

Fitzneale Richard

Dialogus de Scaccario
The Course of the Exchequer

by

RICHARD, FITZ NIGEL

and

Constitutio Domus Regis
The Establishment of the
Royal Household

EDITED AND TRANSLATED BY THE LATE
CHARLES JOHNSON

WITH CORRECTIONS BY
F. E. L. CARTER and D. E. GREENWAY

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ABBREVIATIONS

- C *British Museum MS.* Cotton. Cleop. A. 16
N *Public Record Office MS.* The Black Book of the Exchequer
(Exch. Treasury of Receipt, Books) E.36/226
P *Public Record Office MS.* The Little Black Book of the Exchequer
(Exch. King's Remembrancer Misc. Books, series I,
vol. XII) E. 164/12
R *Public Record Office MS.* The Red Book of the Exchequer
(Exch. King's Remembrancer Misc. Books, series I,
vol. II) E. 164/2

M. S.

ARTURI HUGHES et CAROLI GEORGII CRUMP
SOCIORUM OLIM DILECTORUM

“Funiculus triplex difficile soluitur”

PREFACE

THE Clarendon Press edition of the *Dialogus* published in 1902 is now out of print. The present translation is meant for the general reader and for undergraduates or candidates for History scholarships who are not experienced in medieval Latin. There have been various additions to our knowledge since 1902, more especially those made by Reginald Lane Poole and by my friend Mr H. G. Richardson, and the valuable researches on tallies of the present Deputy-Keeper of the Public Records (my 'fellow-helper' in earlier work) to be found in *Archaeologia*. These new lights have necessitated a few changes of opinion or emphasis. I have as far as possible suppressed all critical notes, and limited the explanatory notes to a minimum, unless new facts need notice. I have appended a translation of the *Constitutio Domus Regis* because of its close connection with the *Dialogus*, and for this Mr G. H. White, to whom I owe my first understanding of the *Constitutio*, generously gave me access to his own (then unprinted) studies of that work. He must not, however, be held responsible for my views. They rarely differ from his own, and I am most grateful for his help.

I must apologize for any neglect to mention in detail the many points which this translation owes to living and dead authorities: I can only express my obligations in general terms. I must, nevertheless, return my sincere thanks to the Delegates of the Clarendon Press, and to my fellow-proprietors of the copyright of the 1902 edition, the late Mrs L. G. Hughes, Mr Norman Crump, and Mrs Neill Wright, for leave to make use of the printed Latin text and to borrow from the notes. To the General Editors and to the Publishers I am grateful for the opportunity,

donatum iam rude . . . iterum antiquo me includere ludo.

CHARLES JOHNSON

FOREWORD TO REVISED EDITION

Dialogus de Scaccario

CHARLES JOHNSON's edition of the *Dialogus de Scaccario* was published in Nelson's Medieval Texts in 1950 and it has remained the standard edition ever since. It went out of print several years ago and this edition has been arranged in response to the wish, often expressed by historians and others, that it should be available once more.

With what he described as one or two insignificant alterations, Johnson's Latin text was avowedly based upon that of the Oxford edition, in which he, Hughes and Crump had collaborated in 1902. We have therefore confined ourselves to scrutinizing these alterations, which we regard as reasonable and suitably annotated, and to verifying that the two texts otherwise correspond and that the substance of the very detailed *apparatus criticus* of the Oxford edition has been included. We have also taken the opportunity to correct a few misprints, at the same time noting that certain misprints in the Oxford edition had already been corrected by Johnson himself.

Johnson's English translation and the precis of the work contained in his Analysis we have left untouched. His introduction, and the additional commentary provided in his footnotes, we consider to be no less authoritative than when they were written. Some of the references have, however, changed with the passage of time or need amendment for other reasons, and we have endeavoured to clarify them for the present day reader. We have retained the references to classical and biblical allusions in the text, most of which Johnson inherited from the Oxford edition; biblical references (as usual in this series) are to the Vulgate.

Constitutio Domus Regis

As an annex to the *Dialogus*, Johnson added an edition of the *Constitutio Domus Regis* because he regarded the two works as complementary. In this case, for the reasons explained on p. xlix of his Introduction, he had no established Latin text to use as a model, and he therefore made his own collation of the manuscripts contained in the Red Book and the Little Black Book of the Exchequer, describing the text he produced as a result as 'an eclectic one'. We have compared this text with the manuscript sources and, while we have slightly amplified the *apparatus criticus*, we are in full agreement with the selection he made. Indeed, we would go so far as to say that the Johnson version gives us a dependable and well-documented text for the first time and that it does for the *Constitutio* what the Oxford edition did for the *Dialogus*.

We have taken the opportunity to correct some minor errors in the translation and footnotes and have expanded the list of 'Books to Consult', but have not altered the substance of Johnson's interpretation and commentary.

June 1982

F. E. L. Carter
D. E. Greenway

INTRODUCTION

THE treatise known as the *Dialogus de Scaccario* or 'Dialogue of the Exchequer' was styled by its author *De Necessariis Observationibus Scaccarii*, which I have ventured to render as 'The Course of the Exchequer.' It was recognized as of great value by the antiquaries of the sixteenth and seventeenth centuries, as may be seen from the number of copies of it in existence, more than a score of which were made by or for such scholars as Coke, Spelman, Lambarde, and Twysden. All of these, however, can be traced to one or more of three manuscripts, all of which were at one time in the custody of officers of the Exchequer. These are :

R : *The Red Book of the Exchequer*, in the Public Record Office (Exchequer, King's Remembrancer, Miscellaneous Books, [E. 164] No. 2) ff. 31-46, Parchment, 12½ in. × 8½ in. in double column, rubricated. Initials alternately red and blue. The earlier portion of this MS, compiled before the end of A.D. 1231, contains besides the *Dialogus* the *Laws of Henry I*, the *Constitutio domus Regis*, and a number of returns relating to knight's fees and serjeanties. The collection was made by Alexander de Swereford, archdeacon of Salop, a clerk and afterwards a baron of the Exchequer, who refers to the author of the *Dialogus* (f. 47) as Richard, Bishop of London. The other contents of the *Red Book* were printed by Hubert Hall in *The Red Book of the Exchequer* (Rolls Series, 3 vols. 1896).

N : *The Black Book of the Exchequer*, in the Public Record Office (Exchequer, Treasury of the Receipt, Miscellaneous Books, [E. 36] No. 266) ff. 18-45, Parchment, 10 in. × 6½ in., in single column. The lacunae in the text are partially filled in smaller but almost contemporary hands. This is also of the thirteenth century but possibly a little later than R. This volume

contains the Exchequer calendar, the Oaths to be taken by various officers, drawings of the emblems of the four Evangelists and other religious pictures, possibly used for administering oaths, and official memoranda. A fuller description will be found in M. S. Giuseppi, *Guide to the Manuscripts preserved in the Public Record Office* (London, 1923 ; vol. i, p. 210).

C : British Museum, Cotton MSS, Cleopatra A.16, ff.1-38. Parchment, 6 $\frac{3}{4}$ in. \times 4 $\frac{3}{4}$ in., single column, rubricated. The fly-leaf at the end bears the mark 'Vitellius D 19.' The volume is a composite one, but that to which ff.1-38 originally belonged appears to have contained various memoranda as to the office of Controller of the Great Roll (*scriptor rotuli Cancellarie*). Only ff.1-32 are of the thirteenth century, the rest of the *Dialogus* is a fifteenth century copy of R.

The only other early MS (H) is an almost contemporary copy of R. It is the British Museum Hargrave MS 313, ff.2-5 and 16-29. It was examined for the Oxford edition, but not collated, as no independent readings were found.

A comparison of the texts leads to the conclusion that R and N were copied at different dates from the same MS, which was either in double column or of small size, and had become much worn before N was copied. C represents a different tradition. But the agreement of the three MSS in a number of passages, which have all the appearance of interpolations, suggests the possibility that the MS from which they were copied may not itself have been the original.

The text printed by Madox in 1711, as an appendix to his monumental *History and Antiquities of the Exchequer*, was derived from two modern copies in the library of Lord Somers, from which a composite transcript was made. This was corrected by Madox, with the help of George Holmes, Deputy-Keeper of the Records in the Tower, by collation with the two Exchequer MSS in 1707, the *Red Book* being completed in

June and the *Black Book* in August. One read out the transcript, while the other kept his eye on the MS ; exactly as Public Record Office copies were made and certified in 1893. This text was reprinted in the quarto edition in two volumes of Madox's *History* in 1769. Stubbs reprinted Madox's text in 1870 in his *Select Charters* without recollection. In 1875 Felix Liebermann published his *Einleitung in den Dialogus de Scaccario* (Göttingen), making a number of conjectural emendations, the best of which were adopted by Stubbs in the successive editions of the *Select Charters* until 1905.

The text here adopted is, with one or two insignificant alterations, that issued in 1902 by the Clarendon Press, edited by Arthur Hughes, Charles George Crump, and myself from a fresh collation of N, R and C : The importance of the last MS had been pointed out to us by Hubert Hall, to whom the Press had originally entrusted the editing, and whose survey of the accessible MSS was the foundation of our work. I have reduced the number of critical notes to a minimum, only indicating the source of the conjectures accepted. For a fuller treatment both of the text and the historical matter I beg readers to consult the Oxford edition.

I have retained the square brackets of the Oxford edition, which were inserted to mark passages which look like interpolations, and break the natural sequence of the argument. They must not be regarded as spurious, and may indeed in most cases have been the author's own *marginalia*. I have not replaced the chapter headings which Madox printed from R, since N has never had them filled in, and those of C do not correspond with them.

The majority of the transcripts attribute the authorship to Gervase of Tilbury, though one of them names Ockham as the author, and Coke cites the *Dialogus* under this title.¹ Madox had no difficulty in showing that Gervase could not be the

¹ e.g. 1st Inst. f.47 [on Distress]

writer. He adduced Swereford's evidence as to the real author, but this had already been known to Agarde and Twysden.¹ It seems hardly worth inquiring the reason of these reckless attributions.

Stubbs has observed that 'The body of ministers, and not the office of the Exchequer only, was a sort of family party, or a guild and mystery, and to some extent continued so for a generation after this book [the *Dialogus*] was written.'² And we can hardly envisage Richard of Ely, the Treasurer, apart from his family. Indeed he himself claims to have inherited his knowledge of Exchequer business as being his father's son — *id quod habemus per traducem accepimus*. His father, Nigel, Bishop of Ely, had been the Treasurer of Henry I, and had been summoned by Henry II to restore the Exchequer, which had degenerated in the anarchy of Stephen's reign, to its former efficiency. Nigel himself was the nephew of Roger le Poer, Chancellor, Bishop of Salisbury, and afterwards Justiciar of Henry I. Some of the writs issued in his own name by Roger, regent in the King's absence, still survive. The family, which had thus risen to power under Henry I, fell when Stephen quarrelled with Roger and his nephews Alexander and Nigel in 1139. Richard, Nigel's illegitimate son, was born in all probability about 1130, at all events before his father had been ordained priest and therefore certainly before 1133. He is first heard of as having been in Stephen's hands as a hostage for his father, presumably about 1141-43, and was again sent to Stephen probably in the autumn of 1144. His mother was probably English, as he had a brother called William the English. He was brought up in the monastery at Ely, and his book shows him to have received a good education. With the accession of Henry II Nigel, recalled to official life, was in a

¹ For Agarde see Madox, *Firma Burgi*, pref. c. 10, and Gale, *Reg. Honoris de Richmond*, App. p. 1. For Twysden see Wilkins, *Leges Anglo-Saxonicae* 212, and Stowe MS 312 in the British Museum.

² *Lectures on Early English History*, p. 134

position to do something for his son, and seems to have bought him the post of Treasurer about 1158.¹ He had had some previous practice in Exchequer business, possibly as Chief Writing Clerk (*Clericus qui preest scriptorio*), of whose labours he speaks so feelingly. The post of Treasurer was not then of such dignity as it afterwards became. The Treasurer was the mainstay of the Exchequer, but subordinate to the Justiciar, if present, and in any case controlled by the Barons, clerical and lay, of superior dignity to himself. He had moreover been provided by a special order of Henry II with an official supervisor (pp. 17, 26-7) or colleague (p. 28) in the person of Richard of Ilchester. So Richard's promotion, though possibly worth the £400 which Nigel is said to have paid for it, was not unreasonable advancement for an able man of about twenty-eight, with the advantage of his father's experience and advice. Nigel seems to have retired into private life in 1164 or 1165 and died on 30 May 1169. Richard became archdeacon of Ely about 1160, and administered the diocese during his father's illness. He must have received his dispensation for illegitimacy from Alexander III at this time or thereabouts. This enabled him to become a canon of St. Paul's and Archdeacon of Colchester, and, not later than 1184, Dean of Lincoln. In 1186 he was one of the three nominees of the Chapter for succession to the vacant bishopric, but Henry II persuaded the Chapter to withdraw their nomination and elect Hugh of Avalon. After Henry's death he was elected Bishop of London in succession to Gilbert Foliot, and consecrated and enthroned on 31 December 1189.

Like other ministers of Henry II he had from time to time to act as Justice in eyre, and is known to have done so in the South Western Counties in 1179 and in Norfolk, Suffolk and Essex in 1194. The latter eyre is of special importance as

¹ For all these biographical details see Liebermann, *Einleitung*, pp. 29-54. H. G. Richardson (*E.H.R.* xliii, p. 165 sq.) rejects the story of the *Hist. Eliensis*, but thinks Richard may have become Treasurer as early as Christmas 1156.

marking the institution of the Grand Jury, the election of Coroners, and the prohibition of the sheriff's acting as judge in his own county court. Richard also acted as a judge of Common Pleas, which were then held at Westminster, in the Court 'before the Justices,' of which the Exchequer may best be regarded as a specialized sitting.¹ His name appears on many of the earliest surviving Fines as that of one of the judges. He was sent abroad in 1176, very probably to assist Richard of Ilchester in the re-organization of the Norman Exchequer. He obtained from Henry II about Easter 1177 a grant of the crown manors of Essendon and Bayford in Hertfordshire, formerly the property of Peter de Valoines.² On his death, 10 September 1198, these manors appear to have been in the King's hands for three months, as William of Ely,³ Richard's kinsman, who succeeded him as Treasurer in 1195 or 1196, begins to account for them as from Michaelmas 1198, while the allowance to the sheriff then accounting due to Richard's tenancy only extends to the previous Midsummer.⁴ Richard had offered £66 13s 4d in 1195 to have a life estate in the two manors, but the fine was still unpaid at his death. This suggests that the income from the manors was part of the Treasurer's official emoluments, and should have been resigned on his retirement. They were granted to William as from Midsummer 1199 by John, and the rent of £20 remitted for the three previous quarters.⁵

Apart from Richard's official duties, he does not seem to have been either politically or ecclesiastically important. His real title to fame is his book and its 'most lucid and exhaustive account of the method of account at the Exchequer.'⁶ It is

¹ cf. for example, Pipe Roll, 6, Richard I [P. R. Soc. N.S. 5], p. 163

² Pipe Roll, 23 Henry II [P. R. Soc. 26], p. 144

³ See H. G. Richardson's 'William of Ely' (*Trans. R. Hist. Soc.*, 4th Ser. xv), p. 47

⁴ Pipe Roll, 10 Richard I [P. R. Soc., N.S. 9], 126; Pipe Roll, 1 John [N.S. 10], 86

⁵ Richardson, *op. cit.*, p. 49 sq.

⁶ Stubbs, *Lectures*, p. 189

the more necessary to consider his mental equipment. He was not, like John of Salisbury, a learned man. He writes in a somewhat clumsy Latin, and is apt to use trite phrases without too much thought of their exact meaning. His apologies for his lapses into unclassical diction would have been better directed to his efforts to express vernacular terms in classical form. (*Miles argentarius* for the Pesour, and *miles gregarius* for the Constable have been a source of much difficulty to students, and editors, of the *Dialogus*.) His education gave him a certain familiarity with Horace and Virgil, and there are allusions to Ovid, and possibly also to Seneca and to Cicero. His grammatical training included Priscian and Isidore. He must have had some legal instruction, since he, like Glanvill, had read the Institutes. It is doubtful whether he knew much about the Digest, though some of his law seems to be derived from it indirectly. The legal business done at Westminster, in which he took part, must have involved a considerable practical acquaintance with English law;¹ and he was throughout his life in intimate contact with the best-trained minds in the King's service. His philosophical training shows in a knowledge of scholastic logic; but it is doubtful whether his acquaintance with Aristotle and Plato came nearer than a knowledge of Boethius. The subtleties of the Schoolmen were unattractive to his plain and straightforward mind.

We have only the *Dialogus* from which to measure his character and opinions. He claims to have written an historical work called *Tricolumnis* (to which may perhaps be ascribed the fathering of the *Dialogus* on Gervase of Tilbury, author of the *Historia Tripartita*). This is twice mentioned, once (p. 27) in the account of Richard of Ilchester, where it is described as in three columns, the first devoted to ecclesiastical history with

¹ His statement of the law as to distress is the earliest known, and he devotes a paragraph to a defence of the English system of 'Case Law.' For the close connexion of the 'Bench' and the Exchequer, see H. G. Richardson, in Memoranda Roll, 1 John [P. R. Soc., N.S. 21], p. xiii sqq.

copies of papal bulls, the second to the history of Henry II, and the third to public and private affairs and to 'leading cases.' He there calls it a youthful performance (*Libellus . . . a nobis tempore juventutis editus*). The second mention (p. 77) is in the panegyric on Henry II which is inserted in the section of Book II dealing with the materials from which the summons is compiled. It is there said to contain an account of the events of 1173 and 1174. If both statements are equally true, they seem to imply that Richard had begun early to compile annals of the reign of Henry II, and that he was still compiling them shortly before 1180. If we had them they would probably resemble the works of Roger of Howden or Ralph of Diss; but it seems doubtful whether *editus* is to be taken seriously as implying that copies were made. In any case no successful attempt has been made to identify the book with any existing chronicle, or to prove that it has been utilized by any known chronicler.

From the *Dialogus*, a severely practical treatise, we can only deduce the author's view of his age by means of *obiter dicta*. Liebermann ranks him as a Conservative, an illogical and sometimes passionate defender of things as they are. He points to the deliberate omission of any mention of Becket in the story of Henry's victory in 1174 as marking Richard's dislike of the ultramontane position. The divine right of kings, like that of the Roman emperors, is derived directly from God, and they are responsible to God alone. But they *are* responsible, and will be punished in the next world if not in this. In this sense "the king can do no wrong." But Richard also recognizes the moderating force of established custom and the existence of a 'Common Law' taken over and in the main approved by the Conqueror. He is also our earliest authority for 'Case Law,' which he defends as the only means of arriving at a decision when the application of legal principles is not obvious.¹ He had the not unusual faculty of holding two or more incompatible

¹ cf. p. 59

propositions at the same moment, and settling the conflict between them by an appeal to common sense in each case as it arises. His defence of the clerical branch of the civil service, ironical as it sounds to modern ears, is another instance of the same faculty for compromise. Not that he thought lightly of his cloth: *quanto gradus altior, tanto casus gravior*,¹ and he regards it as improper to expose a clergyman to the risk of imprisonment for debt.² Still, he would have been more at home with Gilbert Foliot than with John of Salisbury. In his official capacity he shows the same characteristics. He may flatter Henry II overmuch; but he recognizes in him the virtues which he really possessed, patriotism and a sense of justice. And he does not hesitate to admit that some official practices can hardly be justified.³ He shows a combination of respect for official tradition with a zeal for the public interest and a consideration for individuals which marks him as, in principle at least, a model civil servant. His contempt for trade as compared with agriculture is a habit which long persisted among educated Englishmen, though it may not long have survived the eighteenth century. In other respects his attitude of mind is almost that of the 'man in the street' of today.

