a form as *garan* (from *waran*, *guaran*) into *gran* is directly opposed to the genius of the French language, in which it would be difficult to point out a similar instance of the absorption of an *a*. It is true, that among the meanings given by Roquefort of the terms *cranter*, *craanter*, *créanter*, ordinary French representatives of *grant*, is included the sense of ‘warranty’ or ‘guarantee.’ Thus he explains *créant*, ‘promesse,’ ‘garantie,’ ‘foi,’ ‘engagement,’ ‘caution,’ ‘sureté’; *créanter*, ‘consentir,’ ‘promettre,’ ‘garantir,’ ‘assurer,’ ‘cautionner,’ ‘passer un acte,’ ‘s’engager,’ ‘expédier’; *crant*, *crantement*, ‘consentement,’ ‘auctorisat[i]on,’ ‘decision,’ ‘assurance,’ ‘contract,’ ‘engagement,’ ‘garantie,’ &c. But the sense of ‘guarantee’ is one that might easily arise as a particular instance of the general meaning given in the “Dictionnaire Roman, Walon et Tudesque.” *Cranter*, ‘promettre,’ ‘certifier,’ ‘s’obliger par instrumens valables’; and, in fact, among all the examples given by Ducange and the other lexicographers, there is not one in which the word has the force of a distinct guarantee against the acts or claims of others, which is always expressed by the direct equivalent of the English *warrant*, often in the same sentence with *créanter*, *granter*, in the general sense of engagement, agreement. Thus in Ducange: ‘*Per assensum et creanta-*

tionem ejusdem Eustachii promittens et obligans me dictæ ecclesiæ ad guarandizandam eidem dictam decimam.' A.D. 1257. '*Ab ipsis et omni eorum genere imperpetuam garandiam ferre craantaverunt.*' A.D. 1197. They engaged to give a perpetual guarantee. '*Remisit etiam IX. denarios censuales et unum eminale avenæ—grantavitque quod de omnibus his legitimam gayrantiam portabit,*' where *grantare* and *gayrantiam portare* are found in precisely the same relation as *craantare* and *garandiam ferre* in the preceding quotation.

No doubt it is hard to say that any given meaning might not be derived from another, if the weight of external evidence were sufficiently stringent; and perhaps the better mode of arguing against the derivation from *garantir* will be to trace the descent of the word from a different source, which has been repeatedly pointed out by others, but requires for its complete establishment a somewhat copious review of the authorities supplied us by Ducange and his editors.

From Latin *gratus* is formed It. *grado*, Prov. *grat*, Fr. *gré*, 'will,' 'accord,' 'allowance,' 'liking,' 'consent,' and thence It. *gradire*, *aggradare*, *aggradire*, F. *gréer*, *agréer*, 'to accept,' 'approve,' 'allow of,' and, with some modification of idea, the E. *agree*, 'to be of the same mind with,' 'to enter into an engagement with another.

In middle Latin *gratum* was used as a substantive equivalent to the foregoing *grado*, *grat*, *gré*. '*Sine gratu meo,*' 'without my consent.' '*Idem feodum a manu monachorum alienare non possumus nisi grato et voluntate Ducis Burgundiæ.*' '*Nos dedimus in alio loco prædicto Balduino excambium illius terræ ad gratum suum,*' 'to his satisfaction.' The insertion of the nasal, which is so frequently seen without any change of meaning, converted the foregoing *gratum* into *grantum*, *graantum*.

'*Et si non possim warantizare, dabo ei escambium alibi ad suum grantum et valitudinem illius terræ,*' 'to his satisfaction according to the value of the land.' '*Ad grantum et voluntatem Archiepiscopi Remensis.*' '*Sub tali conditione sacramento firmavi ut decem millia in festo S. Martini præsentis anni, bonâ fide ad graantum suum redderem.*' A.D. 1192.

Hence in O. Fr. the expression *être engrant*, or *engrand*, 'to be ready, inclined.' '*Afin que un chacun soit plus engrant en son endroit de obéir a nos diz criz.*' Edict. of 1380 in Duc. '*Tu es bien engrand de trotter,*' 'thou wouldst fain be packing.' Cotgrave.

