

CHAPTER IV.

Social condition during the wars of the Roses.—Degrees of Rank.—Incomes.—Forty-shilling freeholders.—Statutes of Apparel.—Distinction of Birth.—The Gentleman and the Roturier.—Administrative system.—Royal revenue.—Public functionaries.—Military system.—Defence of the Coast and Towns.—Forcible entries upon estates.—Liveries.—Rent.—Relations of Landlord and Tenant.—Want of money by landowners.—Prevalence of litigation.—Occasional bribery.—Petty law-suits.—Number of attorneys limited.—Offences against person and property.—Hours of labour.—Domestic manufactures.—Interference of the State with industry.

In the progress of our narrative we have arrived at one of the most remarkable epochs of our eventful history. We have arrived at that period when we may turn aside from that great contest between England and France—"two so invincible nations, which never would yield or bow the one to the other, neither yet once hear of abstinence of fighting or refusing from war, so much were their hearts hardened, and so princely were their stomachs."* In this war, and in previous French wars, Comines tells us that the English "carried over a considerable booty into England, not only in plunder which they had taken in the several towns, but in the richness and quality of their prisoners, who paid them great ransoms for their liberty."† A different war was at hand—a war in which the English lords would fight at intervals for thirty-five years upon their native soil, and only end this work of mutual destruction when one half of the old nobility of England was swept away. During these wars of York and Lancaster, of which the seeds were sown in the distracted councils of the minority of Henry VI., we have many scattered but authentic materials for viewing the social condition of the country. The first division of this extraordinary period opens with the insurrections of 1450; and then proceeds in showing the duke of York taking up arms in 1452, and his son Edward seated on the throne in 1461. The second embraces the perilous fortunes of Henry and his intrepid wife, and the overthrow of the Lancastrian party after that gleam of triumph, which was destroyed by the fatal battles of Barnet and Tewkesbury in 1471.

* Hall's Chronicle, 13th year of Henry VI.

† Memoirs of Philip de Comines, book vi. chap. ii

Edward sits on the throne for thirteen years longer, in comparative tranquillity; then two more years of mysterious murder and fierce war; and then a dynasty with which the feudal system has practically come to an end. This is one great epic which requires to be told without any material interruption to the relation of events, of which the links are welded in one continuous chain. But it may be desirable, before we enter upon this narrative, to endeavour to form a just estimate of the habits and condition of the people, while these battles and revolutions were carried forward at their own doors. During this troubled time, when we might naturally expect that the whole framework of society would be tarrown into disorder, we find the internal administration of England proceeding with the same regularity as if the struggle for supremacy were raging on the banks of the Seine instead of the banks of the Thames. The uniform course of justice is uninterrupted. Men are litigating for disputed rights, as if there were no general peril of property. They are electing knights of the shire and burgesses, under aristocratical or popular influences, as if the real arbitrament of these contentions was to be in the parliament-house, and not in the battle-field. They are buying and selling, growing, and exporting, as if the producers looked on with indifference whilst the Warwick and Somersets were slaying or being slain. They wear richer apparel, and strive more for outward distinctions, and build better houses, than when their fathers were fighting in France; and they are really prospering in an increase of material wealth, though they greatly lack the instrument of exchange, for the want of money is grievously felt from the peer to the huckster. They pursue their accustomed diversions; they hunt and they hawk; they gamble in public gardens; they gape at the players of interludes; they go on pilgrimage to Canterbury and Walsingham, and St. Jago—they take life easily, as if no danger were around them, when truly they might be in trouble for shouting for the White Rose on one day, and for the Red on the next. Their marriages go forward, with the keenest avidity amongst the gentry and the burgesses to make the best bargains for their sons and daughters; and whilst we know how many great houses were rendered desolate by these troubles, we have no satisfactory evidence that during their existence population had decreased. These appearances on the surface of things involve many important points of national character and social progress; and we therefore proceed to collect some leading traits of the people, as they show themselves in and near the

stormy era which commenced with the commencement of the second half of the fifteenth century, and lasted till the quarrels of York and Lancaster came to an end upon Bosworth-field. During this period the condition of society appears to have undergone very slight change; for in whatever regarded the civil administration of the country, there was no revolutionary action connected with the sudden change in the supreme power. It was of this period that Comines, one of the most accomplished statesmen of his age, thus wrote: "In my opinion, of all the countries in Europe where I was ever acquainted, the government is nowhere so well managed, the people nowhere less obnoxious to violence and oppression, nor their houses less liable to the desolations of war, than in England, for there the calamities fall only upon their authors."* In another part of the same chapter, he says, "England has this peculiar grace, that neither the country, nor the people, nor the houses, are wasted, destroyed, or demolished; but the calamities and misfortunes of the war fall only upon the soldiers, and especially the nobility." But we might still hesitate to believe that the government was well administered, and the people little disturbed by violence, if we were to regard the wars of the Roses as one continued series of exterminating slaughters. Comines, still speaking of these wars, says, "In England, when any disputes arise and proceed to a war, the controversy is generally decided in eight or ten days, and one party or the other gains the victory."† After the first battle, that of St. Albans, in 1455, there was outward peace for four years. York was in arms in 1459; gained the battle of Northampton in 1460; and was killed on the last day of that year. Within three months his son Edward was on the throne, and had gained the decisive victory of Towton. With the exception of the Lancastrian rising of 1464, the kingdom was at peace till 1470. The attempt then to restore Henry VI. was defeated in the fighting of two months. Warwick landed on the 13th September; Edward fled on the 3rd of October; on the 14th March, 1471, he was again in England; and after the great battle of Barnet, that of Tewkesbury decided the contest on the 4th of May. The remaining thirteen years of Edward saw no civil warfare. The landing of Richmond and the fall of Richard III., was the affair of a fortnight. The actual warfare in England, from 1455 to 1485, included an aggregate space of time something less than two years.