Of his credibility as an historian it is enough to say that in matters of the details of Exchequer practice he may be completely trusted, except where he is tempted to describe the process too simply. For instance his discussion of the 'knights' of the Chamberlains in the lower Exchequer gives the impression that they invariably accompanied the Treasurer's clerk when treasure was moved; while Mr Richardson's investigations of the personnel appearing in the Pipe Roll accounts of such removals makes it very doubtful whether any of those there mentioned were laymen.⁴ A military guard is sometimes named, but not the mounted *miles* of the Receipt.

¹ cf. p. 99

³ cf. p. 106

² cf. p. 81

⁴ 'William of Ely' pp. 68-79

Again the account he gives of the assay (p. 39) is followed by what is apparently an interpolated note from the margin which speaks of the process as obsolete. There is always the possibility that the practice of Henry I's time is being regarded as normal and described as the actual practice of the day. On general historical points Richard's view is that of the officials of his period, and is sometimes demonstrably wrong, as for example, his denial of the mention of 'blanch farm' in Domesday Book, or his account of the abolition of Danegeld as an annual tax by William I. His description of the settlement, parallel to Bracton's account of villein tenants in ancient demesne, can hardly be regarded as history, but cannot safely be neglected as evidence, and the same thing applies to his account of the murder-fine, or the explanation of blanch farm. The evidence has to be collated with that of such tracts as the *Leges Edwardi Confessoris*, or the *Constitutiones de Foresta* attributed to Cnut; it may be discounted, but it cannot be neglected.

The date of composition of the *Dialogus* itself is fixed by the author as beginning (p. 5) in the year 19 December 1176 to 18 December 1177. It was probably completed in its original form before Easter, 1 April 1179, since the form of the remission granted to the Templars, Hospitallers, and Cistercians in Michaelmas term of the preceding year (p. 51) is spoken of as not yet settled. Mr Richardson has questioned the validity of this argument,¹ and has shown good grounds for supposing that the remission to the Hospitallers is of earlier date than 1178. But he admits that the change in the Pipe Rolls from *per breve regis et per libertatem carte sue* to the simple *per breve regis* begins with the roll of 1179. The most reasonable supposition is that, as he suggests, Richard the Treasurer ordered the change. But there is no reason to doubt Richard's statement that it was authorized by the King's Writ. This would be under the seal of the Exchequer and, as the King was in England, attested

¹ *E.H.R.* xliii, p. 330 sq.

by the Justiciar and one of the Barons. Mr Richardson has also pointed out¹ that this method of entry ceased to be accurately observed immediately after Richard's elevation to the See of London, and has argued that his supervision of the Pipe Roll was thenceforward comparatively lax. As an unquestionable 'magnate' he had probably more important affairs to attend to, even at the Exchequer. It is difficult to disagree with Mr Richardson's general conclusion that 'the text of the *Dialogus* as it has come down to us represents a first edition, consistent in itself, which was subsequently revised, at an interval of ten years or so, by the author himself.'

The consideration of the date of composition inevitably leads to a discussion of the passages printed in brackets in the Oxford edition, to which Mr Richardson would add, as interpolations by the author, the passage just discussed (p. 51, l. 11-p. 52, l. 6, *Simile autem . . . meminimus*), that on usury (p. 98, l. 7-p. 100, l. 29, *Item cum ciuis . . . percepturus est*) and the panegyric on Henry II with its reference to the *Tricolumnis* (p. 75, l. 13-p. 77 l. 10, *Huius igitur . . . inspicito*). These he considers to have been written between 1179 and 1189, when he became bishop. Another passage, which was considered to refer to the recoinage of 1180, and therefore bracketed (p. 39), may be excluded from our survey, since it could equally well apply to the period before that reform, but subsequent to the reform of 1158. The question of allowances *per breve regis* we have already discussed. It may be an interpolation, but if so it is a very early one. Mr Richardson shows from the Pipe Rolls that no goods of deceased usurers appear on them before 1170. If this was a new regulation at that date, it might be the ordinary course seven years later, and there seems no need to connect its appearance with the Norman disputes of 1190. The third passage could have been written at any time

¹ *op. cit.*, p. 323

after 1174; and the absence of any reference to the death of the young Henry other than the, as it happened, over-apt allusion to Absalom, makes any date later than 1183 unacceptable. Still, I am inclined to regard Mr Richardson's statement as being as near the truth as we are likely to get; though I should not agree that all the revisions or *marginalia* were made at the same time. And some of them, such as the contents, tables and chapter headings, are almost certainly not the work of the author, and are rejected by Mr Richardson as well as by me.

It remains to consider the book itself in its general plan and to make some effort to assess its contribution to English history. The details of the scheme can be best gathered from the Analysis which precedes the text and serves as a Contents Table. The book is a practical treatise, divided into two parts, the first devoted to the structure and functions, and the second to the actual operation of the Court. Historical and antiquarian information is put in by way of a digression, wherever it seems most appropriate; but the main plan is never lost sight of. The result is that the actual description of the form in which the Pipe Roll is drawn up comes in twice over; first in the account of the Treasurer's Scribe (pp. 29-31), and again in detail as the process of accounting for each item of revenue is related in Book II. But, whatever its defects may be, its lucidity and exactitude are more suggestive of the nineteenth century than the twelfth.

Richard is content to repeat the official tradition that the Exchequer was introduced by William I from Normandy, though he remarks that there are great differences between the two, and admits that 'blanch farm' may be of pre-Conquest origin (p. 14). (It was unknown to the Norman Exchequer.) But we can to some extent judge from his description of the Exchequer as existing under Henry II and as previously established under Henry I, what elements in it have the appearance

of survivals from the reign of Edward the Confessor. It must be remembered that some continental features may have been introduced in the reign of Edward, and it is possible that a clerical Treasurer may have been added by him as a colleague to the *hrægl þegnas* in whom R. L. Poole¹ saw the forerunners of the chamberlains, though it is doubtful whether Henry the Treasurer, who held land in Hampshire before the Conquest was given any specific name, and was not merely a 'clerk.' But the whole constitution of the court, as Richard describes it, is on the model of the Carolingian household. From that not only the court of the Empire took its form, but also those of France, England and Scotland. In the *Constitutio Domus Regis*² we have an account of the Court of Henry I, and we can trace its members in Richard's description of the Exchequer.

The Justiciar, head of the *Curia Regis* and of the Exchequer in the King's absence, may be regarded as corresponding to the Steward (*Dapifer*), the Count Palatine of the Empire, who was also the chief judge; but the Butler, though one of the chief officers in the *Constitutio*, has no representative in the Exchequer. The other great officers, the Chancellor, Chamberlains, Treasurer and Constables, are all represented in person or by deputy in the Exchequer.

The Chancellor appears in the *Constitutio* as the head of a department originally closely connected with the Chapel, and his staff consists of a Seal-Keeper and a Chaplain. In the Exchequer he has his Clerk, who acts as his deputy, and the Treasurer's Colleague; the *Clericus qui preest Scriptorio*, who is responsible for the writs issued in the Exchequer and appoints the Scribe of the Chancellor's Roll; and finally that Scribe himself. Though the Chancellor is said to act as a Baron of the Exchequer, it is pretty clear from the *Dialogus* that he was not usually there, and that his Clerk (the future Chancellor of

¹ *Exchequer in the Twelfth Century*, p. 24. These Ford lectures are indispensable to any close study of the *Dialogus*.

² pp. 128-35 below

the Exchequer), and his Colleague (probably the future Master of the Rolls) did the whole of his work. And although the *Clericus qui preest Scriptorio* is described as very fully occupied, it is not certain that he had much to do personally in the Exchequer. It is clear that the Chancellor's Scribe (afterwards Comptroller of the Pipe) was the writer of the writs as well as of the Chancellor's Roll and the Summonses (pp. 32, 70). There is no statement as to which officer acted as *vicarius* of the Chancellor to affix the seal (pp. 19, 62), but it may be presumed that the Chancellor's Clerk did so.¹ He acquired the title of Chancellor of the Exchequer between 1230 and 1248, possibly in 1238, when the King took the seal into his own hands.

The financial department of the *Curia* is represented in the *Constitutio* by two officers, each receiving the first-class salary of 5s a day, the Chamberlain-in-Chief and the Treasurer. The Chamberlain is a constant member of the household; the Treasurer is only paid *si in curia fuerit et servierit in thesauro*. This seems to indicate the divergence of the Exchequer from the *camera curie* which we find under Henry II.² The subordinate officers of the Chamberlain are mostly household servants, but we find among them William Mauduit, who received 14d a day, and seems to have been permanently on duty, and certain Chamberlains who received 2s a day and served in rotation. There is also a *Tallator regis* who receives his food and 1½d a day for his man, and another Chamberlain who receives food only without salary. It is more likely that the *Tallator* was the king's tailor rather than his tally-cutter. It is noticeable

¹ Mr H. G. Richardson thinks the other Clerk did so (Memoranda Roll, John [P. R. Soc., N.S. 21], p. lxxxv).

² p. 133 and Madox, *H.E.* 8, s. 2, p. 179 sq. On the whole question of the Treasurer and Chamberlains see G. H. White, 'Financial Administration under Henry I' (*Trans. R. Hist. Soc.* 4th Ser., viii, pp. 56-78). Mr White would like to read *in camera* for *in thesauro*, but I am unwilling to make so drastic a change, and prefer to take it that the Treasurer's 5s only came into the *Curia* estimates when he was 'at Court' while acting as Treasurer.

that the Treasurer and the Chamberlain, the clerical and the lay officer are now on an even salary, and appear to rank as colleagues. We can get a further glimpse of the Court of Henry I from the Pipe Roll of 1130. Here we find Aubrey de Vere, who was granted the office of Master-Chamberlain in 1133¹ in succession to Robert Malet (who died in 1105 or 1106), acting as joint-sheriff with Richard Basset in eleven counties; but not receiving money either in the Exchequer or in the *camera curie*. Robert Malet is not mentioned as having been Chamberlain. William Mauduit is mentioned as receiving money in the *camera curie*, in which capacity no doubt he was exempted from his share of the aid due from Winchester. He had offered £26 13s 4d to have his father's Norman lands, and his mother's dower in England.

The *Constitutio* is only concerned with the Master Chamberlain and his household staff, of whom William Mauduit was one. But at some time which we cannot determine—possibly even before the Conquest—the Chamberlain in his capacity as Treasurer had acquired two deputies in the Treasury whom we find in the Pipe Roll of 1130 as Chamberlains of the Exchequer. One of these offices had been held by William Mauduit's father, William, with the manor of Hartley Mauduit and the castle of Porchester.² It had passed on his death to his elder son Robert, and had been granted to William de Pontdelarche together with Robert's daughter and heiress for 1,000 marks (£666 13s 4d). William de Pontdelarche purchased at the same time the receivership in the *camera curie* for twelve marks and one ounce in gold (£72 15s in silver), paying an extra two marks (£12) for the same office for his brother Osbert. This suggests that William Mauduit had been his brother's

¹ Madox, *H.E.* 2, s. 8, p. 38, n. o, prints the charter. G. H. White in the *Complete Peerage*, x, App. F, p. 52 suggests that from 1105 to 1133 William and Rabel de Tancarville were successively 'Master Chamberlains' of England and Normandy.

² See Round, *Commune of London*, p. 82 sq.

deputy in the *camera curie* and that his post lapsed on his brother's death.¹ We find Pontdelarche accordingly in charge of the Treasury at Winchester at the death of Henry I, and joining with Roger, Bishop of Salisbury, in handing over the treasure to Stephen.² Henry II, before his accession, restored the office to William Mauduit, but on coming to the throne retained the castle. William's son William succeeded him, probably in 1158, and the office continued in the family.

The history of the other chamberlainship is more obscure, and cannot, like the Mauduit serjeanty be traced back to Domesday. At the end of the reign of William II a certain Herbert appears as '*cubicularius et thesaurarius*,'³ and he (or a son of the same name) was still about the Court at all events as late as 1107. In the Pipe Roll of 1130 Geoffrey de Clinton appears as the purchaser of a *ministerium thesauri Wintonie* for 310 marks (£206 13s 4d).⁴ It cannot, however, be certainly identified with Herbert's chamberlainship, since it appears from the same Roll that Herbert left a son and a daughter who inherited his lands,⁵ and the mention of the purchase of the marriage of his daughter by William Croc among the *nova placita* probably indicates that he was only recently dead in 1130. In 1156 the colleague of William Mauduit is Warin Fitzgerald, and the office he holds is connected with the tenure of Highworth in Wiltshire,⁶ in which the manor of Seven-

¹ Pipe Roll, 31 Henry I, pp. 37, 134. Mr White suggests, with strong probability that there were *two* receivers in the *camera*, corresponding with the two (deputy) Chamberlains in the Exchequer.

² Will. Malm. *H.N.*, (NMT) p. 15; *Gesta Stephani* OMT, rev. ed., ed. K. R. Potter and R. H. C. Davis (1976), pp. 8-9. I doubt whether, as a layman, William could have been technically 'Treasurer,' as Mr White suggests.

³ See *Chron. Mon. de Abingdon*, ii, p. 43. He attests a charter to Salisbury with Ranulf the Chancellor (1107-22) conjecturally assigned by Farrer to 1121 (*Reg. of St. Osmund* I, 208).

⁴ Pipe Roll, 31 Henry I, p. 105. In two Kenilworth charters (which may be spurious or interpolated) he calls himself *camerarius* and *thesaurarius* respectively, and is called '*thesaurarius et camerarius*' in Henry I's confirmation of the foundation (Madox, *H.E.* 2, s. 8, p. 40).

⁵ Pipe Roll, 31 Henry I, pp. 37, 125

⁶ Pipe Roll, 2-4 Henry II, p. 57; Round, *Commune of London*, p. 83

hampton, given to Warin by Henry II, was held by the serjeanty of being Chamberlain. Warin was succeeded by his brother Henry in 1161, and Henry by his son Warin in 1176. The elder Warin received money in the *camera curie* in 1156 and 1157,¹ as well as various payments for the personal expenses of the King and Queen. This serjeanty was given with the manor to Adam de Stratton in 1276 by Isabella, Countess of Albemarle, and escheated to the crown on Adam's forfeiture in 1290, after which date the Crown appointed the deputies in the Exchequer previously nominated by the holder of the Fitzgerald Chamberlainship.

The appearance on the Pipe Roll of 1130 of sums paid for both of the chamberlainships suggests a connection between the appointments of William de Pontdelarche and Geoffrey de Clinton, both closely attached to the *Curia*, as chamberlains, and the similar centralization of the office of sheriff, in 1129, which gave such prominence to Aubrey de Vere and Richard Basset. Pontdelarche was also Sheriff of Hants and Berks, and Clinton of Warwick. Did the King secure the surrender of both chamberlainships, as he is supposed to have done in the case of the sheriffdoms?² This might explain the break in the Mauduit succession and the disappearance of Herbert's chamberlainship.

It is not clear from the Roll who was Treasurer in 1130. If the *Historia Eliensis* is to be believed, Richard's father, Nigel, was already Treasurer in 1133, when he was elected bishop; but he appears as receiving the money in the Norman treasury jointly with Osbert de Pontdelarche or without a colleague.³ Geoffrey de Clinton and Robert Mauduit,⁴ the regular chamberlains, seem also to have received money in Normandy. A good deal of Exchequer business seems to have been conducted

¹ Ibid. pp. 65, 91

² See W. A. Morris's article in *E.H.R.* xxxvii, p. 170 sq.

³ Pipe Roll, 31 Henry I, pp. 54, 63

⁴ Ibid. p. 37

in Normandy in 1129-30, and it is possible that there was then no clear-cut distinction between the Exchequers of England and Normandy, and that the treasury and chamber staffs were common to both.

The minor officers of this department are divided in the same way as the Treasurer and Chamberlains, into clerical and lay. The Treasurer has his clerk in the lower Exchequer, and it appears from later practice that the four Tellers were also appointed by him.¹ The Chamberlains had each a Knight to represent him, whose functions have already been discussed. They, as laymen and *ex officio* illiterate, kept their accounts by means of notches on sticks; while the Clerk kept his in writing. But they shared with the Treasurer's Clerk the full responsibility for the treasure, and it seems as if the Clerks, who appear later in charge of treasure being moved, were servants of these three deputies jointly. They had a representative in the Upper Exchequer in the person of the Tally-Cutter, who made any alterations in the tallies demanded by the course of the account.

Two officers of the Treasury staff are not deputies, like the Treasurer's Clerk and the Chamberlains' Knights in the Lower Exchequer. These are the Pesour (to give the *miles argentarius* of the *Dialogus* his later name) and the Melter; and for that reason their functions are not described in connection with the Receipt, but among the officers of the Upper Exchequer. They were 'serjeants' (and therefore laymen) and held their lands directly of the King by their service in the Exchequer. We shall have to discuss their work in connection with some remarks on the coinage, and at this point need only to give some account of the descent of their lands. The Pesour's manor was Broadwindsor, Co. Dorset, held in 1086 by Hunger, son of Odinus. The Windsor family added to this Rhode Farm in Selborne, and Soberton, the Hampshire manors of Herbert the Chamber-

¹ Madox, *H.E.* 24, s. 12, p. 739

lain, and held all three by this serjeanty,¹ which ultimately fell into the hands of Adam de Stratton.²

We do not know what land attached to the serjeanty of the Melter. That there were lands appears from an entry on the Pipe Roll of 4 Richard I, where Andrew of the Exchequer fines to have the custody of the heir of William the Melter, whose widow Joia is too poor to pay the 10 marks due for the relief.³ We find a Richard *Fundor* and his fellow melter owing 200 marks to be replevied⁴ and come up for judgment when called upon. Another Richard is mentioned in 1229 as jointly liable with William Hugelin for an amercement of £103 in Hampshire.⁵ The serjeanty was sold by Otes, son of John the Melter to Edward [of Westminster], son of Otes the Goldsmith,⁶ afterwards so well known as surveyor of the king's works at Westminster. His successor Otes sold it to Edward I in 1285 for 50 marks.⁷

The Usher of the Exchequer and the Usher of the Receipt can be most conveniently considered together. The *Dialogus* implies, if it does not actually say, that the latter was the deputy of the former.⁸ This is not necessarily inconsistent with the assertion that he was the servant of the Treasurer and Chamberlains,⁹ and not, like the Pesour and the Melter, immediately of the King. We find, however, that the Chamberlains shared between them at a later date the appointment of the Usher of the Receipt;¹⁰ whereas the post of Usher of the Exchequer

¹ See J. H. Round in *Victoria County History of Hampshire* i, p. 431 sqq. and in *E.H.R.*, xxvi pp. 724-6

² Madox, *H.E.* 24, s. 13, p. 740

³ Pipe Roll, 3 & 4 Richard I [*P. R. Soc.*, N.S. 2], p. 299

⁴ Pipe Roll, 10 Richard I [*P. R. Soc.*, N.S. 9], p. 25

⁵ Pipe Roll, 14 Henry III [*P. R. Soc.*, N.S. 4], p. 201

⁶ Close Rolls, 1237-42, p. 169

⁷ Madox, *H.E.* 24, s. 14, p. 741, n. m

⁸ p. 8 ⁹ p. 13

¹⁰ William Mauduit presented one in 1265, and his heir William Beauchamp in 1267-68 (Madox, *H.E.* 24, s. 10, p. 732, n. z, 733, n. c). A moiety of the Ushership of the Lower Exchequer was forfeited by Adam de Stratton in 1290 (*Ibid.* p. 734, n. r).