The change of the initial *g* into *c* gives *crantaneus*, 'spontaneous,' 'voluntary.' So in the North of France *gras*, *graisse*, *grappe*, *Grand-Dieu*, *graverter* become *cras*, *craisse*, *crappe*, *Cran-Dieu*, *craventer*; and in the same way we find *gréer*, *granter*, *graanter* passing into *créer*, *cranter*, *craanter*, *creanter*.

The identity of *gratum* and *grantum* may be further illustrated by the indifferent use of the expressions *facere gratum* or *facere grantum*, and the Fr. *faire gré*, in the sense of making satisfaction.

Et si (debitor) inventus fuerit in civitate Rothomag. antequam gratum suum fecerit, tamdiu tenebitur in carcere communie donec redimatur de centum solidis—tum jurabit se non reversurum in dictam civitatem donec fecerit gratum majoris et creditoris, 'until he shall have made satisfaction to the mayor of the town and the creditor.'

Ne puet nuls varls crier vastiaux ne escaudis (wastels or cakes and biscuits) *parmi le ville s'il n'a fait gré au majeur de chuinc sols*, 'until he has paid five sous to the mayor.'

Icellui Guillaume compta et fit gré à l'oste de l'écot de lui et de ses compagnons, 'he satisfied the host for the scot of him and his companions.'

Faciemus vobis grantum nostrum de dictis mille et quingentis marchis et tenebimus ostagia apud Lugdunum donec integre de dictis 1500 marchis fuerit satis factum, where *facere grantum* is obviously to make satisfaction by actual payment of the money.

We next have the verbs *gratare*, *gratari*, *gratificari*, and in Fr. *gréer*, *créer*; and again, *grantare*, *crantare*, *creantare*, in the sense of doing an agreeable thing, such as bestowing a right, making over an interest, giving assent to some arrangement. *Quia illud dictis abbati et conventui gratavi et in verbo veritatis concessi.* — *Insuper gratamus et concedimus quod*

heredes nostri. — Ego in bono proposito et sano concessi et gratatus sum præceptori et fratribus militiæ Templi, unum sestarium mestillii. — Promittentes quod Rex Poloniæ promissa omnia et singula ratificabit, gratificabit, ac suis patentibus confirmabit litteris.

Item nos episcopus supradictus grantamus, laudamus, committimus et concedimus dicto domino comiti in feudum.—Where the terms *grantare*, *laudare*, *concedere*, are explained by the translations *gréer*, *louer*, *accorder* in contemporary French instruments. *Loons, gréons, approuvons. — Toutes ces choses dessus dites ils créèrent, lóèrent, ratifièrent et accordèrent.* Then as the expression of assent to an arrangement often takes the form of an undertaking to uphold it, *gratare*, *grantare*, *creantare*, are frequently found in the sense of promising, engaging.

Super istas pactiones omnes sæpe nominati Domino de Legniaco graantaverunt quod tenebunt, &c. — Præmissa omnia et singula immobilia tenere et fideliter adimplere promiserunt et grataverunt.

Finally, from this prominent use of the words *gratare*, *grantare*, and their various modifications in the operative part of legal instruments creating obligation, the term *grant*, *crant*, *créant* was applied to the written instrument itself, and hence, in our law language, things were said ‘to lie in Grant’ which could not pass by actual delivery or by word of mouth, but required the formality of a written instrument, and the name ‘Grant’ was specially applied to the kind of deed by which such things were conveyed. The use of *grant* in ordinary language to express favourable acceptance, agreement, allowance, is in entire accordance with the foregoing derivation. ‘To grant a request’ is to receive it with favour, and consequently to do what is asked of us; ‘to grant a proposition’ is to admit the assertion as in accordance with our judgment. ‘To take a thing for granted’ is to take it for admitted or received without opposition. And in other languages the idea is expressed on analogous principles. In French the ordinary term for ‘to grant’ is *accorder*, of which the more general meaning is ‘to agree or consent.’ In German, from *wille*,

corresponding to the middle Lat. *gratum*, Fr. *gré*, is formed *willigen*, *bewilligen*, *verwilligen* 'to grant'; from *gönnen* 'to regard with favour,' *vergönnen*, or the simple *gönnen* itself 'to grant.'