The statutes and other state documents which have regard to

* Book v. chap. xviii.

† *Ibid.*, chap. ii.

distinctions of rank, furnish some evidence of the increase of population, and of the divisions of society into more complex arrangements than those of the gentle, the free, and the servile. The Statute of Additions of 1413 declares that in every original writ of actions, appeals, and indictments, to the names of the defendants in such writs "Additions shall be made of their estate or degree or mystery, and of the towns or hamlets, or places or counties, of the which they were or be." It is affirmed by Fuller in his "Worthies," that such distinctions were not used, except in law process, until the latter end of the reign of Henry VI. In 1429 was passed the Statute of Elections for Knights of the Shire; which recited that the elections for many counties "have now of late been made by very great and excessive number of the people dwelling within the same counties, of which the most part was people of small substance and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires dwelling within the said counties." It was therefore enacted that the knights of the shires should be chosen in every county by "people dwelling and resident in the same, whereof every one of them shall have free land or tenement to the value of forty shillings by the year, at the least above all charges." There can be no more distinct evidence than this statute—which was unchanged for four centuries, however the value of money had changed—that the great bulk of the people, those of small substance, having passed out of the servile condition into the free, had become so numerous that they were the real constituencies of the country. Extensive suffrage was therefore held as dangerous as in recent times. A forty-shilling freeholder was then a person of some importance. In 1433, when commissions were empowered to tender an oath to "persons of quality" to keep the peace, two inhabitants of Lyme were placed on the list, "as considerable men who were able to dispense 12*l.* per annum."* Any one who lived in a forty-shilling tenement, or derived profit from land of the clear rent of forty shillings, when a shilling an acre was a high rent, † was a person of substance. The qualification of a justice of the peace was twenty pounds in lands and tenements, and it was less in towns. ‡ In 1450 there was a subsidy granted, in the nature of an income-tax upon a graduated scale, persons holding in frank tenement from

* Roberts "Social History of the Southern Counties," p. 194. 1856.

† The rent of land had not increased in the middle of the 15th century above the 6*l.* or 9*l.* per acre 80 years before. Cullum's "Hawsted."

‡ Stat. 1445.

20s. to 20*l.* paying 6*d.* in the pound; from 20*l.* to 200*l.*, 12*d.*; and all upwards 2s. These graduations of tax exhibit a very unequal distribution of property. The immense landed possessions in the hands of the nobles and prelates, and the enormous payments to some of the great officers of the crown by salaries, and through extortions and bribes, sufficiently account for this inequality. The wealth, too, acquired in commerce, was in some instances very large. William de la Pole, a merchant of Hull, lent Edward III. the sum of 18,500*l.* at one payment. His son became earl of Suffolk in the reign of Richard II., and the duke of Suffolk, whose fate we shall have to record in 1450, descended from the great Hull trader. William Cannyng of Bristol, and Richard Whittington, of London, were opulent merchants of this period, whose memories still live in popular estimation. The salaries of the judges, in 1440, were—The chief justice of the Common Pleas, 120*l.* per ann.; of the King's Bench, 93*l.* 6s. 8*d.*; of the Justices, 73*l.* 6s. 8*d.* In addition, the judges had allowances for their official costume. For their winter robes they were each allowed 5*l.* 6s. 11¼*d.*; for their summer robes, 3*l.* 6s. 6*d.* The king's sergeants and the attorney were each allowed for robes, 1*l.* 6s. 11*d.** About the middle of the reign of Henry VI. the revenue of the crown was 65,000*l.*, and the expenditure exceeding the receipts by 35,000*l.*, the royal debts amounted to 372,000*l.* The king's household expenses were then limited to 12,000*l.*

There were two Statutes of Apparel passed in the reign of Edward IV., from which we may collect what were the existing degrees of society, as we inferred from the statute of the preceding century. † The statute of 1463, exactly a hundred years after that of Edward III., is granted at the prayer of the commons; and has reference only to the averment that "the commons of the realm, as well men as women, have worn and do daily wear excessive and inordinate array." Amongst the commons, there are included, with their wives and children, the knight under the estate of a lord, other than lord's children; the knight bachelor; the esquire and gentleman. But the amount of possession is taken into account; and the esquire and gentleman having 40*l.* a year may indulge in damask or satin forbidden to their less wealthy neighbours. Mayors, sheriffs, and aldermen, have special exemptions. Below the class of esquire and gentleman are those who have obtained a position by their wealth; and those who have 40*l.* of yearly value

* "Chronicon Pretiosum."

† See vol. i. p. 533.

may rejoice in furs, and their wives in gilt girdles. The men possessed of less than 40s. yearly are debarred from furs, and fustian, and scarlet cloth. The yeoman, and the persons under his degree, are to have no stuffing in their doublets. Lastly, the servants in husbandry and artificers are to wear no clothing of which the cloth shall cost more than two shillings the broad yard. The second statute of 1483 prescribes what peculiar apparel of cloth of gold or silk shall be forbidden to all below the royal rank; what to those below a duke; what to those below a lord, of whom the knight only shall wear velvet in his doublet. By a comprehensive clause no man under the estate of a lord should wear cloth of foreign manufacture; and the old price of cloth is again fixed for labourers and artificers. All other ordinances are repealed; but this statute contains one repealing clause which shows how vainly Lords and Commons attempted to legislate against the omnipotence of female taste: "Provided always, that this Act extend not, nor be prejudicial to or for any woman, excepted the wives of servants and labourers." The most gallant man of his time, by this clause, left his reign disburthened of the tyranny of having legislated against velvet and satin, girdle or coverchief, so as to interfere with the will of the ladies of England to wear the costliest array, without regard to the rank or the means of their less privileged husbands.