was a serjeanty attached to the manor of Aston Rowant in Oxfordshire, part of the land assigned in Domesday Book to 'Richard and other of the King's servants.'¹ It would therefore seem that the Usher of the Receipt was a deputy, not of Roger of Wallingford, to whom Henry II granted the mastership of the usherdom of the Exchequer by a charter² which Eyton assigned to Michaelmas, 1156, but of the chamberlains jointly. Roger's serjeanty was ultimately divided among co-heiresses in 1282.³ Its holder had the appointment of the Usher of the Common Bench, and that of the Exchequer of the Jews, but not of the King's Bench, which renders it more likely that it was an office of the Treasury in the first instance and not of the *curia regis*.⁴

Returning to the *Curia*, we come to the department of the Constable. The *Constitutio* does not specify the number of constables, but the Constable on duty had a salary of 5s a day, and the Marshal who served under him 2s. Two Assistant-Constables had the same salary as the Marshal. The Constable's department was concerned with the stables, kennels and mews, and with everything relating to sport. The Marshal had in all probability been specially concerned with horses, but was now given a different duty, the care of tallies and other vouchers relating to payments out of the Treasury and Chamber. Both officers dealt with payments to soldiers in time of war. The Master-Marshal in 1135 was John, son of Gilbert, who

¹ *Domesday*, i, 160b

² Madox, *H.E.* 24, s. 4, p. 718, n. m

³ See N. Denholm-Young, *Collected Papers* (Oxford, 1946), p. 77

⁴ Mr Denholm-Young (op. cit. p. 85 sq.) holds that the 'Usher of the Receipt' appointed by each of the chamberlains-in-fee was 'the deputy in the Receipt appointed by the chamberlain-in-fee,' and that he 'worked in the same office as the sergeant-usher's deputy, but had no tenurial connection with him.' I do not feel sure that he is right; since it is curious that Lawrence of the Exchequer in his bargain with Richard de Mendesham in 1272-73 makes no mention of the Usher of the Receipt. (Madox, *H.E.* 24, s. 4, p. 721, n. r). I take the opportunity of thanking him for his correction of the statement in the Oxford edition (p. 24) that the ushership of the receipt had 'become separated' from that of the Exchequer.

played a distinguished part in the wars of Stephen's reign.¹ Both the Constable and the Marshal had their representatives in the Exchequer. The Constable, like the Chancellor, was one of the Barons, *ex officio*, and had the duty of acting as witness jointly with the Justiciar in the issue of all writs under the Great Seal of the Exchequer. It is clear that his attendance in person was rare under Henry II, and that his duties were usually performed by a deputy. He had also a Clerk, whose duty it was to produce at the Exchequer the counterparts of all writs of *liberate*, *computate* or *perdone* issued from the *Curia*. The Clerk also frequently performed his duties by deputy. These two, with the Marshal, formed a sort of independent court for the payment of the wages of soldiers or sportsmen in the King's service, who came to the Exchequer for their wages. John the Marshal seems to have performed his duties at the Exchequer in person; since Becket's biographer, Fitzstephen, describes him as being 'with the treasurers and other receivers of revenue and public money in London, at the rectangular board which is called after the red and white pieces the "Exchequer," but is rather the King's board for white silver pence, where also the pleas of the Crown are heard.'² It is not clear at what time the Marshal's Clerk began to take his master's place in the Exchequer. Madox instances a Clerk of William Marshal who appears in 1201, and is styled in the Roll Master G. [i.e. Jocelin] Marshal (Marshals' Clerk *interlineated*), who was receiving 20s from the farm of the purprestures of Herefordshire.³ The form of the entry suggests that the Marshal's Clerk was already known simply as 'the Marshal.' The expression 'Marshal of the Exchequer' occurs in the *Dialogus*, but only in a passage which has been bracketed for other

¹ See G. H. White's article in the *Complete Peerage*, x, App. G (pp. 91-5)

² *Becket Materials* (Rolls Series) iii, p. 51

³ Pipe Roll, 3 John [*P. R. Soc.*, N.S. 14], pp. 42, 265. Madox, *H.E.* 24, s. 6, p. 725, n. x

reasons (p. 20). The Marshal (or his deputy) had the custody of the vouchers presented by accountants, kept the prison of the Exchequer, administered oaths and delivered the writs of summons to the Usher to be sent out to the Sheriffs. The Marshal, being like the Constable an officer of the *Curia*, had his deputies both in the Exchequer and the King's Bench, as well as in the Court of the Marshalsea of the King's household and in the Common Bench.¹

The descent of the office of Constable is a little difficult to explain. Henry I seems to have had four Constables who had to serve at Court for three months each, and were charged respectively with the castles of Dover, Oxford, Worcester and Gloucester.² These offices were hereditary in the families of Montfort, D'Oilli, D'Abitot and Gloucester. Stephen's four Constables in 1136 were Robert de Vere, Robert D'Oilli, Brian Fitz Count, and Miles of Gloucester.³ The constablenesship of Dover descended, in succession to Adeline de Montfort, wife of Robert de Vere, to Henry of Essex, who forfeited it in 1163.⁴ Oxford is presumably the castle of which Henry D'Oilli was Constable in 1156.⁵ He died in 1163. The other two constablenesships had descended to William de Beauchamp and Miles of Gloucester. But in a charter of Henry II of c. September 1155, which is attested, amongst others, by Henry D'Oilli and

¹ Madox, *H.E.* 2, s. 5, p. 33; 19, s. 2, p. 544. I have failed to verify the statement in the Oxford edition of the *Dialogus* that 'the Marshal of the Common Bench was a deputy of the Marshal of the Exchequer'; though the regular holding of Common Pleas in the Exchequer before Magna Carta points in that direction.

² See Mr G. H. White's article in the *Genealogist* for Jan. 1922 (N.S. 38, pp. 113-22).

³ See his Oxford Charter of Liberties (Stubbs, *Select Charters*, 1895, p. 121).

⁴ For the Montfort pedigree see D. C. Douglas's edition of the *Domesday Monachorum*, pp. 67-70, and the *Complete Peerage*, x, App. J, p. 111 sqq. It is not clear how Henry of Essex was related to the Montforts, nor how Gilbert of Ghent acquired the honour of the Constabulary under Stephen. He may have succeeded Robert de Vere as Adeline's husband. He is said to have died in 1156 (*Complete Peerage*, vii, 673), but was succeeded by Henry of Essex before the accession of Henry II (Pipe Roll, 15 Henry II [*P. R. Soc.* 13], p. 111).

⁵ Landon, *Cartae Antiquae* [*P. R. Soc.*, N.S. 17], No. 141.

William de Beauchamp, only Henry of Essex and Richard de Hommet attest as constables. It seems then that these two were the High Constables of England and Normandy respectively.¹ No Constable of England seems to attest charters from 1163, until some time after 1170. Humphrey de Bohun, grandson of Miles of Gloucester, who succeeded to the Bohun estates in Wiltshire in 1166² is styled Constable on the Pipe Roll of 1174, and witnesses charters as Constable in 1175 at latest.³ From that date the office is hereditary⁴ until the death of the last Bohun earl of Hereford in 1373.

The Marshal, originally subordinate to the Constable, ultimately rose to a position of almost equal importance; though as one of the joint holders of the Court of Chivalry he is always named in the second place. John, the holder in 1136, died in 1165. His eldest surviving son, John, succeeded, on whose death in 1194, the office devolved on his brother William, who acted as regent in the early years of Henry III, and undoubtedly enhanced its importance.⁵

The remaining members of the staff may be regarded as appointed by the King and not *ex officio*. This is expressly asserted of the Accountant (*calculator*), who was probably nevertheless a servant of the Court in another capacity.⁶ But two of the Barons, also, had been added to the Court by Henry II. Richard of Ilchester's place was meant to be a permanent one (if R's reading, *ex officio*, is right), but that of Thomas Brown is not so called, though it seems probable that it became a permanent office. Richard had been *clericus qui praeest Scriptorio*, and thus one of the Chancery staff in the Exchequer (p. 26). Henry II appointed him Deputy-Treasurer, and our author,

¹ Round, *Calendar of Documents in France*, Nos. 22 and 480.

² Pipe Roll, 12 Henry II [*P. R. Soc.* 9], p. 72.

³ Pipe Roll, 20 Henry II [*P. R. Soc.* 21], p. 51; Round, *op. cit.* No. 1068.

⁴ *Complete Peerage*, x, App. F, pp. 67-9 and G. H. White's other paper 'Coronation Claims' (*Genealogists' Mag.*, vii, p. 510 sq.).

⁵ See *Complete Peerage*, x, App. G, pp. 91-9.

⁶ The Marshal had the business assigned to him later (Spelman, *Gloss. s.v. Marescallus*).

who was himself Treasurer is at some pains to insist that his colleague is an assistant rather than a controller. He had at one time a Clerk, who kept a duplicate of the summonses sent out as a check on the sheriffs ; but it does not appear that this post existed at the date of the composition of the *Dialogus*. It does not appear that any successor to Richard of Ilchester was ever appointed.

Thomas Brown, the king's Almoner, was also specially appointed, possibly in 1160, to keep a third Roll which was in his personal custody, and is said to have contained 'laws of the realm and secrets of the King.' He died about Easter 1180.¹ It does not appear who succeeded him, but it seems possible to regard the King's Remembrancer of later times as the successor of the Clerk who kept his roll in the Upper Exchequer, and the Writer of the Tallies, who assisted the Treasurer's Clerk and ultimately became Auditor of the Receipt, as a successor to his Clerk in the Lower Exchequer.²

The wages of the staff (p. 13) given in the *Dialogus* are only those paid in cash out of the Treasury, and are only payable so long as the Exchequer is actually in session. The highest are those of the Pesour, a shilling a day, as against the regular knight's wage of eightpence paid to the Deputy-Chamberlains. The clerks, viz., the Treasurer's Clerk in the Receipt and the two Scribes of the Great Roll, have fivepence each ; the Tellers threepence, or twopence if working in their native town. The Watchman has labourer's wages, a penny a day. The Chancellor and Treasurer had, no doubt, their household wages of five shillings a day (something like £12,000 p.a. by the standards of 1947) ; while the Chamberlains had

¹ Pipe Roll, 26 Henry II [*P. R. Soc.*, 29], p. 115

² It is suggested, in *Treaties, Catalogue of an Exhibition at the Public Record Office* (London, 1948), p. 13, that the office of Prothonotary of the Chancery, first mentioned in 1199, was first held by Thomas Brown. The office was primarily concerned with Treaties, and the hypothesis is a tempting one. His position in the Exchequer would then have resembled that of the Chancellor's Clerk.

the lands held by their serjeanties, as indeed had the Pesour, and the clerks were either paid in the Household, like the Master of the Writing Chamber, or held some ecclesiastical benefice. We may be sure that all were somehow paid.

This survey of the Exchequer staff suggests that the Upper Exchequer is simply the *curia regis* sitting for the regulation of matters of finance ; and we have no knowledge of any such body before the Conquest. The lower Exchequer, however, and the Treasury staff, in which a clerical system of written accounts has the appearance of having been superimposed on an earlier illiterate method of account-keeping by means of notches on sticks, may very reasonably be regarded as having come down from pre-conquest times. We shall find that the procedure at the Exchequer-table, and that of assaying certain parts of the money paid in, point to the same conclusion.

We are expressly told that the method of account at the Exchequer was 'according to the accustomed course of the Exchequer and not by the rules of Arithmetic,' and the description of the functions of the Accountant makes it plain that the method employed was that of the abacus. This is familiar to many of us from the nursery toy, the *swanpan*, by which children are taught to count to the *radix* of 10 by means of coloured balls strung on wires. R. L. Poole has pointed out that the native English system of numeration was duodecimal, and suggested a connection between the introduction of the *abacus* and the adoption of decimal numeration ;¹ but it is hard to believe that counting by the score and the hundred is so recent as to be within the memory of those to whom the 'Exchequer' was still less familiar than the 'tallies.' The Exchequer table, at all events was an *abacus*, whose vertical columns corresponded with the wires of the *swanpan*, proceeding as they did from pence to shillings, shillings to pounds, pounds to scores of pounds, scores to hundreds, and, but rarely, hundreds to

¹ *Exchequer in the Twelfth Century*, p. 45

thousands. The counters in each column were as intelligible to the illiterate as the notches on the tallies, and the zero which makes Arabian (or more properly Indian) numeration more intelligible than Roman was replaced by the empty column. The uneducated layman could follow the addition and subtraction, which were the only mathematical operations needed, as easily as the Accountant or the Clerk who recorded his results in the current Roman numeration. The system of numeration by the *abacus* persisted till the sixteenth century in spite of the general adoption of Arabian arithmetic, and is clearly described



£	£	s	d
100	10	5	6
20 20 20	1 1 1	1 1 1	1 1 1
20		1	1

Key to above diagram

by Robert Recorde in his *Ground of Artes*, published in 1543. At this date the columns and counters of the table of the Exchequer, are replaced by strokes and dots in the margin of accounts expressed in the cumbrous Roman figures, and the system of their arrangement is recognizable as that described by Richard of Ely. Richard was aware of the existence of the Arabian system, which was described in a treatise attributed to Adelard of Bath, *Algoritmi de Numero Indorum*, consisting in a translation of a book on Arithmetic by Mohammad ibn Músa al Khwarezmi, a mathematician of the early part of the ninth century.¹ The translation into Latin is of the earlier part of the twelfth century, and if by Adelard must be subsequent to his journeys in the East,² which lasted till about 1126. Adelard,

¹ Poole, op. cit. p. 44, n. 2

² Haskins, 'Adelard of Bath' (*E.H.R.* xxvi, p. 497)

however, wrote a treatise on the *abacus*, which can probably be assigned to a date shortly after 1100, when he was studying and teaching at Laon. An earlier book upon it by an Englishman called Turchill can be dated approximately by a reference in it to Hugh of Buckland, sheriff of Essex, who died in 1115. Turchill and Simon of Rutland, to whom he addresses his treatise, were both pupils of a distinguished *Computista*, William R., by name. Haskins also shows that Robert of Lorraine, Bishop of Hereford 1079-95, and previously a king's clerk, was familiar with the *abacus*, and suggests that it was introduced from Lorraine before 1100.¹

Though the *abacus* had been known to Gerbert, afterwards pope Sylvester II, in the tenth century, there is no evidence that it was known in England before the end of the eleventh, and the memory of the Exchequer as 'the Tallies' makes it plain that the introduction of the Exchequer table must have been comparatively recent in 1170. We may, then, feel almost certain that it was introduced well after the Conquest. We may regard the tally system as earlier, just as the lay element in the Treasury staff seems traceable to Saxon England. We have now to consider what we are told about the method of payment.

The most primitive of the functions of the Exchequer was obviously the assessment and collection of the 'farm of the county.' The basis of the financial business is the clearing of accounts between the crown and its agents in the country, and the most obvious sources of income are the crown manors in each county and the profits of the county court. The sum of the income receivable from both of these was reckoned up and expressed in terms of money, and at the time of the *Dialogus* these sums were recorded in the *Breve de firmis*. This sum was, except in the case of Northumberland, Cumberland, Shropshire and Sussex, payable in assayed silver of full weight. The

¹ 'The Abacus and the King's curia' (*E.H.R.* xxvii, p. 105 sq.)

Dialogus gives us a history of the steps by which this practice was established, beginning with a system of purveyance by which food rents were either paid in kind as the King visited his various manors, or brought from a distance to wherever his court might be established; each kind of food having a conventional price, at which it was credited to the sheriff, and through him to the tenant of the manor. This system (which had the disadvantage of discouraging good farming, since the worst animal—the ‘Tantony pig’—counted for as much as the best) was only applicable when the court was in constant progress and could live on the country, and became burdensome alike to the King and the farmers when the court tended to be stationary and the King needed more coined money to pay mercenaries to fight for him overseas. It was therefore exchanged by Henry I for a money economy. The gradual deterioration of the coinage under ‘Gresham’s Law’ resulted in a composition for wear being claimed by the Treasury, first as an *agio* at a fixed rate (*ad scalam*), then by taking the coin at its weight-value, and finally by assaying the coin offered and accepting it at its value in pure silver.

When we try to check this very plausible statement by the evidence of Domesday Book and the Pipe Roll, we find it to be, even if right in the main, too much simplified. Domesday Book, in fact, shows that payment was made either in food—*firma unius noctis* or *diei* (equated in Domesday to a definite money payment in certain counties), in pure silver (e.g. in Derbyshire) or in gold, in coin by tale (*ad numerum*) simply, or in coins of standard weight (*de viginti in ora*), by weight (*ad pensum*) simply, or in coins of approved fineness (*arsas et pensatas*), or in coins of approved weight and fineness (*blancas de viginti in ora*). The number of cases in which assayed silver was paid is not large, but they are widely distributed, and most numerous in Norfolk, Somerset, Devon and Cambridgeshire. The evidence of Domesday points to the following conclusions:

- (1) Payments were normally by tale. Exceptions are only noted as a rule on royal manors. (It seems doubtful whether any private owners ever received ‘blanch farm’ at a later date.)
- (2) Payments by tale of coin of full weight, and payments by weight were not very common, and payments in assayed coin very rare.
- (3) There are traces of the ‘commutation of payments in kind, especially the *firma unius noctis*.
- (4) As Round showed,¹ the ‘farm of the county’ was fixed under Edward the Confessor and again under William I, and included the pleas.
- (5) The money was coined by ‘moneymen’ at provincial mints, usually in the county towns, but often elsewhere.²

The Pipe Roll of 1130 has payments blanch, *numero* and *ad pensum*, but none *ad scalam*. There is, however, an allowance of £25 12s 6d *numero* to the Sheriff of Devon for a payment out of the farm of the city of Exeter to the canons of Holy Trinity, London, of the £25 *bl.* granted them by Queen Matilda, and confirmed by Henry I in a charter made at Winchester [1109–18],³ and again confirmed by another charter⁴ [1123–29] as £25 *ad scalam*. There are signs of a general reorganization of English finance about 1129–30, and it may be that the introduction of blanch payment for the farms of counties, instead of for those of individual manors was a part of this reform. In the Pipe Rolls of Henry II we find only payments blanch and *numero*. The allowance to the Sheriff of Devon mentioned above is made *numero* at the old rate of sixpence in the pound, and the *numero* payments allowed to the Sheriff are ‘blanched’ at the rate of 1s with the result that the Sheriff lost 13s 4½d on

¹ *Commune of London*, p. 72

² See G. C. Brooke, *Catalogue of Coins in the British Museum. Norman Kings, I*, cxxxiii sqq. ; clix sq.

³ Public Record Office, Ancient Deeds, A. 231

⁴ B. M. Cotton Charters vii. 2

each account.¹ Round has shown² that the rate of 1s for the blanching of payments out, goes back to 1130, and it may be a part of the reform already hinted at.

If we reject, as an interpolation, the paragraph on p. 14 which denies the mention of 'blanch farm' in Domesday, and suggests that it was instituted as a consequence of that survey, we may accept as substantially correct the account in the *Dialogus* of the establishment of the system of 'blanching' the farm of the county, and even the ascription of the plan to Roger of Salisbury (p. 42). It is not necessary to suppose that the assay of the farms of individual manors was necessarily conducted at the Exchequer before the reign of Henry I. Such an examination could have been made by one of the local moneyers, and that may have been the pre-Conquest practice. The Melter's serjeanty cannot be traced back to Domesday, and that of the Pesour need not originally have involved the making of an assay.