H. WEDGWOOD.

Further Notes on the Etymology of the word GRANT.—I have read with great interest Mr. Wedgwood's paper "On the Etymology of the word Grant," and the only conclusion I can come to is, that he has proved his position without disproving mine, which, I am glad to learn, has the authority of Skinner and Junius.

1. I think he has satisfactorily established the filiation from *gratus* through *gratare*, of two words *grantum*, *grantare*, in which the nasal is only accidental, passing into *crantum*, *crantare*, *crant*, *cranter*, *créanter*, and recurring back towards their origin in *gréer*, connected with our *agree*,—which imply in nowise the sense of warranty.

2. But there appears to me evidence equally conclusive, though of another kind, that our own law-words *grante*, *granter*, *grant* 'to grant,' are not derived from *gratus*, but from a Teutonic root, and are identical with *garantir* 'to warrant,' the nasal being essential in them.

3. I would begin by claiming a very high etymological value for our law-language, especially for "words of art," as Sir E. Coke terms them. From the strict adherence to precedent which has distinguished the English law from the earliest period, I conceive that there is no other channel by which the original meanings of words are likely to have come down to us with so little alteration*.

* For instance, who would suppose, from our present use of the word "garnish," that it is identical with "warn"? It is only in our law-language that it still bears that sense; the *garnishee* in an attachment being a person *warned* not to pay over money in his hands. But such a sense is a very old one (though now equally obsolete) in the French *garnir*: "Issi qil potest estre resonablement *garny* de la somons," translated "So that he might be reasonably *warned* by" (or rather of) "the summons". 3 Edw. I. c. 44.

4. Now it has come to us, not in any etymology, but as a sort of tradition, that "grant implies a warranty." The idea is not by any means lawyer-made. Lord Coke, who is very fond of an etymology whenever he can claw hold of one, and complacently retails the derivation of *parliament* from *parler la ment* ("because," says he, "any member of that court should sincerely and discreetly *parler la ment* for the general good of the commonwealth"), leaves "grant" quite untouched. The author of "Sheppard's Touchstone" can only explain the word by itself when he says: "This word is taken largely where anything is *granted* or passed from one to another." At a later period still, our lawyers begin to struggle against the idea of the implied warranty. Sir Jeffrey Palmer gives an opinion against it, which is printed by Bridgman in his "Complete Conveyancer," quoted by Charles Butler in his "Notes upon Coke-Littleton." At last comes conveyancing by statute, and the 8 & 9 Vict. c. 106, enacts, that "give" or "grant" shall not imply any covenant in law. Still the old tradition lingers, and to this day attorneys will be found striking out the word "grant" from conveyances by trustees, lest it should commit them to warranty.

5. If therefore the tradition which connects the word "grant" with the idea of "warranty" has any truth in it, it must be sought for as it were in the very bowels of the word itself; its source lies beyond the memory of our earliest text-writers. For this purpose, the best plan seems to me to compare the different uses of the word, and to see how far one idea runs through them all.

6. The leading feudal division of inheritances with us, was of "things which lie in livery," and of "things which lie in grant." The former passed by manual transfer; the latter could only pass by deed. Our lawyers endeavour always from this to jump to the conclusion, that "grant" is *the* deed by which the latter class of thing pass; and the position will be found almost as broadly stated by various text writers. But a very cursory examination will show that the law itself gives the lie to them; for we stumble almost at once in their books upon the consideration of "*parol grants*," i. e. grants without

deed, or, as Sheppard's "Touchstone" says expressly, "by word without writing." Thus, it is admitted that rents or services, or a reversion, may be granted on a partition by one coparcener to another without deed. Again, copyhold land is always said to be "granted," although it passes not by deed, but by the admission of the tenant. A grant is therefore not simply *the deed* by which certain things are transferred.

7. Is it therefore the term applied to *the transfer itself, with reference to these particular things*? Not a whit more so. Crown grants, though of the immediate freehold in lands, are made by deed. The word "grant" occurs in connection with "give" and "enfeoff" in common conveyances by subjects, of the freehold in lands, and other things which unquestionably "lie in livery." It is therefore something which, although distinct from "livery," can be superadded to it, which applies exclusively to the one class of subjects, and concurrently to the other.