These Statutes of Apparel, if we read them rightly, were not intended to restrain the impoverishment of England "and the final destruction of the husbandry of the realm," as they profess, but to maintain by outward appearance those distinctions of rank which were fast passing away. It was not that the fine clothes themselves conferred distinction; for servants of great households, heralds, minstrels, and players of interludes, were allowed to wear them. But it was to put some distinguishing mark upon the noble and the gentleman, as compared with the *roturier*—a word which had formerly a significant place in our language. The once great distinction of blood was passing away; when the descendant of the merchant of Hull had become the most powerful peer of England. Yet this very Suffolk was so bound to the usages of chivalry, that when taken prisoner at Jargeau he asked his captor if he were a knight, and being answered "No,"—said, "Then I will make thee a knight;" and in the field was the lucky officer knighted, and received twenty thousand pounds for the peer's ransom. When lord Rivers was brought before Warwick at Calais,

in 1460, the king-maker rated him, and said "that his father was but a squire;" and lord Salisbury called him "knaave's son."* It was upon the complaint of the Commons that the statute of 1463 was passed. The esquire was beginning to tread upon the heels of the knight. The qualification for knighthood was forty pounds a-year; and so many had reached that point of opulence, that some would rather fine to the king than receive a dignity grown common. The old grand Norman distinction of *gentilhomme* was that upon which the well-born then chose to stand. They worthily clung to it for a century or two later; till the distinction of blood, as constituting a caste, was destroyed by the intermarriage of the higher with the middle classes, and by each class following the same modes of advancement, legal, mercantile, or political. M. de Tocqueville says that the history of the word *gentleman* is that of democracy itself. "We shall find its application extending in England in the same proportion in which classes draw near one another and amalgamate." † In the fifteenth century this contact and amalgamation were slowly beginning.

We shall be enabled to obtain a clearer view of the social organisation of England in the latter half of the fifteenth century, if we glance at the administrative system of the kingdom. At the head of that system was the King. All acts were done in his name, even if he was an infant of nine months old, as in the case of Henry VI., or a boy of thirteen, as in the case of Edward V. The constitution made no provision for a minority, or for incapacity; and in the earlier times, when legitimate succession was set aside by the legislative powers with little ceremony, such a provision was less necessary. Some great functionary, as Chief of the Council, or Protector, discharged the kingly office, vicarially, in cases where the king was incapable. The hereditary revenues of the crown were very large, so that taxes or subsidies were usually voted only on extraordinary occasions. But if the hereditary revenues were large, and the accessions by taxation were growing more systematic, the crown had abundant need of all these regular and occasional resources. Let us rapidly look at the royal expenditure. During the eleven weeks that the duke of Gloucester carried on the government in the name of Edward V., the ordinary routine of administration was in active exercise; and in the original "Docket-Book" we may see, in a brief space, how various were the func-

* Paston Letters, letter cxxxv. Ramsay's edit.

† "State of Society in France before 1789," p. 152.

tions of the Crown, and how necessarily great the regal disbursements.* The treasurer and chamberlains of the Exchequer are commanded to pay for certain services and expenses, under various heads, whose bare enumeration exhibits an outline of the regal life, and of the range of the executive power. They are first to pay "The costs and expenses the which it shall behove us to have and sustain about our household, our chamber and great wardrobe, and our works." The functionaries that were under the holders of the patent offices of treasurer of the household, keeper of the jewels, clerk of the great wardrobe, and clerk of the works, far exceeded in number the retainers of the most expensive modern court. In apparel, as we may judge from the sumptuary laws, this period was most luxurious. It has been truly said, that extravagance in dress "was a peculiar characteristic of the middle ages throughout Europe." † The handsome Edward IV., and the misshapen Richard III., were equally careful of the splendour of their array. Lewis XI. of France is familiar to us in his shabby doublet, and his old hat with its leaden image. But Comines says that in his last days "his gowns were all of crimson satin, lined with rich marten's furs." The disbursements of the clerk of the works were necessarily large, in the repairs of the palaces, and the additions of furniture that were constantly required. But out of the royal revenues were also to be paid the fees of all the high officers—the chancellor, the treasurer and privy seal, the judges, the barons and chancellor of the exchequer, and all other ministers of the courts. All fiscal officers were also to be paid from the same fund,—custom-house officers, comptrollers, receivers, surveyors, searchers. "Pay ye also of our treasure to our lieutenant of Ireland, wardens of our marches east and west, captain of our town of Berwick, wages assigned by us and our council, after the indentures of their withholding." There was no standing army to pay in England, as in France under Charles VII. Ireland, and the borders of Wales and Scotland, were defended by contract. These "grants" exhibit the nature of the bargains made with the wardens of the marches. Henry, earl of Northumberland, is retained for five lunar months to be lord captain of the castle and town of Berwick, and therein to keep six hundred soldiers, defensibly arrayed, of whom three hundred shall be archers, with two knights or squires to be lieuten-

* "Grants, etc., from the Crown during the reign of Edward V." Camden Society, 1854.