The most disquieting thing about Richard's account of 'blanching' is his complete ignorance of metallurgy. There is not a word in his description of the assay to show that the standard of the coinage was not the same as 'pure silver.' In fact, analysis of coins of Henry I and Henry II, as of a penny of the Conqueror,³ shows that the pre-Conquest standard was maintained, a fineness of approximately 925 thousandths, 11 oz. 2 dwt. silver to 18 dwt. alloy. We are told that the sole purpose of 'blanching' was to remedy wear and wilful debasement; but neither the *Dialogus* nor the schedules of combustion which have survived indicate whether the fineness demanded was that of pure or standard silver. The recorded deficiencies vary from

¹ The story is told from the canons' point of view in Round, *Commune of London*, pp. 85-9. In 1180, when the coinage was reformed, the Sheriff appears to have attempted to pay the canons £25 of the new money, on the ground that no deduction was needed for wear, but to have been compelled by a judgment of the court to pay *numero* £25 12s 6d as before.

² *Ibid.* p. 90

³ Brooke, *op. cit.* xi

4d to 19d in the pound at Michaelmas, 1173, and the fixing of the deduction of 1s in the pound from the sheriff's credits for payments out seems to require a standard of fineness considerably below that of pure silver; but Richard gives no hint of it.

We may probably take the institution of the assay, as a test of the coinage, back to the Conquest, or earlier; because some such check must have been made on the provincial moneyers to secure the goodness of the coinage.¹ But it may not have been part of the Exchequer procedure until a later date. And it does not seem unreasonable to connect the reforms in the Exchequer and the gradual progress from *ad scalam* to *ad pensum* and *ad pensum* to blanch with the recoinages which the chroniclers assign to the years 1108 and 1125² and with the financial reform of 1129.

In another place (pp. 85-6) we are told that the 'blanch farms' are those of manors to which a hundred court is attached, and that the profits of the court are a compensation to the tenant for the cost of making good the deficiencies of the current coin. In this case the tenant must have paid a poundage of 1s to the Sheriff in addition to the nominal farm, and repaid himself from the profit of the hundred court. That this was so, appears from the charter of Henry III to Basingstoke in 1228, in which the old farm is stated as £52, to which are added an increment of £18 and 5s 'which the sheriff of Hampshire is wont to take for the blanching.'³ This information, however, is irrelevant to the question of the origin of the Exchequer.

From all this evidence we must, I think, conclude as Round did, that the Treasury descends from a Saxon original, but that the Court of Exchequer as depicted in the *Dialogus* developed from it after the Conquest, and probably not later than the reign of William II.

The second book of the *Dialogus* treats of the Exchequer in

¹ Brooke, *op. cit.* pp. xiii sq.

² Brooke, *op. cit.* pp. cliv. sq.

³ *Cal. of Charter Rolls*, i, p. 68

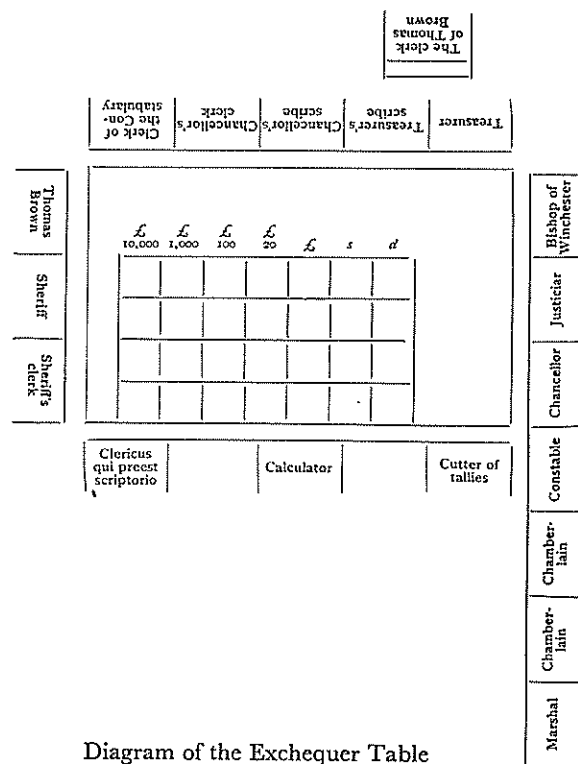


Diagram of the Exchequer Table

action. It should not be necessary to describe this in detail, since the Analysis appended to this Introduction together with the translation are sufficient for most purposes. But a few notes may be given here on points which are not covered by the text.

The diagram of the Exchequer Table shows how the members of the Court were seated.¹ It will be observed that there is only room for three persons to sit at each end of the Board. So the Constable, Chamberlains and Marshal must have had no table in front of them. This enabled them to

¹ A more colourful representation will be found in *Archaeologia*, (vol. xxxix), but this is of much later date, when the Exchequer was one of the 'four courts' and had lost its earlier composition.

rise and attend to any urgent business without interrupting the course of the Exchequer. The four benches or *scamna* surrounding the Board were common to all the English superior courts and to the county court, as well as to the courts of German towns.¹

We may think of the Upper Exchequer as being held in a hall to which was annexed a 'bower' or withdrawing-room in which matters of importance could be discussed by the Council without disturbing business. From this was derived the statutory Court of Appeal, called the Court of Exchequer Chamber, and given jurisdiction over the Exchequer in the fourteenth century and over the King's Bench in the sixteenth. Before these statutes, however, the judges were clearly in the habit of meeting for conference on points of law in the *thalamus*.² With so simple requirements in the matter of buildings, it is obvious that sessions of the Exchequer could be held in any considerable town. The contents of the Treasury which travelled with the Chamberlains could be stored in a suitable strong-room, and the rest of the house be used as the office of the Receipt, as near as possible to the hall used as the upper Exchequer. We may regard Winchester as the natural home of the Exchequer, since the Tellers were taken from there, and the permanent Treasury had been established there before the Conquest. But Westminster, the scene of the *Dialogus*, was for many reasons more convenient, and was probably the usual place of meeting under Henry II. But it sat at Oxford in 1175, and a payment for the delivery of summonses in 1169 suggests that one session, at all events, of that year was at Northampton.³

¹ James Tait, in a review of Pollard's "Evolution of Parliament" (*E.H.R.* xxxvi, p. 253*n*) compares with this the four woolsacks in Parliament. A detailed account of the furniture of the Exchequer and the two Benches at York in the fourteenth century will be found in P. R. O. Sheriffs' Accounts (Exchr. K.R. [E. 199]) 49/8.

² See *E.H.R.* xxi, p. 726 for an instance in 1323-24.

³ Pipe Roll, 21 Henry II [*P. R. Soc.* 22], p. 11; 15 Henry II [13], p. 73. Other instances (including Worcester) in the Oxford edition, p. 44.

There is much evidence that the permanent treasury remained at Winchester, but treasure was stored at other places also, and might even be deposited for a short time at the private abode of one of the Chamberlains.¹ The Sheriff who appeared at the Easter or Michaelmas Exchequer in answer to the Summons was held responsible for half his farm, and the same proportion of his other debts, at the Easter Exchequer, and for the balance at Michaelmas; and his first duty was to pay in these sums and obtain a 'memoranda tally' for the farm, and ordinary tallies for the other debts. The description in the *Dialogus* of these tallies is tolerably clear, but can hardly be completely understood without pictures of actual specimens of tallies.² It must be remembered that the tallies for the farm were only provisional, since the actual sum paid *In thesauro* could only be settled when the subsidiary accounts were cleared, and the amount paid in at each term *numero* has to be divided between two tallies, the longer showing the amount credited to the Sheriff and the shorter the amount deducted for 'blanching,' for which, however, the Treasury is accountable to the King. It must be remembered throughout that in the twelfth century, and for long afterwards, the layman was *ex officio* illiterate³ and therefore must be informed of his financial position by making notches in a stick, splitting it and giving the payer and the payee a half each. This system was in use at the end of last century in the hop-fields to check the number of bins picked, and in France to check the delivery of loaves by the baker.

The payment or 'Proffer' had to be made, whether the Sheriff could appear in person or not, and only after its receipt would a day be given for the account. The Easter account was only preliminary, and was known as the 'view.' The

¹ Richardson, 'William of Ely' (*R. Hist. Soc.*, 4th Ser. xv, p. 73 q.)

² The most useful commentary on this point is H. Jenkinson's paper on 'Medieval Tallies' (*Archaeologia*, lxxiv, pp. 289-351, with plates).

³ See V. H. Galbraith, 'The Literacy of the Medieval English Kings' (*Proc. Brit. Acad.*, xxi, p. 201)

'view' was originally a very simple statement, showing what the Sheriff had paid in for his Proffer and whether or not any part of the first half of his farm was still unpaid.¹ These 'states and views' subsequently formed a considerable section of the Memoranda Rolls of the King's and Lord Treasurer's Remembrancers.

At Michaelmas came the effective 'account.' The Sheriff paid in the balance of his farm, and of whatever debts he had been able to collect, obtained tallies and 'memoranda' as at Easter, and presented himself for examination by the Treasurer, who charged him with the farm and with the farms of subsidiary manors. Some honours and boroughs accounted separately through their own bailiffs or keepers. The sum paid in is left blank until all the other outstanding debts have been met either in cash or in warrants for expenditure. The payments out from the farm are settled and set down in the Roll. The warrants are compared with the duplicates in the hands of the Chancellor's Clerk or the Constable's Clerk, according as they issued from the Exchequer or the *Curia*. All the vouchers are handed to the Marshal, who preserves them. The Treasurer also takes the account of arrears of farm, escheats and purprestures, and cess of woods and forests. The issues of eyres, aids and common assizes (which were imposed by the justices) were demanded of the Sheriff by the Chancellor's Clerk. It is not clear whether Danegeld and the goods of felons and fugitives, or treasure trove was demanded by the Treasurer or by the Chancellor's Clerk, but more probably by the former. Whatever the Sheriff had failed to get in, and was not covered either by the King's writ, or by the customary allowances for the insolvency of the debtors (of which the Sheriff's *affidavit* was

¹ Pipe Roll, 8 Richard I [*P. R. Soc.*, N.S. 7], p. 1 sqq. An earlier view of a single account, for the Honour of the Constabulary, is printed in Pipe Roll, 15 Henry II [*P. R. Soc.* 13], p. 110 sq. This gives details of outgoings, but is only a 'view' because it is on the faith of the accountants, without production of vouchers.

normally evidence enough), was taken out of the cash paid in by the Sheriff on account of farm; and then only could the amount to be credited to him as *In thesauro* be established, and a tally struck for the amount, after the deduction for blanching already explained. If the farm was paid in full, the Sheriff received his *Quietus* and was free to go. If any debt was left, he was committed to the custody of the Marshal till the Exchequer rose, after which he might be put in gaol; but was usually bound over by the Barons to appear and make good the *deficit* at the next session. The Memoranda Roll of 1 John shows that the Sheriff of Devon in 1199 was still in debt for the farm of 1194-95.¹

The *Dialogus* does not tell us what took place when the account closed showing the crown in debt to the Sheriff, as might easily happen if the drafts on the farm for liveries, works or transport of treasure were excessive. But we learn from the rolls that the account then ended with *Et habet de superplus*—i.e. 'He has overspent.' In such cases his deficit was if possible made good to him from some other account. Thus in 1130 Warin, Sheriff of Dorset, was also Sheriff of Somerset, and had £11 3s. owing to him on that account. This was allowed him in his account for Dorset.² When the Sheriff has completed his account of his farm, and has made his *affidavit* before the Marshal that he has distrained for the debts still owing and found 'no effects,' he is free to go.

But the taking of the Sheriffs' and other accounts of revenue was not the only use to which the Exchequer board was put. We have mentioned the liability of the Treasurer and Chamberlains to account for the Blanching money, and indeed for all the contents of the Treasury including Domesday Book and the Rolls; and the *Dialogus* tells us that such an account was taken from time to time before special commissioners appointed by the

¹ *P. R. Soc.*, N.S. 21, p. 72

² Pipe Roll, 31 Henry I, p. 13

King (pp. 24-5). The Pipe Rolls are only concerned with the accounts of Sheriffs or other local accountants throughout England, and therefore give us no examples of this general financial statement, nor do we find anything resembling a 'budget' in any form until the thirteenth century.¹ But on the Pipe Roll of 1130 is an entry which speaks of an occasion in the previous year 'when the earl of Gloucester and Brian fitz Count audited the account of the Treasury at Winchester.'² This was not, however it may be supposed, a national balance-sheet, but merely a verification of the cash account of the Treasury and Chamberlains, and most probably a check of the various objects known to be deposited at Winchester.

Another reference to the contents of the Treasury may well be added. It occurs in the Red Book of the Exchequer³ among the memoranda of Alexander de Swereford made in the first half of the thirteenth century:

'There is no sum of Danegeld set out upon the roll, just as there was no sum of the county in any roll of Henry II or of King Richard up to the eighth year of his reign; and that for this reason, as I heard from William of Ely, the Treasurer, namely, that the sheriffs might be kept in ignorance of the sum for which they had to account. But, after the writing of the sheriff's account and adding up the sums expended from the body of the county, the Treasurer brought out the roll containing the sums of the several counties and placed the particular sum above, and then subtracted the expenses, and so acquitted the sheriff or placed him in debt or allowed him a surplus. This also was done for Danegeld; but that roll I never saw, though the other I have seen.'

It is difficult to believe that the reason given by Swereford

¹ M. H. Mills, 'Exchequer Agenda and Estimate of Revenue, Easter Term 1284' (*E.H.R.* xl, pp. 229-34)

² Pipe Roll, 31 Henry I, pp. 130, 131. Cf. Receipt Roll, 31 Henry II (ed. Hall), pp. vi, 31

³ (Rolls Series edn.), ii, p. 659

for the omission of the figure of the farm on the Pipe Rolls is the right one, though the facts are as he states them. The Sheriff must have learned the amount of the farm when he made his account, and could have had no cause for concealing it from his successor, even if he did not get the custody of the county for a second year ; and the disappearance of the ' Writ of Farms ' is more readily accounted for by its ceasing to be of use when the farm was expressed on the Roll. The Danegeld Roll doubtless vanished because Danegeld ceased to be levied. I should rather guess that the Writ of Farms continued to be needed so long as the sum of the farms remained uncertain because of the gradual restoration of the estates devastated in the years of the anarchy. When the farms had become fixed they could be entered on the Pipe Roll in advance. The object of the later *Rotulus de Corporibus Comitatum*, drawn up, like the estimate of revenue above named, in 1284, was to make it unnecessary to repeat the *Terre Date* year after year, and the original ' Exactory Roll ' may have been drawn up for a like reason. Some support for this view may be found in the fact that the roll of 1130 contains very few *Terre Date*, though there are cases in Yorkshire, Surrey, Norfolk and Carlisle. The number is much larger in 1156.

There is much more that could be written about this unusually objective and practical book, but the student will be able to gather most of it from the translation, and may expand his knowledge by the help of Madox and more modern authorities.

Constitutio Domus Regis

A translation of the *Constitutio domus regis* has been appended to that of the *Dialogus* because the two documents are complementary to each other (since the constitution of the Exchequer as a court follows the divisions of the household establishment), and because the text is not very easily accessible, either in Hearne's *Liber Niger Scaccarii* or in the Rolls Series edition of *The Red Book of the Exchequer*. Hearne's text, moreover was compiled not from the original, but from three seventeenth-century transcripts ; while that in the *Red Book* is not entirely satisfactory, though in it the text of the *Black Book* has been collated with that of the *Red Book* and the original MSS. of each have been consulted. The text here presented is an eclectic one, based on a revision of the *Red Book* version, and supplying its omissions from the *Black Book*, the text of which, though later, is more complete. The defects of the Rolls Series text are the result of the use by Hubert Hall's predecessor as the basis of the printed version of a nineteenth-century transcript made for the Record Commissioners ; a blunder which all the efforts of his successor were powerless to remedy. Most of the deservedly harsh criticism lavished on this edition of the *Red Book*, was earned by the original planners of the work, rather than by the man against whom it was directed. So much might have been clear to any reader of the introductory matter prefixed to the third volume.

Only two basic MSS. exist, neither of which is the original, viz :

R : *The Red Book of the Exchequer*, already described, f. xxx.

P : *The Little Black Book of the Exchequer* (Exch. K. R. Misc. Books, Ser. 1 [E. 164] 12), ff. 75b-77. This is of the early thirteenth century, but looks a little later than R. It is, however, more complete.

The previous printed editions are :

Liber Niger Scaccarii [with the Annals of William of Worcester] Ed. Thomas Hearne. 2 vols. Oxford, 1728 : 2nd edn. London, 1771 : reprinted, 1774, pp. 341-59. [With explanatory footnotes]

The Red Book of the Exchequer. Ed. Hubert Hall. *Rolls Series*. 3 vols. London, 1896. Vol. iii, pp. 807-13. [The introduction contains a useful account of the treatise.]

The *Constitutio* contains an account of the establishment of the royal household under Henry I. We can date it between December 1135, when Henry died, and some time in 1139, when John the Marshal went over to the Empress Maud. It is most probably a document drawn up for the instruction of Stephen on his accession, since it reads as if the post of Ralf de Marchia, who probably died before King Henry (though the reading is uncertain), had not yet been refilled. It is therefore generally assumed to be of the year 1136. It is difficult to guess who was the author ; though the elaborate statement of wages and allowances suggests that it was written either for or by Nigel of Ely, who was Treasurer to Henry I. We may presume that it was in the Exchequer in the early years of Henry III, and was copied by Swereford for the same reasons as the *Dialogus*, and the *Carte* of 1166. Neither manuscript has observed the five main divisions into which it falls, though the rubricator has indicated the minor divisions.

The key to the organization is in the salaries of the heads of departments, each of whom received 5s a day, besides certain allowances of food. These were the Chancellor who was responsible for the Chapel services and the whole clerical establishment ; the Sewers (*dapiferi*), who seem to have served in turn as heads of the Pantry and Kitchen ; the Butler who had the Buttery and the Cellar ; the Master Chamberlain and the Treasurer, who shared between them the duties of the

modern Treasury and the Lord Chamberlain's department ; and the Constables, who served in turn as heads of the departments of the War Office (nothing is said of the Admiralty) and of the Master of the Horse.

Under these come a number of subordinates at a salary of 2s a day. In the Chancery : the Master of the Writing Office (now, probably, the Master of the Rolls) : in what would now be the Lord Steward's department ; the Clerk of the Spence of Bread and Wine, and the Master Dispensers of Bread, of the Larder and of the Buttery ; in the department of the Treasurer and Chamberlains, the Chamberlains who served in rotation : and in the Constables' department, three persons named who appear to have been assistant Constables, and the Marshal, whose rise in dignity was still to come. The members of this class, if employed out of Court, had a subsistence allowance of 10d a day.

William Mauduit, who appears from the Pipe Roll of 1130 to have been Treasurer of the Chamber, has a salary of 1s 2d a day, and his board and lodging. No allowance is mentioned for employment out of Court. We may therefore equate his allowance with that of the assistant-Constables and the Marshal, whose allowance was reduced to fourteen pence when they resided in the Household.

The Dispensers of the pantry, larder and buttery, serving in rotation, had a salary of 10d a day, with a subsistence allowance of 6d if employed out of Court.

The customary wages of a 'knight' (8d a day) were paid to the Chamberlain of the Chandlery, the four Marshals attendant on the household if employed out of Court, the Ushers and the Huntsmen who were knights.

Double rations were given to the Chaplains and Serjeants of the Chapel, the Carters of the kitchen and larder, the Mazer-keeper, the Ewer and the Watchmen.

The great mass of minor officers had single rations only.

Such were the bakers, larderers, butchers, cooks and scullions ; ushers, porters, linen-keepers, etc. The Chamberlains who were not receiving salaries might also live at Court.

The Usher of the Chamber had the anomalous salary of 4d a day.