8. Now the idea of warranty explains all these various uses at once.

The Crown grants land for immediate freehold and fee-simple interests by charter, because the warranty of the Crown is equivalent to actual delivery by a subject; again, because a feoffment with livery by the Crown might be held to be an alienation of the sovereignty itself in the land, of that *dominium directum* which the Crown is always held to retain.

A subject grants rents and other incorporeal matters, because the enjoyment of them can only be guaranteed, since they are incapable of manual delivery.

A subject grants reversions or other future interests, for the same reason.

A subject grants land for terms of years, retaining the freehold in himself, for the same reason, because he only wishes to guarantee the enjoyment, not to transfer the freehold possession.

In copyhold lands, the lord grants land for immediate interests, by copy of court roll, the tenant's estate starting from the admittance. This is for one of the two reasons assigned for Crown grants of the immediate freehold. If the

lord were to enfeoff, or do any other act analogous to livery, he would pass his freehold, — analogous to the *dominium directum* of the Crown, — which it is of the essence of the tenure that he should retain. He therefore guarantees that the tenant shall hold of him, whether for life or otherwise.

A subject gives or enfeoffs and grants, or grants and releases lands for freehold interests, by the one class of words signifying the actual transfer of the land, by the other the guarantee of its enjoyment.

Lastly, the word “grant” is also found apart from the transfer of any actual interest, in the same sense as “covenant.”

9. In all these different senses of the word “grant” the idea of guarantee is thus universally applicable, and alone, as it seems to me, renders them perfectly consistent. Except in the last sense, the word “agree,” which is supposed to be identical with it, the word “assent,” which is deemed equivalent to it, are perfectly inapplicable; to that extent that an “agreement” is held at common law insufficient to pass any right of property whatsoever.

10. Even in our ordinary uses of the word, — posterior though I must deem them by centuries to the law-uses above given, — it appears to me that “favourable acceptance, agreement,” is too weak a rendering. The word appears to me to convey at least the idea of a very positive giving, by one who has the power to refuse. To “grant a request” is surely much stronger than to “agree to it.” To “grant a proposition” does not seem to me to mean the “receiving the assertion as in accordance with our judgment,” but on the contrary, the giving full liberty to use it (whether we agree to it or not), the warranting, almost, that it may be safely used. The idea of guarantee thus, as it seems to me, underlies at no great depth all those shades of meaning which at first sight seem most opposite to it.

11. Now if there were no word *garantir* existing, I think the foregoing statements involve as it were the moral necessity of a sense of warranty being contained in the original form of the law-English “grant.” But the word *garantir*

existing, the question appears to me narrowed to this: What are the philological objections to identifying them?

12. There is no objection as to the form of conjugation. Roquefort, I am informed by Mr. Wedgwood, gives both *garanter* and *garantir*. Our statute-book has *garantier* 'to warrant' (*qe lui voille garauntier de son gree* 'that will warrant him freely'), 3 Edw. I. c. xl. (A.D. 1275), twice in the same statute. It has also *grauntie* 'granted,' implying *grauntir* (*nul pardoun se face ne tuicion soit grauntie* 'that there be no pardon or protection granted'), 17 Edw. I. c. 6, A.D. 1288.

13. The suppression of the *a* is therefore the sole remaining objection. It is true that the alteration is one uncommon in French. But surely far from unknown.

The French *prêt*, 'ready,' from *paratus*, is the most obvious instance*. The word coexists with *paré*, from *parer*, both the verb and the participle being used in nautical French, not in the classical meaning of adornment, but in the exact one of *parare* 'to make ready.'

Again: Are not *effaré*, *effrayé*, 'afearred,' 'afraid,' identical? And similarly, though with greater variance from the

* Not to be confounded with *prêt*, *prêter*, 'loan,' 'to lend,' from *præsto*. If any one doubts this, I would trouble him to derive the compound *apprêt*—*l'apprêt l'une étoffe*, 'that with which a stuff is prepared,' gum or starch—from anything else than *apparatus*.