† Sir N. H. Nicolas, "Wardrobe Accounts of Edward IV."

ants; for whose wages the king grants the sum of 438*l.* 10*s.* 1*d.* monthly, the soldiers being paid at the rate of 6*d.* a day. These wages are to be paid beforehand for the first two months; and the king is also to provide artillery and other habiliments of war. The navy was paid by separate disbursement for each ship: "Pay ye also, from time to time, unto the clerks of our ships all things necessary for the safeguard and surety keeping of our said ships, and for wages and victuals of mariners attending upon the same." For the general defence of the kingdom against rebellion or invasion there was a sweeping grant to pay "the cost and expenses of all those that be or shall be assigned by our commission or commissions for to resist or subdue our rebels or enemies within this our kingdom." Upon emergencies, forces were raised by the king's letters under the privy seal, commanding the attendance of persons named, with armed men, in number according to their degree. The Roll of Agincourt shows how the lords and knights and esquires of England came to the summons of their king upon receiving these missives. The English army was always thus a new army at the beginning of a war; and Comines gave it a just character, which,—the circumstances of hasty levies remaining the same,—it has maintained from the siege of Harfleur to the siege of Sebastopol: "Though no nation is more raw and undisciplined than the English at their first coming over, yet a little time makes them brave soldiers, excellent officers, and wise counsellors."* But the fighting Englishman of the fifteenth century was not fresh from the plough and the loom, without any sort of military training. The iron helmet was hung upon the wall of the cottage as well as of the castle; and the long bows of yew stood in the halls of the esquire and the burgess, for their servants to shoot at the butts on every Sunday and other festival.† The municipal officers of towns had looked upon their youths gradually sending the "light-flight arrow" to the legal distance of two hundred and twenty yards; and then, grown into stalwart men, performing the same feat with the heavy war-arrow. There was many a Locksley in every village, to whom this long range would present no difficulty. When the king's letter came, either direct or through some great lord to his tenants and partisans—men were always at hand to send to the field. It was not always easy to pay them. There is a letter of 1470 from the duke of Suffolk to the bailiffs of Eye, commanding that two men should be paid the money due to them according to the covenants

* Book iv. chap. v. † Statute 11 Hen. IV.

made with them by the authorities of that borough, which men "were waged for your town to await upon us in the king's service at Lincoln Field."* Suffolk was a Lancastrian; and these "proper men of their hands" who went to Lincoln Field, were there to fight against the reigning king in the insurrection of Sir Robert Wells. They were glad, no doubt, to get back to Eye when this enterprise failed. But Warwick came with a greater preparation, and then Edward was driven from his seat. During the short triumph of the Lancastrians the men who had fought for them were to be paid their wages. For an expedition against France, or a struggle against the reigning house at home, an army could be got together when the means of paying the adventurous spirits of the land were forthcoming. Whether the wages were to be paid in hand, or the payment deferred to a more convenient season, the king sent forth his summons in these words when there was danger: "Trusty and well beloved, we strictly charge and command you, upon the faith and liegeance that ye bear unto us, that ye arredie [make ready] you with all the fellowship ye can make."† But there was no efficient provision for the defence of the coasts against a foreign enemy. A few of the commercial towns, such as Yarmouth, Poole, and Bristol, were fortified at this period. But in small places, where no great lord was at hand to issue forth from his stronghold with his retainers, the enemies, Frenchmen or Fleming, not unfrequently landed, and carried off property and persons. While the government was wholly occupied in 1458 by the great assembly of rival lords in London, to mediate between York and the Lancastrians, we have the following description of the state of the Norfolk coast: "On Saturday last past, Dravell, half-brother to Warren Harman, was taken with enemies, walking by the seaside; and they have him forth with them, and they took two pilgrims, a man and a woman. * * * * God give grace that the sea may be better kept than it is now, or else it shall be a perilous dwelling by the sea-coast."‡

The people of England, long after the turbulence of the lords of the early feudal times had been restrained by law, were sometimes accustomed to behold displays of physical force, in which the array was neither for foreign warfare nor domestic insurrection. There are two statutes of this period which are singularly indicative of an altered state of society. The first is, for the controul of "them that make entries with strong hand into lands or tenements,

* Paston Letters, ccv.

† *Ibid.*, ccci.

‡ *Ibid.* cx.

or other possessions whatsoever, and them hold with force."* The second is "for the punishment of such persons as give or receive liveries."† Both these statutes were confirmations and amendments of previous enactments; but the practice of the period, as distinct from its theory of justice and order, shows how effectual are laws "to nourish love, peace, and quietness,"—such being the objects which one of these statutes sets forth—when the possessors of great power and riches have no dread of the only real champion of right against might, the force of public opinion. Let us glance at two such exhibitions of lawless power and dangerous pomp, of which the violated laws took no cognisance.

In September, 1469, there is a great fellowship assembled at Framlingham. The little town is crowded with yeomen, who have gathered together from the many manors of the great duke of Norfolk; and there are hired soldiers with guns and cross-bows; and two or three pieces of cannon are mounted upon rude carriages; and armed horsemen wait at the castle gate for orders to march. Within the massive walls of that fortress there is an unusual bustle in the large court-yard. The duke is sitting with his council, composed of officers, of his household, and of gentlemen who wear his livery; for he has summoned his dependents and friends around him, writing, in regal phrase, "that we may commune with you, and have your sad [serious] advice in such matters as concerneth greatly to our weal."‡ The decision is at last taken. The Council breaks up. The yeomen and hired soldiery receive rations from the spacious butteries of the castle. They are formed in order of march; and take their way towards the eastern coast, gathering in their progress a fresh multitude with pikes and staves, and making, after several days, near the good town of Yarmouth.