Of the outdoor (hunting) staff, hunters and archers got 5d a day ; hornblowers, fewterers (who led greyhounds), berners (who fed hounds), and men who had dogs on the leash or hunted with braches (hounds hunting by scent) had 3d a day

Many of these officers had ' mates ' who received, some 3d a day, but mostly 1½d or 1d. The carters of the kitchen and larder, the sumpter-men of the Chancery and Chapel, the linen-keeper, the porter of the King's bed and any others who needed transport, had an allowance for their horses and for shoeing.

It must always be remembered that the twelfth-century Court was itinerant, both in England and in Normandy, and it has even been considered, on the ground of the provision of forty pence to the bakers to purchase a Rouen *muid* of corn, that the *Constitutio* describes the Norman establishment only. But this is hardly likely, because the permanent staff must of necessity have travelled with the King ; although there were (for instance) hereditary officers in Normandy who had no *status* in England and vice versa, such as the Chamberlain (who was of the Tancarville family). And we may safely guess that a good many of the inferior servants were hired locally. But the main organization of the Household seems to have been the same wherever the King was.

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The Great Seal : Used for sealing the Summonses and other Exchequer writs. Kept by the Chancellor's Clerk. A duplicate of the Great Seal of the *Curia* (62)

Domesday Book : Henry, Bishop of Winchester's account. William I having subdued England decided to put its laws into writing, and made a selection from the three existing codes, Mercian, Danelaw and Wessex, with additions of his own. He then had a survey made to establish existing rights in land. The survey is by counties, hundreds and hides. It is called 'Domesday' because it is as infallible as the Day of Judgement (62)

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Essoins : A Sheriff who does not appear must send essoiners with a letter of excuse and the sums received on the King's account. One of these must be a layman, since clergy ought not to be arrested for debt (81). Unless he is sick, he must make his account in person, or have a writ from the King (or Justiciar) allowing him to appoint an attorney. If engaged on the King's service, he may appoint an attorney himself in Court. If sick, his eldest son may account for him (82). No essoin is valid unless the money due is paid in. Other essoins are mortal sickness of heir, sickness of wife in childbirth or otherwise, legal proceedings against liege lord, attestation of his will, or funeral of him or one of his family (83). A Sheriff need not hold directly of the King (84)

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As to *payments out by writ.* The writs are handed to the Chancellor's Clerk, read out and entered on the Roll (87)

As to *payments by custom,* without writ. Liveries of approvers, and cost of executions and trials, i.e. ordeals. Law as to approvers (87). Maintenance and transport (88). Executioners sometimes serjeants, sometimes paid. Cost of transport of treasure, royal fish, vineyards, etc. (89)

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The *Old Farm* next ; unless the same Sheriff is accounting, in which case it precedes the new (92)

Purprestures and Escheats : Purprestures are encroachments on Crown property, found by inquisition and arrented (93). Escheats are lands reverting to the Crown for lack of heirs. If the heir is a minor the 'escheat with an heir,' not being a permanent

possession, is accounted for separately (94). The heir is maintained at the King's expense, and may or may not have to pay 'relief' on entering on his inheritance. A large estate is called an 'honour.' The King pays all customary alms, but not wages of servants not employed (95). Reliefs are proportionate to the estates passing. An heir of full age holding in chief, must make the best bargain he can. A minor will pay less, or if his minority is long, nothing. An heir holding of an Honour (i.e. an escheat) will pay £5 per knight's fee. No relief will be exacted from a ward of some years' standing (96)

Felon's Goods : On conviction these are forfeited to the King, as are those of fugitive criminals or those mutilated under the Assize of Northampton. Their lands, if any, go to their lords (97). These goods are accounted for separately from the Escheats, as are other casualties, e.g. *Treasure Trove* and goods of usurers dying intestate. Distinction in guilt of clergy and laity. 'Open usury' distinguished from mortgage (98). But a mortgagee who takes interest as well as profits of land, if detected after death, is treated as a usurer (100). These miscellaneous casualties are accounted for after the profits of justice and before 'felons' goods' (101). Why the lord of a villein is deprived of the villein's chattels. Goods of thieves and robbers, if outlawed, go to their captors. If not, those of robbers to Crown, of thieves to Sheriff. The injured person who pursues and catches a thief is entitled to twofold restitution (*solta et persolta*) (102)

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The profits of justice and payments for privileges are demanded by the Chancellor's Clerk, who takes over the Summons from the Treasurer (104)

Fines and Amercements : Pecuniary penalties are amercements. Voluntary payments for grants, or as compositions for penalties, are fines (104). These are demanded from the Sheriff, and must be satisfied in cash or by a writ of pardon specifying the amount. But the liability for the debt, if not paid, lies with the individual debtor and not with the Sheriff, except for Common Assizes, Danegeld and Murder-fine (105). If these, which are assessed on the community, are not paid, the Sheriff's successor is liable. A general exemption from 'secular service' is not valid unless the nature of the impost is specified in the charter. If the Sheriff fails to collect the whole debt, he must allege that he could find no effects, and be prepared to confirm by subsequent *affidavit* (106). Debts for penalties due from knights, freemen or villeins

must be left in charge if there are no chattels (107). But burgesses, failing to pay must have their real property seized as well; because a merchant can more easily conceal his wealth (107)

Aids and Gifts by Cities or Towns: These rank as amercements if assessed *per capita* by the justices, but as fines if granted by the community as a lump sum (108). In the first case they are recovered by distraint, in the second the community must either make good the contributions not recovered or show that the original contributors, then solvent, have since become poor. A knight or freeman who engages in trade must either find sureties for payment of his debt or be treated as a burgess (109)

Distress: In selling chattels, food for the debtor and his family cannot be sold; but saleable stores of any kind may (110). A knight by *status* must be left a riding horse, but a professional soldier must keep his horses and armour; provided, that is, he is at the King's service if required (111)

The chattels of the actual debtor must be sold first; reserving, if possible, his plough cattle. Next the chattels of his villeins (112). If those are insufficient, the sale must cease, unless the distress is for scutage, in which case the chattels of a lord's knights and villeins are equally to be sold, since the scutage is charged on the land. If a tenant has paid scutage to his lord, his chattels are exempt (112). Debts due to insolvent debtors are to be got in by the Sheriff, and will follow any land sold by the debtor after becoming indebted to the King, unless the purchaser has paid the price to the King (113). The chattels on the land of a debtor are held *all* to be forfeit till the debt is discharged. The Sheriff is not to allow any debt due to himself to be paid by a debtor who has not paid the King. If he has done so he must make it good before the end of the session. He must also inquire whether any insolvent debtor, has become solvent by marriage or otherwise (114)

Husbands and wives of debtors surviving are liable for their debts if they have possession of their property as guardians or otherwise. The heir is the person liable. Only villeins, when their chattels are sold, are released by death, having no other property. Debts may not be removed from the Roll except by the King on petition from the Treasurer (115)

Barons have the privilege of exemption from distress on an *affidavit* by their stewards to warrant the payment at the Exchequer (116). If the steward fails to appear the Sheriff is quit, and the case is noted for the punishment of the steward. If he appears and pays before the Exchequer closes, he will be excused. The Sheriff will only be quit if he takes the steward's *affidavit* in open county court, otherwise he must make it good from his farm. If the lord appears, but does not pay, he will be detained on *parole* till the Exchequer rises, and then dealt with at the King's pleasure. A steward will be delivered to the Marshal, and may be imprisoned and chained after the end of the session. A

knight detained for his own debt, must not be imprisoned, but kept in the prison building in 'free custody' on *parole* (116). A Baron who deliberately exposes his steward to imprisonment to procure a temporary respite, will be arrested and distrained on, amerced and barred from pledging his word again. If permitted to do so, he must in future do it in person (117)

Fines: Voluntary immediate payments to obtain a grant only become due when the grant takes effect. If payment is not made the grant lapses, unless, by special grace, instalments are accepted (119)

Prospective payments are offered with a view to obtaining justice with greater expedition (120). They are not always accepted, and are never payable till judgement has been given. If it is unfavourable they are often remitted

Reliefs, though not strictly voluntary, are classed as 'fines' (120). They are the payments made by heirs on succession. If from tenants in chief, they are settled by the King (121). If from tenants of honours, they are £5 per knight's fee. They are not subject to the rule that the grant lapses, but are to be treated like amercements

Hawks are sometimes offered (121). If the breed and age are not specified, the debtor has an option; but if he obtains a delay in delivery, he must produce a hawk of the age which the hawk originally offered would have had. Hawks are only summoned at the Michaelmas Exchequer. *Queen's Gold*. All voluntary payments involve a concurrent payment to the Queen of 1 per cent in gold [i.e. at the current bimetallic ratio, 9 per cent in silver] (122). The Queen has her own staff at the Exchequer to receive this. A remission by the King of part of an offering brings no corresponding remission of *Queen's Gold*. The minimum offering to be liable is in dispute (123)

Privilege of Clergy: Clerks and laymen are alike as to voluntary offerings (123). As to other debts, benefit of clergy if wished for must be claimed. The author declines to lay down the law on the privileges of clerks (123)

How Escheats are accounted for: Commissioners are sent to draw up a rental, for the sum of which the Sheriff or other accountant must answer (124). But an escheat committed to a 'keeper' is not so arrented. The keeper answers for receipts and expenses 'on his conscience.' He is not entitled to 'procurations' (124)

(c) Closing the Account of Farm

All the debts having been cleared and enrolled, a return is made to the Farm account at the head of the Roll (125). The accountant sets out on the abacus the Michaelmas payment of farm and deducts the assay allowance, then in like manner the Easter payment, and a single tally is cut for both payments

and a smaller one for both assays (125). The Treasurer brings out the Roll of Farms and the sum due is set out on the board. From it is deducted first, the sum of the blanch payments, then that of the farms granted 'blanch.' The payments and allowances by tale are then set out and 'blanched' by a deduction of 5 per cent, and the resulting sum is deducted from the debit remaining (125). If this leaves no remainder the Sheriff is written 'quit,' if not 'owing'; and the amount paid 'In the Treasury,' as reached by calculation, is entered on the Roll (126). The Sheriff then makes his *affidavit* to the Marshal and is dismissed. It has been decided that one affidavit is sufficient for all the debts (126)

Epilogue

The Scholar now asks for an explanation of the more sacred mysteries of the Exchequer. His Master defers this till another occasion and concludes with an apology for a work which, even if crude, is at least original (126)

LATIN TEXT *and* *ENGLISH TRANSLATION*

DIALOGUS DE SCACCARIO

[PREFATIO]

ORDINATIS a deo potestatibus in omni timore subici simul et obsequi necesse est. Omnis enim potestas a domino deo est.¹ Non ergo uidetur absurdum uel a uiris ecclesiasticis alienum regibus quasi precellentibus² et ceteris potestatibus seruiendo sua iura seruare; presertim in hiis que ueritati uel honestati non obuiant. Oportet autem hiis seruire non in conseruandis tantum dignitatibus per quas gloria regie potestatis elucet, uerum in mundanarum facultatum copiis que eos sui status ratione contingunt. Ille enim illustrant, hec subueniunt. Porro mobiliū* copia uel defectus principum potestates humiliat uel exaltat. Quibus enim hec desunt hostibus preda fiunt, quibus autem hec suppetunt hiis hostes in predam cedunt. Sane licet hec regibus plerumque, iure non prorsus examinato set patriis quandoque legibus quandoque cordium suorum consiliis occultis uel solius interdum sue uoluntatis arbitrio, prouenire contingat; eorum tamen facta ab inferioribus discutienda uel condemnanda non sunt. Quorum enim corda et motus cordium in manu dei sunt³ et quibus ab ipso deo singulariter est credita cura subditorum, eorum causa diuino tantum non humano iudicio stat aut cadit.⁴ Nemo tamen quantumlibet diues si secus egerit de impunitate sibi blandiatur, cum de huiusmodi scriptum sit 'Potentes potenter tormenta patientur.'⁵ Igitur qualiscumque sit uel uideatur adquirendi causa uel modus, hiis qui ad

* mobiliū *Liebermann*: nobiliū *CNR*

¹ cf. Rom. 13:1

² 1 Pet. 2:13

⁴ cf. Rom. 14:4

⁵ Wis. of Sol. 6:7

³ cf. Prov. 21:1

THE COURSE OF THE EXCHEQUER

[DEDICATION]

To the powers ordained of God we must be subject and obedient with all fear. For there is no power but of God.¹ There is clearly, therefore, nothing incongruous, or inconsistent with the clerical character in keeping God's laws by serving kings as supreme² and other powers, especially in those affairs which involve neither falsehood nor dishonour. And we ought to serve them by upholding not only those excellencies in which the glory of kingship displays itself but also the worldly wealth which accrues to kings by virtue of their position. Those confer distinction, this gives power. Their power indeed rises and falls as their portable wealth flows or ebbs. Those who lack it are a prey to their enemies, those who have it prey upon them. And although this wealth is not invariably theirs by strict process of law, but proceeds sometimes from the laws of their countries, sometimes from the secret devices of their own hearts and sometimes even from their mere arbitrary power, their subjects have no right to question or condemn their actions. For those whose hearts are in the hand of the Lord,³ and to whom God Himself has committed the sole care of their subjects, stand or fall by God's judgment and not man's.⁴ But let no man, however wealthy, flatter himself that he shall escape unpunished if he act amiss; for of such it is written, 'Mighty men shall be mightily tormented.'⁵ However questionable, therefore, may be or appear the origin or the method of acquisition of wealth, those whose duty it is to guard it

eorum custodiam ex officio deputantur cura remissior esse non debet, set in eisdem congregandis, conseruandis uel distribuendis sollicitam decet esse diligentiam quasi rationem reddituris¹ de regni statu qui per hec incolumis perseuerat. Nouimus quidem prudentia, fortitudine, temperantia siue iustitia, ceterisque uirtutibus principaliter regna regi iuraque subsistere, unde et hiis mundi rectoribus totis est uiribus insistendum. Set fit interdum ut quod sano consilio uel excellenti mente concipitur intercedente pecunia citius conualescat et quod difficile uidebatur per hanc quasi per quandam negotiorum metodum facilem consequatur effectum. Non solum autem hostilitatis set etiam pacis tempore necessaria uidetur. Illo enim in municipiis firmandis, in stipendiis ministrandis et in aliis plerisque locis pro qualitate personarum ad conseruandum regni statum effunditur; hoc uero, licet arma quiescant,² a deuotis principibus construuntur basilice, Christus alitur et uestitur in paupere³ et ceteris operibus misericordie insistendo mammona distribuitur.⁴ In utriusque uero temporis strenuis actibus gloria principum est; set excellit in hiis ubi pro temporalibus impensis, felici mercimonio mansura succedunt. Ea propter, rex illustris, mundanorum principum maxime, quia sepe te uidimus utroque tempore gloriosum, non parcentem quidem pecunie thesauris, set pro loco, pro tempore, pro personis, legitimis sumptibus insistentem, modicum opus excellentie tue deuouimus, non de rebus quidem magnis uel luculento sermone compositum, set agresti stilo de scaccarii tui necessariis obseruanciis. Porro super hiis te uidimus quandoque sollicitum, adeo ut missis a latere tuo uiris discretis de eodem dominum

¹ Heb. 13:17

² cf. Verg. *Aen.* x. 836, *prato graua arma quiescunt.*

³ cf. Matt. 25:40

⁴ cf. Luke 16:9. The whole passage is a comment on the 'unjust steward.'

have no excuse for slackness, but must give anxious care to its collection, preservation and distribution, as they that must give account¹ of the state of the realm, the security of which depends upon its wealth. We are, of course, aware that kingdoms are governed and laws maintained primarily by prudence, fortitude, temperance and justice, and the other virtues, for which reason the rulers of the world must practise them with all their might. But there are occasions on which sound and wise schemes take effect earlier through the agency of money, and apparent difficulties are smoothed away by it, as though by skilful negotiation. Money is no less indispensable in peace than in war. In war it is lavished on fortifying castles, paying soldiers' wages and innumerable other expenses, determined by the character of the persons paid, for the defence of the realm; in peace, though arms are laid down,² noble churches are built by devout princes, Christ is fed and clothed in the persons of the poor,³ and by practising the other works of mercy mammon is distributed.⁴ The glory of princes consists in noble actions in war and peace alike, but it excels in those in which is made a happy bargain, the price being temporal and the reward everlasting. Therefore, greatest of earthly princes, because I have often witnessed your Majesty's glory in peace and war alike, not hoarding treasure but spending it as it should be spent, in due place and time and on fit persons, I dedicate to Your Excellency this little book, on no lofty subject nor in eloquent language but written with an unskilful pen, about the procedure necessary in your Exchequer. I have at times seen you so concerned about this as to send some of your wise councillors to call in the Bishop

tunc Eliensem conueneris. Nec fuit absurdum tam excellentis ingenii uirum, tam singularis potentie principem, inter cetera maiora hec etiam curasse. Sane scarrarium suis legibus non temere set magnorum consideratione subsistit, cuius ratio si seruetur in omnibus, poterunt singulis sua iura seruari et tibi plene prouenient que fisco debentur, que possit oportune nobilissime mentis tue ministra manus effundere.

of Ely for his opinion on it. Nor was it unbecoming so wise a man and so unusually powerful a prince to concern himself with this matter as well as with others of more importance. The Exchequer has its own rules. They are not arbitrary, but rest on the decisions of great men ; and if they are observed scrupulously, individuals will get their rights, and Your Majesty will receive in full the revenue due to the Treasury, which your generous hand, obeying your noble mind, may spend to the best advantage.

[Incipiunt capitula libri primi.

- i Quid sit scaccarium et que ratio huius nominis.
- ii Quod aliud est inferius atque aliud superius una tamen origo utriusque.
- iii Que sit ratio uel institutio inferioris per singula officia.
- iiii Que sit auctoritas superioris et unde sumpsit originem.
- v Quod sit officium presidentis in illo et que sint singulorum sibi assidentium officia.
- vi Quis sit tenor breuium regis factorum ad scaccarium siue de exitu thesauri siue de computandis, siue de perdonandis.
- vii A quibus et ad quid instituta fuit argenti examinatio, set hoc incidenter.
- viii Que sint iura et dignitates residentium ad scaccarium uel ex officio uel ex solo regis mandato, et quedam incidentia necessaria.
- ix Quid scutagium et quare sic dicatur.
- x Quid murdrum et quare sic dictum.
- xi Quid danegeldum et quare sic nominatum uel institutum.
- xii Quid foresta regis et que ratio appellationis.
- xiii Quid essartum uel quid uastum et que rationes horum nominum.
- xiiii Quod thesaurus dicitur interdum ipsa pecunia, interdum locus in quo seruatur.
- xv Quis sit usus sigilli regii quod est in thesauro.
- xvi Quid liber iudiciarius et ad quid compositus.
- xvii Quid hyda, quid centuriata, quid comitatus secundum vulgarem de hiis opinionem.
- xviii Quid rotulus exactorius.]