The *s* of the old French *prest* is urged as an objection to this; but I have observed, in French works of the sixteenth and first half of the seventeenth century, the insertion of the *s* in words which have not the slightest title to it. Thus, in six pages of Rabelais, begun at random, I have met with the following instances of perfectly supposititious *s*'s:—*esmeu*, from *emotus*; *eslevez*, from *elevatus*; *respondist* (past) from *respondit*; *cestrin*, from *citrinus*; *chaisnes*, from *catena*; *aesle*, from *ala*; whence our own *aisle*. In some cases the trace of these false spellings remains in the circumflex accent of modern French; as in *chaîne*, *reître* (*reistre*, from the German *reiter*), &c.

Now this tendency to systematize, and insert conventional *s*'s, was no doubt in the language before this period, and would especially come into play in words like *prêt*, *prest*, which in one sense were lawfully entitled to it, but not in another. Certain it is, that *apprests* equally occurs, though, as it seems to me, unquestionably devoid of it in the original.

type, are not *sevrer*, 'to sever,' identical with *séparer*, 'to separate'?

Again : *Hungaria*, *Hungaricus*, *Hongrie*, *Hongrois*, give the exact contractions contended for. So with *Bulgarus*, and its well-known, but not very decent, French derivative. So also with the common pronunciation of the French *Marguerite* (*Margrite*), from *Margarita*; as indeed with our own Marg(a)ret. How old the last contraction is, is evidenced by the Middle-Age Christian names *Greta*, *Grita*, obviously the same.

Kindred instances, though less conclusive, as occurring only in terminal syllables, are *sucré*, from the Spanish *azúcar*, better preserved in our "sugar;" *ambre*, 'amber,' from *ambarum*, Low-Latin; Spanish *ambar*; *nacre*, 'mother-of-pearl,' from the Spanish *nacar*; *cinabre*, 'cinnabar,' from *κινναβάρη*.

Other such instances I have no doubt may be found; but I think the above will suffice as to the etymological possibility of the change contended for.

14. It is indeed just possible that *granter* may be an older form than *garantir*. So the French *varech* 'sea-weed,' comes evidently from the Breton (and, if I mistake not, Channel Island, and thereby Norman) *vraik*, identical with our "wreck," and meaning something cast up by the sea. Though in another language, "Varangian" (I suppose *Οὐράργιος*, but have no reference at hand) from "*Frank*," is a parallel instance. Mr. Wedgwood supplies me with a third in "*carouse*," from "*krus*." So our *tarragon* seems to come from the French *estragon*, and, not as would seem, from *Tarragona*, since the Spanish word is the same as the French.

15. Having admitted the double filiation of *granter*, I may now say, that all Mr. Wedgwood's instances do not appear to me on the face of them absolutely conclusive, without a full consideration of the context, and of the date and locality. Thus, I should have been inclined to translate "Et si non possim warrantizare, dabo ei escambium alibi ad suum grantum et valetudinem illius terræ,"—if in an exchange: "And if I cannot warrant him" [the land I am giving in exchange], "I will give him an exchange elsewhere according to his grant

and to the value of that (i.e. his) land.” If my present theory be correct, Normandy would probably be the country where the Romance *granter*, *grantare*, from *gratus*, would meet the Teutonic *granter*, *garantir*.

16. Admitting the derivation of *garantir* ‘warrant,’ from a Teutonic root, can that root really mean simply ‘to look’ or ‘see’? Are not *ware*, *aware*, also *wary*, and the French *gare**, kindred with the German *wehren*, *gewehr*, and thereby also with *war*, *warrior*, *guerre*, *guerrier*? Mr. Sweet makes *garant* to be *guerrant*, and certainly the meaning seems much more nearly that of one who *wars for* another, than of one who is merely a *witness*. These seem to be again connected with the words before alluded to in a note, ‘to warn,’ *garnir*†, ‘to garnish,’ i. e. ‘to make *ware* of’; but recurring naturally to the old sense of ‘to defend,’ ‘protect,’ especially in the South-Romance idioms; and again in *garnison*, ‘garrison.’—Lastly, it appears to me not improbable that *garder*, *garde*, *ward*, *guard* form part of the same family, so marked by the interchange of *g* and *w*. So also, I presume, does *weir*.