In the castle of Caister there are some thirty "proved men, and cunning in the war and in feats of arms; and that will shoot both guns and cross-bows, and amend and string them, and devise bulwarks, and will keep watch and ward."§ These thirty men are ready to hold Caister against the thousand that have marched out of Framlingham to take that "rich jewel in time of war." Are they rebels and traitors who occupy that strong place,—a few years before the splendid palace of the Fastolf who fought in France,—but a dismantled and gloomy fortress when the duke of Norfolk demanded its surrender? They were simply the servants of the

* Stat. 8 Hen. VI. c. 9.

† Paston Letters, cclxiii.

‡ Stat. 8 Ed. IV. c. 2.

§ *Ibid.*, cclxi.

legatee under the will of the old warrior; and the duke, who claimed to have purchased the property of two of the executors, whilst the third had possession, took this mode of asserting his title. Caister was regularly besieged, and men were killed on either side, before it was surrendered. The great duke then makes proclamation that the vanquished might depart, having their lives and goods and harness; and his grace grants this favour at the instance of divers lords, and "of our most dear and singular-beloved wife." Norfolk was winning Caister with the strong hand, in open defiance of the law. He was carrying through the process of disseisin, or forcible dispossession, although he was bound by statute to make his entry peaceably upon the disputed freehold. This breach of the law was an ordinary occurrence. "Disseisin, or forcible dispossession of freeholds, makes one of the most considerable articles in our law-books."*

Let us follow the duke of Norfolk in a more peaceful display of his power. There was a time when the Bigods and Mowbrays would have ridden into Norwich with five hundred men-at-arms, and have done swift justice upon the burgess that disputed their right to dictate how the city should be governed, or in what sums its people should be mulcted. Those days are past. The Mowbrays are still mighty, but after another fashion. They come not to Norwich with the proud feudal array of fierce retainers in massed armour, but with two hundred of their household in blue and tawny gowns, moving after the duke, with the blue on the left side of the gown and the tawny on the right. The man who was fighting at Caister against the duke has taken his livery on this occasion, when Edward IV. is coming to Norwich; and he hopes to muster twenty men in the duke's blue and tawny, "to be sure of his good lordship in time to come." The power of the great peer, in showing the gentlemen of his county arranged as his menials, is to be thought of by the king, whose statutes declare that liveries are illegal. But the display was meant for plebeian as well as royal meditations. The peer who exhibited the greatest number of liveries would be thought to have the greatest influence in the elections of knights of the shire and burgesses. The arts by which the "free and independent" elector was managed in the fifteenth century were little different from those of the nineteenth.

There are two simple words, familiarly used in the fifteenth century, which distinctly tell what the great relations of class to

* Hallam "Ages," Chap. viii. Part iii.

class had then become. Those words are, Rent, Wages. The land-lord had now tenants who held leases, instead of being bound to the soil by feudal service as viliains. The man who farmed the land had now salaried servants,—partly paid in money and partly in food and lodging, or wholly paid in money,—instead of thralls with the collar on their necks. The substitution of rent for service had destroyed, in a considerable degree, the more intimate relations of the land-owner and the cultivator, both for good and for evil. The power which once implied protection as well as severity was superseded by the power which, regarding land simply as a property to be made the most of, had resigned the rude fidelity of vassalage for the hard bargaining of tenancy. No doubt much of

“The constant service of the antique world”

remained, even when, as was common in leases, the landlord might re-enter and possess if the rent was a month in arrear.* But, in general, there was as much of the commercial spirit in the dealings between landlord and tenant as in the exchange of any other commodity between vendor and purchaser. Distraints for rent were the commonest of occurrences; and the tenant's cart seems to have been the most convenient chattel to seize and carry off. The difficulty of collecting rents must have been extreme, at a time when agriculture was so imperfect that a bad season produced general misery. In 1463 we have the first corn-law, based upon the averment which kept all classes comparatively unprosperous in England for four hundred years: “Whereas the labourers and occupiers of husbandry within this realm be daily grievously endangered by bringing of corn out of other lands and parts into this realm, when corn of the growing of this realm is at low price.”† When wheat was six shillings and eightpence the quarter, importation was forbidden. The inevitable fluctuations of price in corn, when corn was the only rent-paying produce except wool, prevented that more careful agriculture which, in all times, is founded upon average profits and not upon fortuitous abundance. When the cultivator wanted to obtain the best price for his wool, that legislation which was always protecting one class against another class, to the injury of both classes, ordained that the exportation of wool should be hampered with restrictions; “because that sufficient plenty of the said wools may continually abide and remain within the said realm, as may competently and reasonably serve for the occupation of cloth-makers.”‡ Of necessity much of the “suffi-

* Cullum's “Hawsted,” p. 228. † Stat. 3rd Edward IV. c. 2. ‡ *Ibid.*, c. 1.