Book I Contents

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[PROLOGUS]

ANNO xxiii. regni regis Henrici secundi cum sederem ad fenestram specule que est iuxta fluuium Tamensem factum est verbum hominis in impetu loquentis ad me dicens 'Magister nonne legisti quod in scientia uel thesauro abscondito nulla sit utilitas?'¹ Cui cum respondissem 'Legi,' statim intulit. 'Cur ergo scientiam de scaccario que penes te plurima esse dicitur alios non doces et ne tibi commoriatur scripto commendas.' Tum ego, 'Ecce frater ad scaccarium iam per multa tempora resedisti et nihil te latet cum scrupulosus sis. Sic et de ceteris qui assident probabile est.' At ille, 'Sicut qui in tenebris ambulant et manibus palpant² frequenter offendunt,³ sic illic multi resident qui uidentes non uident et audientes non intelligunt.'⁴ Tum ego, 'Irreuerenter loqueris, nec enim scientia tanta est uel de tantis; set forte sunt illis, qui magna aucupantur,* corda ut pedes aquile qui parua non retinent et quos magna non effugiunt.' Et ille, 'Esto, set licet aquile celsius volent, tamen in humilibus quiescunt et reficiuntur, et ob hoc humilia nobis exponi petimus ipsis aquilis profutura.' Tum ego, 'Veritus sum de hiis rebus opus contexere que corporeis sensibus subiecta sunt et cotidianis usibus uilescunt, nec est uel esse potest in eis subtilium rerum descriptio uel iocunda nouitatis inuentio.' Et ille, 'Qui nouitatibus gaudent, qui subtilium rerum fugam appetunt, habent Aristotilem et libros Platonicos, audiant illos.'⁵ Tu scribe non subtilia set utilia.' Tum ego, 'De

* aucupantur *scripsimus* : occupantur *CNR*

¹ cf. Ecclus. 20:32 and 41:17

² Job 12:25 ³ cf. 1 John 2:10, 11

⁴ Luke 8:10 ⁵ cf. Luke 16:29

[PROLOGUE]

In the twenty-third year of the reign of King Henry II, as I was sitting at a turret window overlooking the Thames, I was addressed by someone who said, very earnestly, 'Master! Have you not read that "Wisdom that is hid and treasure that is not seen are both profitless"?'¹ 'Yes,' said I; and he went on, 'Why, then, do you not teach others that knowledge of the Exchequer for which you are famous, and put it in writing lest it should die with you?' I replied, 'Why, brother, you have long sat at the Exchequer yourself, and nothing is hidden from you, you are so precise. And the same is probably true of the others who sit there.' 'But,' said he, 'as those who "grope in the dark without light"² often stumble³; so are there many there who seeing do not see, and hearing do not understand.'⁴ 'You speak profanely,' I replied, 'for my knowledge is not so great, nor of such importance; but perhaps those who, so to speak, hunt big game, have minds like eagles' claws, which let slip small things and keep hold of big ones.' 'Be it so!' said he, 'but though eagles fly high, they rest and refresh themselves on a lower level, and for that reason we beg to have these lower matters expounded to us, and the eagles may profit by them too.' 'I was afraid,' I replied, 'to write a book about these matters, which are objects of sense, and of which familiarity breeds contempt, affording no scope for fine distinctions, or pleasing novelties.' 'Those,' said he, 'who delight in novelties, or in hunting for fine distinctions, have Aristotle and Plato's books. Let them hear them!'⁵ Your book is not to be theoretical, but practical.'

hiis rebus quas petis impossibile est nisi rusticano sermone et communibus loqui verbis.' At ille uelut succensus in iram, desideranti enim animo nihil satis festinatur, ait, 'Artium scriptores ne multa parum scisse uiderentur et ut ars difficilior cognitu fieret, multa conquisierunt et verbis incognitis palliarunt. Tu scribendam artem non suscipis set quasdam consuetudines et iura scaccarii, que quia communia debent esse, communibus necessario utendum est uerbis ut sint cognati sermones rebus de quibus loquimur. Preterea quamuis plerumque noua liceat nomina fingere, rogo tamen si placet ut usitatis rerum ipsarum uocabulis, que ad placitum sunt, uti non pudeat, nec noua difficultas ex insolitis uerbis oborta amplius perturbet.' Tum ego, 'Sensi te iratum, set animequior esto¹; faciam quod hortaris. Surgens ergo sede ex aduerso et de hiis que te offendunt interroga. Quod siquid inauditum proposueris non erubesco dicere "Nescio," set conueniamus ambo discretiores.' Et ille, 'Ad vota respondes. Licet autem turpis et ridicula res sit elementarius senex,² ab ipsis tamen elementis incipiam.'

Discipulus. Quid est scaccarium?

i *Magister.* Scaccarium tabula quadrangula est que longitudinis quasi x. pedum, latitudinis v. ad modum mense circumsedentibus apposita undique habet limbum altitudinis quasi iiii. digitorum ne quid appositum excidat. Superponitur autem scaccario [superiori] pannus in termino Pasce emptus, non quilibet, sed niger uirgis distinctus, distantibus a se uirgis uel pedis uel palme extente spatio. In spatiis autem calculi fiunt iuxta ordines suos de quibus alias dicitur. Licet autem tabula talis scaccarium dicatur, transumitur tamen hoc nomen ut ipsa quoque curia, que consedente scaccario est,

¹ Mark 10:49

² *Elementarius senex*, Sen. *Epist.* 36

'But,' I objected, 'what you want can only be expressed in vulgar and commonplace language.' Then he almost lost his temper, for an eager heart brooks no delay, and said, 'Writers on the liberal arts have compiled large treatises and wrapped them up in obscure language, to conceal their ignorance and to make the arts more difficult. You are not undertaking a book on philosophy, but on the customs and laws of the Exchequer, a commonplace subject, in which you must needs use appropriate and therefore commonplace language. Moreover, though it is generally permissible to invent new terms, I beg you not to be ashamed to employ the common and conventional words for the objects described, so that no additional difficulty may be created by the unusual language.' 'I see you are vexed,' said I, 'but be of good comfort¹; I shall take your advice. Get up, and sit down opposite me, and ask any questions which occur to you. If you ask anything out of the way, I am not ashamed to say, "I don't know, but let us both consult wiser folk."' 'Just what I want,' said he. 'It may be disgraceful and laughable for an old man to be learning his alphabet,² but I shall begin with my ABC.

Scholar. What is the Exchequer?

Master. The exchequer [*chess-board*] is an oblong i board measuring about ten feet by five, used as a table by those who sit at it, and with a rim round it about four finger-breadths in height, to prevent anything set on it from falling off. Over the [*upper*] exchequer is spread a cloth, bought in Easter term, of a special pattern, black, ruled with lines a foot, or a full span, apart. In the spaces between them are placed the counters, in their ranks, as will be explained in another place. But though such a board is called 'exchequer,' the name is transferred to the Court in session at it; so that if a

scaccarium dicatur, adeo ut si quis per sententiam aliquid obtinuerit, uel aliquid de communi consilio fuerit constitutum, dicatur factum ad scaccarium illius uel illius anni. Quod autem hodie dicitur ad scaccarium olim dicebatur ad taleas.

Discipulus. Que est ratio huius nominis?

Magister. Nulla mihi uerior ad presens occurrit quam quia scaccarii lusilis similem habet formam.

Discipulus. Numquid antiquorum prudentia pro sola forma sic nominauit? Cum et simili ratione posset tabularium appellari.

Magister. Merito te scrupulosum dixi. Est et alia set occultior: sicut enim in scaccario lusili quidam ordines sunt pugnatorum et certis legibus uel limitibus procedunt uel subsistunt, presidentibus aliis et aliis precedentibus, sic in hoc quidam president quidam assident ex officio, et non est cuiquam liberum leges constitutas excedere, quod erit ex consequentibus manifestum. Item, sicut in lusili pugna committitur inter reges, sic in hoc inter duos principaliter conflictus est et pugna committitur, thesaurarium scilicet et uicecomitem qui assidet ad compotum residentibus aliis tanquam iudicibus ut uideant et iudicent.

Discipulus. Numquid a thesaurario compotus suscipitur cum illic multi sint qui ratione potestatis maiores uideantur?

Magister. Quod thesaurarius a uiecomite compotum suscipiat hinc est manifestum quia idem ab eo cum regi placuerit requiritur. Nec enim ab ipso requireretur quod non suscepisset. Sunt tamen qui dicant thesaurarium et camerarios obnoxios tantum hiis que scribuntur in rotulis 'In thesauro' ut de hiis compotus ab eis exigatur. Set uerius creditur ut de tota scriptura rotuli respondeant, quod ex consequentibus constare poterit.

litigant wins his case, or a decision on any point is taken by common consent, it is said to have happened 'at the Exchequer' of such a year. But where we now say 'at the Exchequer,' they used to say 'at the Tallies.'

Scholar. Why is the Court so called?

Master. I can think, for the moment, of no better reason than that it resembles a chess-board.

Scholar. Was its shape the only reason why our wise forefathers gave it that name? For they might equally well have called it a draught-board.

Master. I was justified in calling you 'precise.' There is another less obvious reason. For as on the chess-board the men are arranged in ranks, and move or stand by definite rules and restrictions, some pieces in the foremost rank and others in the foremost position; here, too, some [*the barons*] preside, others assist *ex officio*, and nobody is free to overstep the appointed laws, as will appear later. Again, just as on a chess-board, battle is joined between the kings; here too the struggle takes place, and battle is joined, mainly between two persons, to wit, the Treasurer and the Sheriff who sits at his account, while the rest sit by as judges to see and decide.

Scholar. Does the Treasurer really take the account when there are many present who appear by reason of their power to be more important?

Master. It is obvious that the Treasurer takes the account from the Sheriff, because it is from him that an account is required when the King so pleases. Nor would that be demanded of him unless he had received it. Some say, however, that the Treasurer and Chamberlains are only accountable for those sums which are entered in the Roll as 'in the Treasury.' But the more correct view is that they are answerable for all that is written in the Roll, as will appear later.

ii *Discipulus.* Numquid solum illud scaccarium est in quo talis conflictus est?

Magister. Non. Est enim inferius scaccarium quod et 'Recepta' dicitur ubi pecunia recepta numeratur et scriptis et taleis committitur ut de eisdem postmodum in superiori compotus fiat. Vna tamen utriusque origo est, quia quicquid soluendum esse in maiore deprehenditur hic soluitur et quod hic solutum fuerit ibi computatur.

iii *Discipulus.* Que est ratio uel institutio inferioris scaccarii?

Magister. Vt uideo nullius horum ignorantiam sustines. Noueris autem quod inferius illud scaccarium suas habet personas ratione quidem officiorum a se distinctas, set in regis utilitatem, salua tamen equitate, pari intentione deuotas; omnes quidem dominorum suorum nominibus non propriis militantes, exceptis duobus dumtaxat, milite scilicet qui preest examinibus, et fusore. Horum enim officia de regis tantum pendent arbitrio, unde magis ad superius quam ad inferius pertinere uidentur, sicut infra dicitur.

Illic est clericus thesaurarii cum sigillo eius. Sunt et duo milites camerariorum. Est et miles quidam qui argentarius dici potest quia ex officio argento examinando preest. Est et fusor qui argentum examinat. Sunt et quatuor computatores ad numerandam pecuniam. Est et hostiarius thesauri et uigil. Horum autem hec sunt officia. Clericus thesaurarii cum fuerit numerata pecunia et in forulos¹ missa per centenas libras apponit sigillum et deputat scripto quantum uel a quo uel ob quam causam receperit. Taleas quoque de eadem

¹ The word is still used for a kind of parchment for covering books. It is used in this Dialogue both for the parchment or leather case in which the silver pence were packed (and which must have been of considerable size) and for the parchment wrapper in which the Marshal stored tallies and other vouchers relating to the Sheriffs' accounts.

Scholar. Is the Exchequer where this conflict takes ii place the only Exchequer?

Master. No. For there is a Lower Exchequer, also called the Receipt, where the money received is counted and entered on rolls and tallies, in order that the account may be made up from them in the Upper Exchequer. But both spring from the same root, because whatever is found in the Upper Exchequer to be due, is paid in the Lower, and what is paid in the Lower is credited in the Upper.

Scholar. What is the plan or constitution of the iii Lower Exchequer?

Master. I can see that none of this is new to you. Let me tell you, however, that this Lower Exchequer has its own characters, differing indeed in their duties, but alike in their zeal for the King's advantage when justice permits it. All these serve in their masters' names [*like the pawns*], not their own, with two exceptions, the Knight who supervises the assays, and the Melter. For these are appointed directly by the King, and seem, therefore, rather to belong to the Upper than to the Lower Exchequer, as will be stated below.

In the Lower Exchequer are the Treasurer's Clerk, with his seal, and the two knights of the Chamberlains. There is also a knight [*the Pesour*] whom we may call the Knight Silversmith, since it is his duty to preside over the assay. There is also the Melter, who assays the silver. There are four Tellers to count the money. And there are the Usher of the Treasury, and the Watchman. Their duties are as follows.

The Treasurer's Clerk seals up the money when it has been counted and packed in 'forels'¹ of a hundred pounds each, and records in writing how much he has

recepta a camerariis ¹ factas imbreuiat. Non solum autem pecunie saccis sed et archis et singulis forulis in quibus rotuli uel talee collocantur si libet apponit sigillum et ad omnia subiecta officia diligenter prospicit et nil eum latet. Militum, qui et camerarii dicuntur quia pro camerariis ministrant, hoc est officium. Hii claues archarum baiulant, arche enim cuilibet due sere sunt diuersi generis; hoc est cuius neutri clauis alterius possit aptari—et hii claues earum deferunt. Circumcingitur autem quelibet archa corrigia quadam immobili in qua desuper, firmatis seris, thesaurarii sigillum apponitur ut nulli eorum nisi de communi assensu accessus pateat. Item officium horum est numeratam pecuniam et in uasis ² ligneis per centenos solidos compositam ponderare, ne sit error in numero, et tunc demum in forulos mittere per centenas, ut dictum est, libras. Quod si uas aliquod inuentum est minus habens, non quidem per estimationem quod deesse putatur apponitur sed statim in acruum numerandorum id de quo dubitatur proicitur. [Et nota quosdam comitatus a tempore regis Henrici primi et in tempore regis Henrici secundi licite potuisse cuiuscunque monete denarios solutioni offerre dummodo argentei essent et ponderi legitimo non obstarent; quia scilicet monetarios ex antiqua institutione non habentes undecunque sibi denarios perquirebant, quales sunt Norhumberland et Cumberland. Sic autem suscepti denarii, licet de firma essent, seorsum tamen ab aliis cum quibusdam signis apposis mittebantur. Reliqui vero comitatus solos usuales et instantis monete legitimos

¹ Actually by the tally-cutter, as their servant, in all probability. cf. p. 22, and see R. L. Poole, *The Exchequer in the Twelfth Century*, p. 74.

² R. L. Poole (u.s.) translates *vasa* as 'skippets.' These are turned wooden boxes, of which there are many at the Public Record Office, but those were used for holding deeds, and an open bowl would appear more appropriate than a closed box, at all events, for counting and weighing.

received, from what person and on what account. He also inscribes the tallies made by the Chamberlains ¹ for the money received. He may also, if he chooses, seal up not only the sacks of money, but also the chests or forels containing rolls or tallies. He supervises the work of all his subordinates, and nothing escapes his eye.

The duty of the Knights (who are also called Chamberlains because they act for them) is as follows. They bear the keys of the chests, for each chest has two locks of different patterns such that the key of one lock will not open the other—and they have the keys. But each chest has also a strap round it, and fastened to it, which is sealed with the Treasurer's seal after the chests have been locked, in order that none of the three can open the chest without the consent of the others. It is also their duty to weigh the money, when it has been counted and placed in wooden bowls ² holding a hundred shillings each, lest there should have been an error in the counting, and afterwards to pack it, as we have said, in forels holding a hundred pounds each. But if any bowl is found short weight, the amount apparently missing is not made good, but the whole contents in question are at once poured back into the heap of uncounted coins. [Note.—As far back as the reign of Henry I, and also in that of Henry II, certain counties were permitted to pay in coins of any currency, provided that they were silver and of good weight; the reason being that, having anciently no moneyers, they got their pence where they could. Northumberland and Cumberland are cases in point. But pence so received, even though for the farm of the county, were put up separately and specially marked. But the other counties brought in only current and lawful coin, whether for farms or for profits of justice. But since our noble King, whose great deeds win the

denarios tam de firmis quam de placitis afferebant. At, postquam rex illustris cuius laus est in rebus magnis excellentior sub monarchia sua per uniuersum regnum unum pondus et unam monetam instituit, omnis comitatus una legis necessitate teneri et generalis commercii solutioni cepit obligari. Omnes itaque idem monete genus quomodocunque teneantur soluunt. Sed tamen exactionis que de combustione prouenit iacturam omnes non sustinent.^{1]} Item hii taleas faciunt de receptis, et commune est eis cum clerico thesaurarii ut per breuia regis uel precepto baronum, thesaurum susceptum expendant, non tamen inconsultis dominis suis. Hii tres simul omnes uel vicissim cum thesauro mittuntur cum oportuerit. Hiis tribus precipua cura est in omnibus hiis que inferiori scaccario fiunt.

Discipulus. Ergo ut uideo licet hiis per breue regis uel precepto eorum qui president thesaurum susceptum consultis tamen dominis suis expendere.

Magister. Licet, inquam, hoc modo. De liberationibus seruientium inferioris scaccarii et de minutis necessariis scaccarii emendis, qualia sunt uasa illa lignea et alia de quibus infra dicitur, eorum fidei committitur. Alias autem non. Qui uero breue regis uel cartam detulerit pro pecunia, precipientibus dominis suis, hac ei lege soluatur id quod expresse nominatur in breui ut, antequam exeat, susceptam pecuniam numeret. Quod si quid defuerit redeat ad scaccarium is qui suscepit et fidei religionem prestet sub hac forma quod quantam suscepit reportauit, non appposito secundum conscientiam suam ut fit in aliis, et hoc facto soluatur ei quod

¹ This note probably alludes to the reform of the coinage in 1158, from which date there is only one type of penny until 1180, when the whole system of coinage was changed. See Derek F. Allen, *A Catalogue of English Coins in the British Museum. The Cross-and-Crosslets ('Tealby') type of Henry II* (London, 1951), esp. pp. xi-xv, lxiv-lxxiv.

highest praise, appointed one weight and one money throughout all the realm under his sway, every county has become bound by the same law, and must make its payments in legal tender. So all, for whichever kind of debt, pay in the same coin. But they do not all have to bear the loss arising from the assay.^{1]} They also make tallies of the receipts, and are jointly responsible with the Treasurer's Clerk for all payments out of the treasure received, either by the King's Writ or by order of the Barons, not however, without reference to their masters. These three are sent, all together or by turns, with treasure when necessary. And theirs is the principal charge in all business done in the Lower Exchequer.

Scholar. They may then, I perceive, after reference to their masters, spend the treasure which they receive by the King's Writ or by precept of the Barons.

Master. They may, in this fashion. They are trusted to pay the wages of the servants of the Lower Exchequer, and to buy minor necessities, such as the wooden bowls, and other things which will be mentioned later. But that is all. If a man brings the King's writ or charter for money, the exact sum named in the writ is, by their masters' orders, to be paid him on these terms: that he count the money he has received before he goes out. But if the payment is short, the recipient must return to the Exchequer, and pledge his faith that he has brought back all he received, without adding, as in other cases, 'to the best of his knowledge and belief.' On this the balance owing is to be paid him, when the money has been re-counted publicly by the appointed Tellers. But if, after fair warning, he has passed the door of the

restat, numerata prius eadem coram omnibus a constitutis computatoribus. Si uero, lege sibi proposita, hostium thesauri egressus fuerit quecumque fuerit persona uel quantacumque iactura non ei respondeatur. Militis argentarii et fusoris officia sibi uidentur annexa et ad superius scaccarium magis pertinentia et ob hoc ibidem cum ceteris officiis explananda. Quatuor computatorum officium hoc est. Cum in scaccarium numeranda pecunia mittitur, unus eorum diligenter totam commiscet ut non seorsum meliores et seorsum deteriores sint set mixti ut ponderi respondeant. Quo facto camerarius ad libram scaccarii ponderat quantum oportet in trutina; quod si numerus xx. solidorum plusquam sex nummis excreuerit respectu libre, indigna recipi dicitur. Si uero uel ad vi. uel infra se cohibet, suscipitur et a computatoribus diligenter per centenos solidos ut predictum est numeratur. Si uero de firma sunt denarii et sint examinandi, facta commixtione xliiii. solidorum de aceruo in loculum seorsum mittuntur, et huic uicecomes signum suum apponit ut ex hiis postmodum examen, quod uulgo essayum dicitur, fiat sicut ex sequentibus liquebit. Erit autem cure eorum qui presunt recepte gratia dominorum suorum, hoc est clerici thesaurarii et camerariorum ut recepta pecunia seorsum mittant examinati argenti pondera et denarios de firma, appositis quibusdam signis saccis eorum, ut si rex uasa argentea ad cultum domus dei uel ad domus proprie obsequium uel forte monetas transmarinas fieri uoluerit ex hiis fiant.