J. MALCOLM LUDLOW.

* The French have also a familiar verb, *se garer de* ‘to guard oneself against, or take care of.’ The substantive, *gare* ‘place of safety,’ originally nautical for ‘landing-place,’ ‘wharf,’ has lately come into use for railway termini: “la *gare* du chemin de fer,”—a spot certainly which one should “be *ware* of”! *E’garer* seems also to come from the same root, and to mean, originally, ‘to be away from the *gare*, or place of safety.’

† I suppose the only remaining French word in which the old sense of *garnir* subsists is that of *garnement*, ‘scamp,’ ‘ne’er-do-weel,’ whom one is to be *warned* of.

PHILOLOGICAL SCRAP.

[Read April 28.]

On the Etymology of the verb OBSOLESCERE.—The origin of the verb *obsolescere* was discussed in the second volume of the Society's Proceedings (p. 251). It was there contended that the theory which would connect this verb with *abolere* and *exolescere* must be rejected, if only on the ground that such a derivation leaves the *s* of *obs* in *obsolescere* unexplained, for the form *obs* could only be admitted when preceding one of the *tenuēs*, *p*, *c*, *t*; before a vowel nothing but *ob* could be tolerated. But the attempt which followed to identify the latter part of *obsolescere* with the verb *solēre*, on further consideration seems ungrounded. We propose in place of this to substitute the doctrine that *solescere* is a lost verb, which signified 'to become dirty.' In the first place there is good reason for attributing to *obsolescere*, as its primary meaning, 'to become dirty on the surface,' where *ob* would have the same power which is seen in *ob-durescere*, *oc-callescere*, 'to become hard or callous on the surface.' In proof of the sense here contended for we need but quote—

Cic. de Senec. c. 28 : 'Virtus splendet per se semper, neque alienis umquam sordibus obsolescit;'

Hor. epod. (xvii. 46.) : 'O nec paternis obsoleta sordibus;'

Hor. od. (ii. 10. 5.) : 'Obsoleti sordibus tecti;'

Cic. Phil. ii. 41 : 'In homine turpissimo obsolefiebant dignitatis insignia;'

Val. Max. iii. 5. 1. : 'Candida toga turpitudinis maculis obsolefacta.'

In the two passages last given the notion of dirt and defilement is supported by the appearance of the adjective *turpis*, which no doubt had for its physical and original sense that of 'dirty,' whence the idea of moral pollution readily flows. This would be in keeping with our own use of the adjective in the combinations 'a dirty fellow,' 'a dirty action.'

We also find a similar power when the adjective *obsoletus* is used in reference to the dress, as Liv. xxvii. 34, 'vestis obso-

leta'; Cic. in Rull. ii. 5, 'vestitus obsoletior'; Cic. in Pis. 36, 'obsoletus Thessalonicam venisti'; Pseudo-Nep. Ages. 8, 'vestitus obsoletus.'

Again, the word is opposed to *enituit* in Plin. pan. 4.; and in the tragedies attributed to Seneca (Agam. 976.) there is the marked phrase 'sanguine obsoletus.' These examples might well have led Forcellini to some more definite translation than *non essere in uso*. Above all, his attention ought to have been drawn to the repeated use of the verb in connection with *sordibus*.

But if it be admitted that these passages seem to require the translation here suggested, it still remains to justify it by exhibiting other Latin words where the same form coincides with the same sense. The substantive *solum* is the word from which we would deduce the assumed verb *solere*, 'to be dirty,' for the soil is the chief source of dirt, and in our own language *soil*, both as a substantive and as a verb, has the very sense we are looking for. Again, the noun *sordes* we claim as akin to the proposed verb, much as the adjective *arduus* stands to the verb *alere*, 'to raise'; for the liquid *l* in all languages is readily interchangeable with the liquid *r*, and, so far as the Latin at least is concerned, *d* is often found as a substitute for *l*. It is therefore a matter of little difficulty that *l* should be supplanted by the combination *rd*.

If we look beyond the Latin into those modern languages which are deduced from it, we find in French the adjective *sale*, 'dirty,' and the verb *souiller*, 'to dirty,' which has been adopted by ourselves in the form of 'to sully.'—T. H. KEY.