cient plenty” became superabundant stock; and the price of wool was beaten down by the limitation of the market. Thus it was that the landowners were constantly complaining of the want of money. Their revenues were derived from rents, and the rents were ill paid, because, amongst other causes, such as the want of knowledge and the want of capital, the delusion of protection, was set up, to keep all industry at the same low level from age to age. Under this state of things we are not surprised to find that the bailiff of Sir William Plumpton, a great lord of Yorkshire in the time of Henry VI. and Edward IV., writes to his master—who, as many others did, kept land in his own hands, as well as letting his estates—“I am not in store at this time of money for to get your harvest with, without I might get it of your tenants; or else for to take of [for] your sheep silver, and that I were right loth for to do. * * * Letting you wit, also, that I have been in the Peak, and there I cannot get no money * * * Letting you wit that I was on St. Lawrence day at Melton, with four-score of your sheep to sell, and could sell none of them, but if I would have sold twenty of the best of them for thirteen-pence a-piece.”† The duke of Suffolk has a dispute about property with Sir John Paston, and Sir John's brother advises a settlement for a hundred marks, “some of the duke of Suffolk's folks having let me in secret wise have knowledge that he must make a shift for money, and that in all haste.” The earl of Warwick, the king-maker, writes in 1455 to his friend, sir Thomas Todenham, that he has to make a payment on the completion of a purchase, “wherefore we pray you with all our heart that ye will lend us ten or twenty pounds.”‡ The seal of the bear and ragged staff is affixed to this letter—a device that we more commonly associate with the idea of power far exalted above the want of a sum equivalent to two or three hundred pounds of our present money. There is another letter of the same earl to his bailiff of Sutton, desiring him to pay Philip Lowez forty-six shillings and eight pence, “that he lent us in our right great necessity.”§ We can scarcely wonder that the riches of Cardinal Beaufort made him hateful to the necessitous nobles who had less of the world's wisdom. The cardinal writes a characteristic epistle to some confidential friend, “that ye will go, and W. Toly, my clerk,

* The silver coin was depreciated as compared with gold. Cardinal Beaufort required that his loans to the crown should be paid “in gold of the coin of England of just weight.”

† Plumpton Correspondence, p. 21.

‡ Paston Letters, letter lxxvi.

§ Ellis's Letters, Series I., vol. i. p. 14.

bearer of this, with you, to the coffer that my money is in, and take out two thousand three hundred marks, and take it the foresaid Toly, and let seal the coffer again with a signet of mine, graven with the salutation of our lady, the which my said clerk hath.*

One of the most remarkable features of society in this period is the incessant litigation. Every gentleman had some knowledge of law, and his knowledge never rusted for want of practice. Agnes Paston writes to one of her sons, "I greet you well, and advise you to think once of the day of your father's counsel to learn the law, for he said many times that whosoever should dwell at Paston should have need to con to defend himself." † Mr. Hallam has truly observed that "a people wherein an artificial jurisprudence is cultivated, requiring both a regard to written authority, and the constant exercise of a discriminating judgment upon words, must be deemed to be emerging from ignorance." ‡ But he also implies that what the mind thus gains in precision and acuteness is at the expense of some important qualities. The clients, no less than the counsel and attorneys, were familiar with every legal quibble. In one case, judgment could not be obtained because the "John Damme" of a testament was "Joh Damme" in the bill before the court. In another, a defendant alleged that he lived at "Raytheby" and not at "Ratheby," as set forth—a curious plea in an age of such unsettled orthography. § The history of this dispute with the quibble about a letter, of which we have all the stages of the process, and the final award, extends over a period of thirty-six years—from the 21st of Richard II. to the 12th of Henry VI. Sir William Clopton held the manor of Hawsted, which had been bought by his ancestor in the 33rd of Edward III. (1360). In 1397, Philip Fitz-Eustace breaks into a close of the manor, cuts down trees, and carries off goods and chattels. After a suit, lasting ten years, judgment is given in 1407 against Fitz-Eustace, who had pleaded that the close belonged to him. But the dispute was not settled; for another tribunal, whose powers were dying out in the changes of men and manners, took cognisance of the quarrel in 1427, twenty years after the original suit was ended. William Clopton, esquire, then in possession of the property, by a writ of John, duke of Bedford, constable of England, addressed to John, duke of Norfolk, marshal of England, is summoned "to answer in the Court of Chivalry to Robert Eland, of the county of Lincoln,

* Ellis's Letters, Series i., vol. i. p. 8.

† "Literature of Europe," vol. i. p. 80.

‡ Paston Letters, letter x.

§ Cullum's "Hawsted," p. 120.

esquire, who charged the said William Clopton with putting his seal of arms to a false and forged deed." The arbitrement of the Court of Chivalry had probably gone into disuse when the lawyers had become more important than the knights; and we hear of no battle for the defence of William Clopton's injured honour. But he brings his action against Robert Eland and others, for having published and read two deeds, claiming the manor of Hawsted, upon the allegation that the deeds so read were false. The matter was referred to arbitration, and the arbitrators decided, that having examined the principal instrument at their leisure, and "seen it in the sun," it was an old deed "new rased and new written again."* In the Paston Letters we have evidence that forgeries of acquittance and of grants were not uncommon. The offence was punishable, at common law, with fine and imprisonment. Another frequent cause of litigation was the stopping of footpaths. The people of that day understood their rights as well as the patriot of Hampton Wick, a century ago, who compelled the crown to open the ancient road through Bushy Park. Agnes Paston writes indignantly to her husband that Clement Spicer came to her closet and asked her why she had stopped the king's way; and that Waryn Herman, "proudly going forth with me in the church, he said the stopping of the way should cost me twenty nobles, and yet it should down again." † In these litigations, the constant appeal to the law is some proof that it was righteously administered. Juries were sometimes, indeed, specially exhorted "to do as conscience will, and to eschew perjury;" and there is evidence of payments to the jury "for their expenses and labour, and for a breakfast after they had delivered their verdict." ‡ The most distinct proof of corruption is furnished by statutes of 1426 and 1439; the first of which accuses sheriffs of taking great sums of money for allowing bail to persons apprehended; and the second attributes great perjuries which daily abound to sheriffs making favourable panels of juries for great gifts and rewards. There was a laxity upon such points which endured far beyond the fifteenth century; and we need scarcely be surprised that in an age when only a bird in the air might carry the matter, official bribery was not held as a personal degradation. The higher nobles were to be purchased even by a foreign enemy. Comines shows how Lewis XI. cajoled Edward IV. into peace, by payments to himself and by large

* Cullum's "Hawsted," pp. 115—122.