Discipulus. Est aliquid in predictis quod me pulsat.

Magister. Dic ergo.

Discipulus. Dixisti si bene memini quod ad scaccarium quandoque soluenda differtur pecunia que iudicatur indigna recipi. Si scilicet pensata cum libra

Treasury, his application must be refused, however great a personage he may be, and however great his loss.

The duties of the Knight Silversmith and the Melter are closely connected, and, as they belong rather to the Upper Exchequer, will be explained in the section devoted to the duties of its officers.

This is the duty of the four Tellers. When the money to be counted is sent in to the Exchequer, one of them carefully mixes up the whole payment, so that the good and bad coins do not form separate heaps, but are fairly mixed for weighing. A Chamberlain then weighs out in the scale-pan enough to balance the Exchequer pound; but if the number weighing twenty shillings is more than sixpence over the pound the money is judged too bad to be received. If, however, the excess is sixpence or less, it is accepted, and is carefully counted by the Tellers, a hundred shillings at a time, as already described. But if the pence are on account of farm and subject to assay, forty-four shillings are taken from the heap after mixing, and put away in a purse, which the Sheriff seals with his seal, in order that they may be used for the trial or assay afterwards, as will appear later. But it will be the duty of the deputies in charge of the Receipt, to wit, the Treasurer's Clerk and the Chamberlains, when they have received the money, to put aside the ingots of assayed silver and the pence of the farm in specially marked sacks; so that if the King wants silver vessels for a church or for his palace, or to coin for his foreign possessions, this silver may be used.

Scholar. There is a point which strikes me in what you have said.

Master. Tell me what it is.

Scholar. I think I remember your saying that money is sometimes brought to the Exchequer and condemned,

ponderis de scaccario inuenta est minus habens ultra vi. Cum ergo quelibet moneta regni huius impressam habere debeat regis imaginem et ad idem pondus omnes monetarii teneantur operari qualiter fieri potest ut non omne eorum opus eiusdem ponderis sit?

Magister. Magnum est quod queris et alterius egens inquisitionis. Attamen fieri potest per falsarios et nummorum decurtatores uel detonsores. Noueris autem monetam Anglie in tribus falsam deprehendi, in falso scilicet pondere, in falsa lege, in falsa imagine. Hiis tamen falsitatibus par poena non debetur. Sed de hiis alias.

Discipulus. Si placet persequere de officiis ut cepisti.

Magister. Ad hostiarii curam spectat ut excludat uel admittat quod oportet et diligens sit in custodia omnium que hostio concluduntur. Vnde et ratione hostii de singulis breuibus exitus duos habet denarios. Hic ministrat forulos ad pecuniam reponendam et rotulos et taleas et cetera necessaria per annum et pro singulis forulis duos habet denarios. Hic in omnem receptam¹ ligna oportuna ministrat ad taleas recepte et compositorum, et semel, hoc est in termino sancti Michaelis, v. solidos pro lignis talearum percipit. Hic uascula lignea, cnipulos, loculos et corrigias et cetera minuta necessaria de fisco inuenit. In termino eodem pro incausto totius anni ad utrumque scaccarium ii. solidi debentur quos sibi de antiquo iure uendicat sacrista maioris ecclesie Westmonasterii.² Vigilis officium idem est ibi quod alibi, diligentissima scilicet de nocte custodia thesauri

¹ Twice a year—i.e. at Easter and Michaelmas

² I have reluctantly abandoned the conjecture *Wintoniensis*. R. L. Poole's reminder, that the clerks in the King's service were originally members of the Chapel staff, seems conclusive (op. cit. p. 79). But see now *Winchester Studies*, ed. M. Biddle, i (1976), p. 292 n. (edd.).

that is to say if, when weighed against the Exchequer pound, it is found to be more than sixpence short. But since all the coin of the realm must be stamped with the king's likeness, and all moneyers are bound to work to the same standard weight, how does it come about that their work does not all weigh alike?

Master. That is an important question and demands separate discussion. But it comes about through forgers, and mutilators or clippers of the coin. You see, English money may be bad in three ways, the weight, the alloy, the stamp, may equally be wrong. But the penalty for these wrongs is not the same in each case. However, that must come later.

Scholar. Pray continue your account of the duties of the officers.

Master. The Usher's business is to admit or exclude as the case requires, and to keep careful charge of all within doors. For which, and for opening the doors, he receives two pence on each Writ of Issue. He provides the forels for packing the money, the rolls, tallies and other necessities by the year, and receives two pence for each forel. Against every opening of the Receipt¹ he provides suitable wood for the tallies of receipt and allowance, and once a year, in Michaelmas term, he receives five shillings for the wood for the tallies. He also finds, at the expense of the Treasury, wooden bowls, knives, purses, and straps, and other small necessities. In Michaelmas term also two shillings are due for the ink for the whole year for both Exchequers, which is claimed of ancient right by the sacristan of the great church of Westminster.²

The Watchman's duty is what it is elsewhere, viz the most diligent care during the night of the treasure,

principaliter et omnium eorum que in domo thesauri reponuntur. Sic habes omnium officia distincta qui inferius ministrant. Sunt et hiis liberationes constitute dum scaccarium est; hoc est a die qua conuocantur usque ad diem qua generalis est secessio. Clericus thesaurarii qui infra est v. denarios habet in die. Scriptor eiusdem thesaurarii in superiori scaccario similiter v. Scriptor cancellarii v. Duo milites baiuli clauium quisque in die viii. ratione militie¹; asserunt enim quod equis necessariis et armis instructi fore teneantur ut cum thesauro missi quod sui officii fuerit oportunius sic exequantur. Miles argentarius xii. in die. Fusor v. Hostiarius maioris scaccarii v. Quatuor computatores quisque iii. si Londoniis sunt, si Wintonie, quia inde solent assumi, ii. quisque habet. Vigil, unum denarium. Ad lumen cuiusque noctis circa thesaurum, obulus.

Discipulus. Hostiarius thesauri qua ratione liberationem solus non percipit?

Magister. Non satis noui, sed tamen quia uidetur aliquid percipere ratione hostii et pro forulorum et talearum ministerio liberationem forte non recipit uel forte quia non regi sed magis thesaurario et camerariis seruire uidetur in custodia hostii domus eorum. Hac lege minoris scaccarii uel recepte ratio subsistit.

Discipulus. Sic michi satisfactum est in hac parte ut nil deesse uideatur. Nunc ergo si placet proseguere de maiore.

iiii *Magister.* Licet eorum qui ad maius scaccarium resident, officia quibusdam uideantur proprietatibus esse distincta unum tamen officium omnium est et intentio ut regis utilitati prospiciant, salua tamen equitate, secundum constitutas leges scaccarii. Eius autem

¹ This was the standard wage of a knight at this date. See Round, *Feudal England* (1895), p. 271 sq.

in the first place, and of everything else kept in the Treasury. This concludes the several duties of the officers of the Lower Exchequer.

They have also standing wages during the sessions of the Exchequer, that is from the day of assembly to that of adjournment. The Treasurer's Clerk in the Lower Exchequer has fivepence a day; his Scribe in the Upper Exchequer likewise fivepence. The Chancellor's Scribe, fivepence. The two Knights who bear the keys eightpence a day, as knights¹; for they say that they must needs be equipped with horses and armour, to perform their duties when sent out with treasure. The Knight Silversmith, twelve pence a day. The Melter, five. The Usher of the Upper Exchequer, five. The four Tellers, three each if they are in London, two if at Winchester, since their home is usually there. The Watchman, a penny; and for a light about the treasure every night, a halfpenny.

Scholar. Why does the Usher of the Treasury, alone, have no wages?

Master. I do not know. It may be because he gets a fee for keeping the door, and for providing forels and tallies; or possibly because he is held not to be the servant of the King, but of the Treasurer and Chamberlains in keeping the door of their house. This, then, is the constitution of the smaller Exchequer or Receipt.

Scholar. I think you have answered all my questions. Now, pray, proceed to the greater Exchequer.

Master. Although the functions of those who sit at iv the greater Exchequer are different, the duty and aim of all is the same, to secure the King's advantage, without injustice, according to the appointed laws of the Exchequer. Its plan or constitution is warranted both by antiquity and by the authority of the magnates who

ratio uel institutio cum ipsa temporis antiquitate tum magnorum qui assident auctoritate roborata subsistit. Ab ipsa namque regni conquisitione per regem Willelmum facta cepisse dicitur sumpta tamen ipsius ratione a scaccario transmarino. Verum in plurimis et pene maioribus dissident. Sunt etiam qui credant usum eius sub regibus Anglicis extitisse, hinc sumentes huius rei argumentum quod coloni et iam decrepiti senes fundorum illorum qui corone annominantur, quorum in hiis cana memoria est, optime nouerint a patribus suis edocti quantum de albo firme pro singulis libris soluere teneantur. Sed hec ratio cogens est de firme solutione non de scaccarii sessione. [Videtur autem eis obuiare qui dicunt album firme a temporibus Anglorum cepisse quod in libro iudiciario in quo totius regni descriptio diligens continetur et tam de tempore regis Edwardi quam de tempore regis Willelmi, sub quo factus est, singulorum fundorum valencia exprimitur, nulla prorsus de albo firme fit mentio. Vnde probabile uidetur quod facta illa descriptione tempore iam dicti regis de albo firmarum fuerit a studiosis eius constitutum propter causas que inferius annotantur.¹] Quocumque uero tempore ceperit usus eius, certum est quod magnorum auctoritate roboratur adeo ut nulli liceat statuta scaccarii infringere uel eis quauis temeritate resistere. Habet enim hoc commune cum ipsa domini regis curia in qua ipse in propria persona iura discernit quod nec recordationi nec sententie in eo late licet alicui contradicere. Huic autem curie tam insignis auctoritas est cum propter regie ymaginis excellentiam que in sigillo eius in thesauro indiuidua lege seruatur tum propter eos qui assident ut

¹ Richard had evidently not made any careful examination of Domesday except, in all probability, to verify claims of manors to be ancient demesne. It reads like an interpolation, not necessarily by Richard.

sit at it. For it is said to have begun with King William's Conquest and to have borrowed its constitution from the Exchequer of Normandy. But they differ in many important points. Some people believe that it existed under the English kings, arguing from the fact that the farmers of crown manors, some of them feeble old men but with an excellent memory for matter of this kind, know by their fathers' teaching, how much blanch farm in the pound they are bound to pay. But this is a cogent proof of the payment of the farm, but not of the session of the Exchequer. [But it may be objected to by those who consider blanch farm to have begun in the time of the English kings, that in Domesday Book, which contains an exact description of the whole kingdom both in the time of Edward the Confessor and in that of William I, under whom it was compiled, and states the value of each manor, no mention is made of blanch farm. From which it seems probable that it was after the compiling of Domesday Book in King William's reign that blanch farm was instituted by his devoted servants for the reasons noted below.] ¹

But whenever the Exchequer [i.e. the abacus *as distinguished from the tallies*] came into use it is certain that it is so potent owing to the authority of its Barons that no man may break its laws or be bold enough to resist them. For it shares with the King's Court in which he administers justice in person the privilege that its records and judgments may not be impugned. The Exchequer has this eminent authority both on account of the excellence of the King's image which is an essential to his seal preserved in the Treasury, and on account of those who sit at its board as we have said, by whose wisdom the whole state of the realm is kept secure. For at it there sits the King's Chief Justiciar, second only to the

dictum est quorum sollertia totus regni status indemnis seruatur. Illic enim residet capitalis domini regis iustitia, primus post regem in regno ratione fori, et maiores quique de regno qui familiarius regiis secretis assistunt ut quod fuerit sub tantorum presentia constitutum uel terminatum inuiolabili iure subsistat. Verum quidam ex officio, quidam ex sola iussione principis resident. Ex officio principaliter residet, immo et presidet, primus in regno, capitalis scilicet iustitia. Huic autem assident ex sola iussione principis momentanea scilicet et mobili auctoritate quidam qui maiores et discretiores uidentur in regno siue de clero sint siue de curia. Assident inquam ad discernenda iura et dubia determinanda que frequenter ex incidentibus questionibus oriuntur. Non enim in ratiociniis sed in multiplicibus iudiciis excellens scaccarii scientia consistit. Facile enim est, proposita summa que exigitur et superpositis ad collationem eius hiis que soluta sunt, per subtractionem discernere, si satisfactum est uel si quid restat. At cum ceperit multiplex inquisitio fieri de hiis rebus, que uarie fisco proueniunt, et diuersis modis requiruntur et a uicecomitibus non eodem modo perquiruntur, discernere si secus egerint quibusdam graue est et ob hoc circa hoc scientia scaccarii maior esse dicitur. Dubiorum uero uel dubitalium iudicia que frequenter emergunt sub una tractatus serie comprehendere non ualent quia nec dum omnia dubiorum genera in lucem prodierunt. Quedam tamen ex hiis que proposita uel determinata cognouimus suis locis inferius annotabimus.

Discipulus. Quid est huius tam excellentis sessoris officium?

v *Magister.* Aliud uerius attribui sibi non ualet nisi quod omnibus que in inferiore uel superiore scaccario

King by virtue of his jurisdiction, and all the Barons of the realm who are the King's Privy Councillors, in order that the decrees made in such an important assembly may be inviolable. But some sit *ex officio*, others by the King's command alone.

Sitting *ex officio*, in the chief place, and presiding, is the first subject in the realm, the Chief Justiciar. His assessors, appointed merely by the King's command and with a temporary and revocable authority, are among the greatest and most prudent in the realm, whether clerks or courtiers. Their function, I may say, is to declare the law, and to resolve the doubtful points which arise constantly in the matters under discussion. For the highest skill at the Exchequer does not lie in calculations, but in judgments of all kinds. It is easy enough to set down the sum due, and to set underneath for comparison the sums paid, and find by subtraction whether the debt has been paid or what is the balance due. But when complicated questions arise about payments which reach the Treasury in different ways, are due on different accounts and are demanded of the Sheriffs in different fashions, some people find it a difficult matter to decide whether the Sheriffs have acted wrongly: and for that reason knowledge of these things is regarded as the more important at the Exchequer. But the decisions of doubtful or partially doubtful questions which continually come up cannot be dealt with in a single treatise, since all the varieties of them have not yet come to light. But we shall indicate below in their proper places some of these which have to our knowledge been raised or decided.

Scholar. What is the duty of this most eminent member of the court?

Master. The best way of describing it is to say that v

fiunt hic prospicit et ad nutum ipsius quolibet officia subiecta disponuntur; sic tamen ut ad domini regis utilitatem iuste proueniant. Hoc tamen inter cetera uidetur excellens quod potest hic sub testimonio suo breue domini regis facere fieri ut de thesauro quolibet summa liberetur, uel ut computetur alicui quod sibi ex domini regis mandato prenouerit computandum, uel si maluerit breue suum faciet sub aliorum testimonio de hiis rebus.

Discipulus. Magnus est hic cuius fidei totius regni cura immo et cor regis committitur. Scriptum quippe est: 'ubi est thesaurus tuus ibi est et cor tuum.'¹ Set iam si placet proseguere de ceteris.

Magister. Vis proseguar de ipsis secundum gradus dignitatum an secundum dispositionem sedium?

Discipulus. Secundum quod quisque ratione officii sui sedem adeptus est. Facile enim erit, ut credo, ex officiis perpendere dignitates.

Magister. Vt noueris quo ordine disponantur, scias ad quatuor scaccarii latera quatuor poni sedilia uel scanna. Ad capud uero scaccarii, hoc est unde latitudo discernitur, in medio non sedilis sed scaccarii locus est illius principalis de quo supradiximus.² In leua eius primo loco residet cancellarius ratione officii sui, si adesse eum contigerit, post hunc miles gregarius³ quem constabularium dicimus, post hunc duo camerarii, prior autem qui intuitu prouectoris etatis uenerabilior esse uidebitur, post hos miles qui uulgo dicitur marescallus. Inseruntur tamen quandoque alii hiis absentibus uel forte eis presentibus si tanta scilicet fuerit auctoritas

¹ Matt. 6:21

² The bench extends beyond the table to the left. See the diagram, p. xlii.

³ miles gregarius, a 'common soldier,' seems to be adapted to mean the knight in charge of a *grex* or company.

he supervises everything that is done either in the Lower or in the Upper Exchequer, and that all the inferior offices are at his entire disposal; provided always, however, that the King's advantage is duly consulted. But the most exalted of all his privileges is that he can cause writs to be issued, either of *liberate*, for the payment of money out of the Treasury, or of *compute*, for the allowance of expenditure to accountants, in the King's name with his own as witness, or, should he so prefer, in his own name with other witnesses, to the same effect.

Scholar. He is indeed a great personage, seeing that he is trusted with the care of the whole realm, and indeed with the King's very heart. For it is written, 'Where your treasure is, there will your heart be also.'¹ But now, please, proceed with the others.

Master. Shall I proceed according to their degree, or according to their place at the Board?

Scholar. According to the places they have attained respectively in virtue of their offices. For it will, I imagine, be easy to estimate the dignity from the duties.

Master. To understand the arrangement of the seats, you must know that four settles or benches are set at the four sides of the Exchequer Board. At the head of the Board, that is the narrow way, in the middle not of the bench but of the Board, is the place of that chief personage whom we have mentioned.² Next him, on his left, sits the Chancellor, if present, by virtue of his office; next him the Knight-Commander,³ whom we call the Constable; after him the two Chamberlains, the elder first, out of respect for his years; and after them the Knight, whom we commonly call the Marshal. Others are sometimes included when these are absent, and perhaps even when they are present, if the dignity of the persons sent by the King is such that these ought

eorum qui a rege destinantur ut eis cedere debeant ; et hec est dispositio primi sedilis. In secundo uero quod est ad latus longitudinis scaccarii in primo capite residet clericus uel alius seruiens camerariorum cum recautis hoc est cum contrataleis de recepta,¹ post hunc, interpositis quibusdam qui non ex officio resident set sunt a rege missi, locus est quasi in medio lateris scaccarii illi qui compotos positione ponit calculorum ; post hunc aliqui non ex officio necessarii tamen, et in fine sedilis illius residet clericus qui scriptorio preest et hic ex officio. Sic habes secundi scanni dispositionem. Verum ad dextram presidentis iustitiarum residet primo loco nunc Wintoniensis episcopus quondam Pictauiensis archidiaconus * ex officio quidem set ex nouella² constitutione, ut scilicet proximus sit thesaurario et scripture rotuli diligenter intendat. Post hunc residet thesaurarius in capite tercię † sedis in dextera, cui diligentissima cura est per singula que illic geruntur quasi rationem de hiis omnibus si oportuerit reddituro. Post hunc residet clericus eius scriptor rotuli de thesauro, post hunc alius scriptor rotuli de cancellaria, post hunc clericus cancellarii qui oculata ‡ fide semper prospicit ut rotulus suus alii per singula respondeat ut nec iota unum desit nec alius sit ordo scribendi. Post hunc quasi in fine sedilis illius residet clericus constabularie, magnus quidem et officiosus in domini regis curia et hic quidem habens officium quod per se ipsum uel per clericum discretum, si regi uisus fuerit alias magis necessarius, administrat ; et hec est descriptio tercię sedis. In quarto scanno quod

* ante ex add, non N, Liebermann probante

† tercię Liebermann secunde codd

‡ oculata Liebermann : occulta codd

¹ The 'stock,' the larger portion of the tally, was delivered to the payer, the Treasury retaining the 'foil' or smaller piece. Hence, of course, Government 'Stock' and the 'Stock' Exchange. (In the 1902 edition the explanatory note has transposed the terms 'stock' and 'foil'.)

to resign their seats to them. Such is the arrangement of the first bench.