† Paston Letters letter xvii.

‡ Roberts' "Southern Counties," p. 2.

presents to his officers. The same caution which lord Hastings, the high chamberlain of England, exhibited when he refused to give a receipt for two thousand crowns of gold that the king of France sent him, was probably the shield of less mighty functionaries: "What you desire," said Hastings to the agent of Lewis, "is not unreasonable; but this present proceeds from your master's generosity, not any request of mine: if you have a mind I should receive it you may put it into my sleeve."* To repress bribery by threats of fine was as little likely to secure justice, as the limitation of attorneys by statute was likely to prevent litigation. This enactment of 1455 is very curious. In Norfolk and Suffolk, says the preamble, in time not long past, there were only six or eight attorneys coming to the king's courts, in which time great tranquillity reigned, and little trouble or vexation was made by untrue and foreign suits; and now there be fourscore attorneys, the more part having no other thing to live upon but gain by attorneyship; and they go to every fair and market and other places where is any assembly of people, exhorting, procuring, moving, and inciting the people to attempt untrue suits for small trespasses, little offences, and small sums of debt, which actions be triable in Courts Baron. The remedy was to limit the number of common attorneys to six in Norfolk, six in Suffolk, and two in the city of Norwich. The real object of the statute was to prevent these small actions being carried to the higher courts instead of the Courts Baron. The people, we may readily believe, had found injustice in the petty local courts; and they sought for justice where the law would be understood and equally administered. The evidence of such abundant litigation is no proof of a disordered state of society. When men cannot obtain justice speedily and cheaply there are few lawsuits. When their disputes go before an honest and energetic tribunal, the more suits the greater evidence that law is not the instrument of oppression which it becomes in bad times.

The public and private records of this period afford us little information as to the amount and character of offences against person and property. By a statute of 2nd Henry V., made upon complaint that the perpetrators of divers murders, manslaughters, robberies, batteries, &c., fled to woods and secret places to avoid the execution of the common law, it was enacted that if, after proclamation, such persons should come to the Court of King's Bench for trial, and did not appear, they should be held as convict. This

* *Memoirs*, book vi., chap. 2.

was a temporary statute; but it was made perpetual by the 8th of Henry VI. Fine, imprisonment, death, were the penalties for such offences. But we can make no attempt to exhibit any statistics of crime. From the absence of such denunciations of "sturdy vagabonds and valiant beggars, in great routes and companies," as we find in the savage laws of Henry VIII., we may infer that in these times, which have been too hastily considered as a period of anarchy, there was no remarkable insecurity of life and goods. The private letters of the period detail no outrages which might not have occurred in the most settled condition of society. In 1421, a statute was passed to restrain the excesses of clerks and scholars of Oxford, who hunted with dogs in parks and forests, and threatened keepers with their lives; and who took clerks convict of felony out of the ward of the ordinaries, and set them free. This temporary Act was not renewed. The Scotch and Irish students of Cambridge were also declared, in the Rolls of Parliament, to be the authors of threatening letters demanding money. But we have no trace of these excesses at a later period. In the middle of the fifteenth century we have the relation of a sudden street-scuffle in Coventry, between Sir Humphrey Stafford and Sir Robert Harcourt, in which two of these retainers were killed; "and all this mischief fell because of an old debate that was between them for taking of a distress."* Another account shows that the earl of Devonshire and Lord Bonville were at great variance; and how Thomas Courtney, the son and heir of the earl, came to a house in Devonshire occupied by Nicholas Radford, an eminent lawyer who was counsel to Lord Bonville, and there murdered him in the most cowardly and cruel manner.† But these are exceptional cases, which only prove that the age of private feud was not wholly passed away. In Scotland, such assaults were as frequent as a bout of quarter-staff in England. One species of violence, for which a special statute was provided, is characteristic of a period in which the chivalrous spirit of reverence for women was yielding to grosser influences, with many other graces of chivalry that were the plating of its atrocities. The statute of the 31st Henry VI. shows how "unsatiable covetousness" had moved "divers people of great power against all right, gentleness, truth, and good conscience." Their offence was the "great abusing of ladies, gentlewomen, and other women sole, having any substance of lands, tenements, or moveable goods." To such they

* Paston Letters, letter ix.

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† *Ibid.*, p. 68.

came, "promising faithful friendship;" and "perceiving their great innocency and simplicity," carried them off by force, or inveigled them to places where they were of power, and compelled them to sign obligations for money for their liberty. "Also," says this statutory reproach of those who bore the name of gentlemen, "they will many times compel them to be married by them, contrary to their own likings." The remedy was to sue out a writ in chancery, when the fraudulent bonds would be set aside. For the enforced marriage there appears to have been no redress. Such are some glimpses of the acts of violence of the higher and richer classes. The outrages of the labouring people sometimes broke out in riots at fairs, in resistance to the payment of toll.* Vagabonds no doubt there were in every hamlet, "untrue people of their hands,"—such as are described in the petition of a body of tenants to their lord: "Not having any cow or calves, or any other goods whereby they might live, nor any other occupise; and well they fare, and at all sports and games they are in our country for the most part, and silver to spend and to gaming, which they have more ready than any other." No dues would these men pay to lord or king; "and as for geese, hens, and capons, your tenants may none keep."† The complaint against these men, who "as vagabonds live," came from people of their own degree. The idleness and the pilfering were not vices of the class.

The industrious habits of artificers and labourers may be inferred from a statute of 1495, regulating wages. The waste of time which it condemns was the result of customs derived from an earlier period. It is the story which will never end, of coming late to work and long sitting at meals. Modern customs have rendered "long time of sleeping at afternoon" obsolete. But those who hold that the labour of modern times is overtaken, as compared with mediæval labour, should learn what is required by this statute. From the middle of March to the middle of September, every labourer and artificer was to be at his work before five o'clock in the morning, and he was to depart not till between seven and eight o'clock in the evening. In this season, he was to have half an hour for breakfast, an hour for dinner, and half an hour for his "none-mete;" and from the middle of May to the middle of August he was to have half an hour for sleep in the day. From September to March, he was to be at his work "in the springing of the day, and depart not till night of the same day." But this difference of

* "Plumpton Correspondence," p. lxii.

† *Ibid.*, p. 38.

the hours of labour in summer and winter was taken into account in wages. The summer wages of the free mason and master carpenter, of 5¼*d.* without food, were reduced to 4*d.* in the winter. The lower artificers and labourers, who received 3¼*d.* in the summer without meat and drink, were to serve for 3*d.* in the winter.* We shall not attempt here to enter into any comparison of the ancient and modern rate of wages; or now endeavour to disprove the bold assertion that "the working man of modern times has bought the extension of his liberty at the price of his material comfort." † That disproof, as we believe, will be supplied by a just view of the condition of the labourers at every stage of our history, not measured by estimates of wages and prices, which are very doubtful approximations to the truth, but by regarding them in their relations to the whole progress of society.

The Statutes of Wages which refer to artificers include under that denomination the occupations only of the mason, carpenter, tiler, and "other artificers concerning building." All the various handicrafts took their regulations from their guilds. The clothiers stood apart as pursuing the most important branch of England's industry; and the dealings of the cloth-maker and his workmen were regulated by statute. ‡ In that fifteenth century there were no factories. Every manufacture was carried on at the homes of the workmen in the several branches; and thus the operations of the clothiers, whether carders, spinsters, weavers, fullers, shearmen, or dyers, were combined, though separate, by the tradesman whose capital was engaged in cloth-making. The statute before us is justly framed for the protection of the workers. Truck was forbidden. The work-people were to be paid lawful money, and not to be "driven to take part of their wages in pins, girdles, and other unprofitable wares." The wool given out to be wrought was not to be of excessive weight. On the other hand, every cloth-worker was to perform his duty in his occupation. The system of domestic manufacture is also indicated in other enactments, protecting native labour from foreign competition. The silk-women and spinners were especially protected: and it is remarkable that—connected with the statute of 34th Henry VI., against the importation of wrought silk in ribands, laces, and chains of silk—the Rolls of Parliament state that such importation has caused

* Stat. 4 Edward IV., cap. 1.

† Froude, "History of England," vol. i. p. 80.

‡ Stat. 23 Henry VI., cap. 12.

"great idleness amongst young gentlewomen and other apprentices of the same crafts, and the laying down of many good and notable households of them that have occupied the same crafts, which be convenient, worshipful, and according for gentlewomen and other women of worship." But the constant pressure of labour for employment is no where more clearly indicated than in those proceedings of the legislature, to which the people were always looking for some vain relief in prohibiting the competition of foreign industry. Margaret Paston writes to her husband, "ye have many good prayers of the poor people that God should speed you at this parliament; for they live in hope that ye should help to set a way that they might live in better peace in this country than they have done before; and that woolls should be purveyed for that they should not go out of this land, as it has been suffered to do before; and then shall the poor people live better than they have done by their occupation therein." The preambles to most protecting acts invariably complain how men and women of manual occupations are greatly impoverished, and cannot live by their mysteries, and that their servants in great number are unoccupied, and do hardly live in great misery and ruin.* And yet one who justly claims to have more diligently studied these statutes than other historians, maintains that at this period not only was there given "a fair day's wages for a fair day's work," but that "all industrious men could maintain themselves in comfort and prosperity." † The perpetual interferences of the state with trade must have prevented many a workman from continuing his occupation, and have made him a beggar. When the parliament of Henry V. enacted that no patten-maker should make pattens or clogs of the best and lightest timber of which they could be made, then known as asp, that the fletchers might sell their arrows cheap, were the makers of pattens indebted to the government which proposed to itself, as we are informed, "that all able-bodied men should be found in work?" ‡ The parliament of Edward IV. found out that the law of Henry V. was "great damage to the patten-makers and none advantage to the fletchers." In the anticommercial spirit of the age, the duke of Burgundy ordained that all woollen cloths wrought in England should be banished out of the lands of the said duke; and Edward IV., finding that this measure of the duke of Burgundy against English exports caused the weavers, fullers, dyers, carders, spinners, and winders of yarn

* See especially 3 Edward IV. cap. iv.

† Froude, "History of England," vol. i. p. 67.

‡ *Ibid.*, vol. i. p. 43.

to be destitute of occupation, prohibited the importation of all merchandises of all the lands of the duke, upon pain of forfeiture. Were all the various labourers engaged in the import trade with Burgundy assured that the government, which thus compelled them to starve under this stagnation of their ordinary employment, was intently occupied upon a benevolent provision for their prosperity? In these commercial enactments—in all that relates to prices, wages, quality of commodities, protection of native labour—we perceive little more than the grossest ignorance, fettering trade by unwise laws alike injurious to producer and consumer, and then whining over its own blunders, when the hasty remedies for surface evils had destroyed the industry which they were intended to foster.