At the head of the second bench, which runs the long way of the board, sits the Clerk or other servant of the Chamberlains with the foils, that is, the counter-tallies of receipt.¹ After him, but separated from him by some persons who do not sit *ex officio* but are sent by the King, is the place, almost in the middle of the long side of the board, for the Accountant with his counters. Then come some who do not sit *ex officio*, but are nevertheless needed ; and at the end of the bench sits, *ex officio*, the Master of the Writing-Office. That completes the second bench.

Immediately on the right of the President, the Justiciar, sits the present Bishop of Winchester, formerly Archdeacon of Poitiers, *ex officio*, but by a recent² ordinance, so that he may be next the Treasurer and keep a careful watch on the writing of the Roll. Next him, on his right, sits the Treasurer, at the head of the third bench, who must have especial care of all that is done in the Exchequer, being bound to give account of it all if needed. Next sits the Scribe of the Treasury Roll, then the Scribe of the Chancery Roll, and next again the Chancellor's Clerk, who watches with a careful eye to see that his Roll corresponds exactly with the other, so that not a single 'jot' is missing and the order of the words is the same. Then, at the end of the bench, sits the Clerk of the Constabulary, a great and important person in the King's Court, and with duties here also, which he performs in person, or, if the King requires his presence elsewhere, by a discreet clerk. That completes the third bench.

² The word *novella* is deliberately employed to suggest the 'novels' of the Civil Law. Richard uses it to indicate a practice introduced since the death of Henry I. See p. 71.

est oppositum iustitiario, in capite residet magister Thomas cognomento Brunus cum rotulo tertio qui ex nouella constitutione, hoc est a domino rege nostro, additus est. Quia scriptum est 'funiculus triplex difficile soluitur.'¹ Post hunc uicecomes et clerici sui qui assident ad compotum cum taleis et aliis necessariis ; et hec est dispositio quarte sedis.

Discipulus. Scriptor magistri Thome numquid sedem habet cum aliis scriptoribus ?

Magister. Sedem quidem habet non cum aliis sed super alios.

Discipulus. Quare sic ?

Magister. Cum enim sic disposite essent sedes ab initio ut scriptor thesaurarii ad latus suum resideret ne quid scriberetur quod oculum eius effugeret, et item scriptor cancellarie ad latus scriptoris thesaurarii ut fideliter exciperet quod ille prescribat, et item clericus cancellarii necessario proximus esset illi scriptori ne posset errare, non superfuit locus in quo scriptor ille resideret in serie scanni set datus est ei locus in eminenti ut prospiciat et immineat scriptori thesaurarii qui primus scribit, et ab ipso quod oportet excipiat.

Discipulus. Huic oculi lincei² necessarii essent ne erraret ; periculosus enim in hiis error dicitur.

Magister. Licet erret interdum in excipiendo quia remotus est, tamen dum rotuli corriguntur, facta omnium trium collatione, facile erit errata corrigere.

Discipulus. Satis hactenus dictum est de ordine sedentium, nunc de eorum officiis si placet exequere incipiens a leua presidentis.

Magister. Cancellarius in ordine illo primus est et sicut in curia sic ad scaccarium magnus est adeo ut sine

¹ Eccles. 4:12

² cf. Hor. Sat. 1. ii. 90

On the fourth bench, opposite the Justiciar, and at its head, sits Master Thomas Brown, with a third Roll, which was added by a recent ordinance, that is by our Lord the King. For it is written, 'A threefold cord is not quickly broken.'¹ Next him come the Sheriff and his clerks who sit to account with tallies and other vouchers. And that is the arrangement of the fourth bench.

Scholar. Does Master Thomas's scribe sit with the other scribes ?

Master. His seat is not with them but above them.

Scholar. Why so ?

Master. Since the original arrangement was that the Treasurer's Scribe should sit beside the Treasurer, lest anything that should be written should escape his eye ; and the Chancellor's scribe beside the Treasurer's, so that he might faithfully copy what the other was writing ; and the Chancellor's Clerk must needs be next to his Scribe to see that he made no mistakes ; there was no place left in the row on the bench for Master Thomas's Scribe to sit in ; but a place has been given him up above so that he can overlook the Treasurer's Scribe who is the original writer, and copy what is necessary from him.

Scholar. He must be 'lynx eyed'² to avoid mistakes ; and in these matters, I am told, a mistake is serious.

Master. He may make some mistake in copying from being so far away ; but when the Rolls are corrected all three are compared, and any error is easily amended.

Scholar. That is enough about the arrangement of the seats. Now, please, continue with the duties of the sitters, beginning on the President's left.

Master. On that side the first is the Chancellor. In the Exchequer, as in the Court, he is so great a man that nothing important is or should be done without his

ipsius consensu uel consilio nil magnum fiat uel fieri debeat; uerum hoc habet officium dum residet ad scaccarium. Ad ipsum pertinet custodia sigilli regii, quod est in thesauro set inde non recedit nisi cum, precepto iustitie, ab inferiore ad superius scaccarium a thesaurario uel camerario defertur ad explenda solum negocia scaccarii. Quibus peractis in loculum mittitur et locus a cancellario consignatur et sic thesaurario traditur custodiendus; item cum necesse fuerit signatus sub omnium oculis cancellario offertur nunquam ab ipso uel ab alio alias efferendus. Item ad ipsum pertinet rotuli qui est de cancellaria¹ custodia per suppositam personam. Et, sicut uiris magnis uisum est, de omni scriptura rotuli cancellarius eque tenetur ut thesaurarius excepto dumtaxat de hoc quod scribitur 'in thesauro' receptum; licet enim non prescribat ut thesaurarius, conscribit tamen, et si ille errauerit licet ipsi uel clerico eius thesaurarium cum modestia corripere et quid debeat, suggerere. Quod si thesaurarius perseuerauerit et mutare noluerit; poterit eum, si de parte sua confidit tantum, coram baronibus arguere ut ab eis quid fieri debeat iudicetur.

Discipulus. Veri simile etiam uidetur custodem tertii rotuli eadem scripture lege constringi.

Magister. Non est ueri simile tantum set uerum. Par enim est auctoritas illius duobus rotulis ratione scripture quia sic placuit eius auctori.

Constabularii officium est ad scaccarium ut in breuibus regis de exitu thesauri, uel de aliquibus computandis hiis qui compotum faciunt, simul cum presidente testis existat. In omnibus enim huiusmodi breuibus ex antiqua

¹ This is the duplicate of the Pipe Roll written by the Chancellor's Scribe.

consent and advice. But his duty when sitting at the Exchequer is as follows. He is the official custodian of the King's Seal, which is in the Treasury, but is only taken out when, by order of the Justiciar, it is brought by the Treasurer or one of the Chamberlains from the Lower to the Upper Exchequer, and then only for Exchequer business. When this is completed, it is put in a purse, which is sealed by the Chancellor, and handed to the Treasurer to keep. When it is required again, it is handed to the Chancellor under seal, in view of everybody and may never be taken out of the Treasury by him or any other on any other occasion. He is also the keeper, by his deputy, of the Chancellor's Roll.¹ And it has been held by the Barons that he is equally responsible with the Treasurer for everything which is written in the Roll except for the receipts 'In the Treasury.' For, though he is not, as the Treasurer is [*by his scribe*] the original writer, he copies it as it is written; and if the Treasurer makes a mistake, he or his clerk may, with due modesty, check the Treasurer and suggest what ought to be written. But if the Treasurer persists and refuses to make an alteration, he may, if he feels sure enough, argue the point before the Barons, and let them decide what ought to be done.

Scholar. It seems probable that the keeper of the third Roll [i.e. *Master Thomas*] shares the responsibility for the writing with the other two.

Master. It is not merely probable: it is true. For that third Roll is equally authentic with the other two, being written with them. For so it seemed good to the King who established it.

The Constable's duty at the Exchequer is to witness, with the President, all writs of *Liberate* and *Compute*. For in all such writs, by ancient custom, the names of

institutione duos oportet conscribi testes. Item eius officium est ut cum ad scaccarium stipendiarii regis uenerint pro stipendiis suis siue sint residentes in castris regis siue non, assumpto secum clerico constabularie, cuius est terminos eorum nosse, et marescallo scaccarii, computet eorum liberationes et de retractis fidem suscipiat et residuum solui faciat. Omnis enim liberatio quorumcunque siue accipitrariorum siue falconariorum siue bernariorum ad eius officium spectat, si presens fuerit, nisi forte dominus rex ad idem aliquem prius assignauerit quia constabularius a rege non facile potest auelli propter maiora et magis urgentia. [Notandum uero quod marescallus scaccarii de liberationibus residentium militum percipit quod ad eum pertinet ratione officii sui, de commeantibus autem non.]¹ Item huic cum aliis magnis commune est ut nichil magnum eo inconsulto fieri debeat.

Camerariorum officium annexum est officio thesaurarii, quia uno et eodem pretexto honoris uel dispendii militare noscuntur, et est eis idem uelle et idem nolle² ad honorem regis adeo ut quod ab uno factum fuerit a nullo eorum dicatur infectum. Thesaurarius enim pro se et pro eis suscipit compotos et secundum qualitates exactorum uerba ministrat in scripturam rotuli in quibus omnibus pari iure societatis³ obligantur, et sic de aliis que uel ab hoc uel ab hiis salua fide domini regis fiunt siue in scriptis siue in receptis siue in taleis siue in expensis.

Marescalli cura est taleas debitorum, quas uicecomes

¹ This sentence is out of place, and looks like a marginal note. In 1377 the Constable and the Marshal claimed fourpence in the pound on the wages of all men-at-arms except Seneschals and Chamberlains, but without any distinction between garrison and field troops.

² cf. Sall. *Cat.* xx and Sil. Ital. ix. 406

³ cf. Just. *Inst.* iii. xxv. 9

two witnesses must be given. It is also his duty, when the King's mercenaries come to the Exchequer for their wages, whether they dwell in the King's castles or not, to take with him the Clerk of the Constabulary, whose business it is to know their terms of service, and the Marshal of the Exchequer, and to credit them with their wages, take their *affidavits* as to arrears of pay and cause what remains owing to them to be paid. For all wages, whether of ostringers, falconers or keepers of hounds are his affair, if he is present, unless the King has previously appointed anyone else for the business, because the Constable cannot easily be separated from the King, who needs him for more important and pressing matters. [Note, however, that the Marshal of the Exchequer takes his fee on the salaries of knights in garrison, but not of those in the field].¹ The Constable has this in common with the other Barons, that nothing of consequence ought to be done without his advice.

The duty of the Chamberlains is closely connected with that of the Treasurer, whose dignity and responsibility they share, and their will to do the King service is so blended² into one that the act of any one of them cannot be disowned by either of the others. For the Treasurer receives the accounts on behalf of them all, and dictates what is to be written in the Roll according to the nature of the debts; in all which, by the law of partnership,³ the others are equally bound. And the same rule applies throughout to everything done by him or by them (saving the King's credit), whether in writing the Roll, receiving the money, cutting the tallies or paying out the treasure.

The Marshal's task is to set apart in the Sheriff's forel the tallies of debts which he has put in (though these are noted in the Roll), and also the King's writs of

reddiderit, que tamen annotantur in rotulo, mittere seorsum in forulo suo, breuia quoque regia de computandis uel perdonandis uel dandis hiis que exiguntur a uicecomite per summonitionem. Illi uero forulo superscriptio comitatus cuius hec sunt apponitur et singulis comitatibus singulos oportet forulos a uicecomite qui computat marescallo ministrari.

Discipulus. Est hic aliquid quod me mouet.

Magister. Satis presensi. Sustine tamen modicum, plana enim erunt omnia ex consequentibus. Item si quis debitor non satisfaciens de summonitione meruerit comprehendendi, huic traditur seruandus; et soluto scaccario illius diei si uoluerit mittet eum in carcerem custodie publice, non tamen uinculabitur uel in ima trudetur set seorsum uel supra carcerem; licet enim soluendo non sit tamen ob hoc non meruit cum sceleratis deputari.¹ [Ita tamen si miles non fuerit, de militibus namque pro pecunia retentis illustris regis est constitutio que infra annotabitur in agendis uicecomitis.]² Item ad hunc spectat ut, peracto compoto uicecomitis uel custodis uel cuiuscunque persone que ad compotum residet, fidem ab ipso suscipiat in publico quod legitimum compotum secundum conscientiam suam fecerit. Si uero uicecomes uel qui computauit aliquo debito tenetur, addet quod a scaccario, hoc est a leugata³ uille in qua est, non discedet, nisi ipsa die rediturus, sine licencia baronum. Item hic factas summonitiones contra terminum alterius scaccarii a latore sigilli regii signatas sub numero suscipiet et hostiario superioris scaccarii per manum suam distribuet per Angliam deferendas. Sic habes eorum qui in

¹ Isa. 53:12

² See Book II below (p. 117)

³ The 'leucata' or lowy of a town is the usual limit of its municipal jurisdiction, nominally a radius of about a mile from the centre. cf. L. Delisle, *Étude sur la condition de la classe agricole . . . en Normandie* (Paris, 1903), p. 40.

allowance, pardon or payment out of the sums demanded of the Sheriff in the summons. The forel is inscribed with the name of the county to which its contents relate, and a forel for each county ought to be supplied to the Marshal by the Sheriff accounting.

Scholar. There is a point here which I should like to raise.

Master. I felt sure you would. But have a little patience, for it will all come clear from what follows.

Once more, if any debtor has rendered himself liable to arrest by failing to pay the debt demanded in the summons, he is handed over to the custody of the Marshal; and when the Exchequer has risen for the day the Marshal may, if he chooses, put him in the common gaol. But he must not be fettered or thrust into a dungeon, but kept apart or over the prison. For although he cannot pay, he has not thereby deserved to be numbered with the transgressors.¹ [This assumes that he is not a knight, for the King's ordinance as to knights detained for debt will be indicated below when the Sheriff's duties are dealt with.]² It is his business also, when the Sheriff, keeper or other accountant has concluded his account, publicly to take his *affidavit* that he has made his lawful account to the best of his knowledge and belief. But if the Sheriff or other accountant is still liable for any debt, he must add that he will not quit the Exchequer (i.e. the 'lowy'³ of the town in which it is) without the leave of the Barons, unless he returns on the same day. The Marshal shall also receive from the Keeper of the King's Seal the sealed summonses for the next Exchequer by tale, and deliver them with his own hand to the Usher of the Upper Exchequer, to be sent throughout England. This completes the several duties of those who sit on the first bench.

primo scanno resident officia distincta.

In capite uero secunde sedis primus est seruiens camerariorum, clericus seu laicus, cuius officium paucis expediri potest, uerbo tamen non opere. Hic taleas¹ de thesauro contra uicecomitem, uel eum qui computat, ministrat et, cum oportuerit, secundum quod ratio computationis exegerit, mutat uel minuit uel addit in talea, apposita eidem contratalea uicecomitis; quo facto in termino Pasche longiorem uicecomiti reddit, iterum in termino sancti Michaelis afferendam. In termino uero sancti Michaelis, cum in rotulo summa eius scripto fuerit deputata, tradit eandem longiorem marescallo in forulo suo reponendam.

Discipulus. Miror quod dixisti taleam semel compoto oblatam et receptam iterum alii compoto offerendam.

Magister. Noli mirari, quoniam quecumque exacta uel soluta fuerint a uicecomite in termino Pasche, necesse est iterum summoneri; non tamen ut secundo soluatur quod iam solutum fuerit, set ut offerant se compoto et oblata talea solutionis iam dudum facte redigatur in scripturam rotuli et sic absoluatur a debito. Dum enim taleam penes se habuerit, liberatus non erit, set semper summonendus.

Discipulus. Et hec necessaria uisa sunt. Set prosequere si placet de officiis.

Magister. Immo quia de taleis mentionem fecimus, quo ordine taleandi ratio consistat paucis aduerte. Talearum igitur alia est que simpliciter talea dicitur, alia quam memorandam nuncupamus. Legittime uero talee longitudo a summitate indicis ad summitatem extenti pollicis est. Illic terebro modico perforatur.² Memoranda uero, que de firma blanca semper fieri solet, paulo

¹ Note that this is not necessarily the cutter of tallies in the Receipt

At the head of the second bench is, first, the servant of the Chamberlains, whether clerk or layman, whose work is easier to describe than to perform. He produces the tallies¹ from the Treasury against the Sheriff or other accountant, and as the process of the account demands, alters, reduces or adds to the tally, to which the Sheriff's 'stock' or countertally has been joined. After doing this in Easter term, he gives back to the Sheriff a longer tally to be brought back at Michaelmas. But in Michaelmas term, when the total of the tally has been entered on the Roll, he hands the same longer tally to the Marshal to place in its proper forel.

Scholar. I am surprised at your saying that a tally which has been already offered for account and accepted, need be offered again at another account.

Master. You need not be surprised; since whatever has been demanded of the Sheriff or paid in by him in Easter term must needs be put in summons again; not in order that what has been paid already should be paid over again, but that the debtors may present themselves to account, and the tally for the payment previously made may be entered on the Roll, and the accountant acquitted of his debt. For, so long as he retains the tally, he will not be free, but still liable to summons.

Scholar. It clearly is necessary, after all. But pray proceed with the duties.

Master. Well, since we have mentioned tallies, let me briefly explain how tallies are made. There is one kind which we call simply, a tally, and another which we call a memoranda tally. The length of a lawful tally is from the tip of the index finger to the tip of the outstretched thumb. At that distance it has a small hole bored in it.²

² The hole was used for passing a leather thong through to string tallies on the same subject together.

breuior est quia, facto essaio per quod firma dealbatur, prima illa confringitur et, apposita sibi talea combustionis, talee longitudinem tunc primo meretur.¹ Hac autem ratione fit incisio. In summo ponunt m. li. sic ut incisio eius spissitudinis palme capax sit, c. li. ut pollicis, xx. li. ut auricularis, libre unius incisio quasi grani ordeï tumentis, solidi uero minus, sic tamen ut ex conscissionibus loco uacuato modicus ibi sulcus fiat. Denarius facta incisione nullo dempto signatur. Ex qua uero parte millenarius inciditur alium non pones numerum nisi forte mediam eius partem sic ut mediam similiter incisionis eius partem demas et infra constituas. Sic fit si c. li. incisurus es et non sit ibi millenarius; facies sic et de xx. li.; sic et de xx. solidis quos libram dicimus. Quod si multi millenarii uel centenarii uel uigene librarum incidende sunt lex eadem seruetur, ut ex patentiore parte² eiusdem talee, hoc est que directe tibi proponitur facta annotatione, maior numerus, ex altera uero minor incidatur. Ex patentiore uero parte semper est maior numerus in summo, ex minus patente semper minor [hoc est denarii]. Marce argenti ad scaccarium incisio sola significatiua non est, set per solidos designatur. Marcam autem auri in medio talee sicut libram unam incidas. Aureum uero unum non prorsus ut argenteum set ducto directe incidentis cultello per medium talee non obliquando sicut fit in argenteo. Sic

¹ This appears to mean that a temporary tally, shorter than the standard, was issued for the 'tale' of the pence paid in on account of blanch farm. The result of the assay would show the poundage to be deducted to obtain the equivalent value lawful in unworn coin, and a full length tally would be cut for that figure, which the Sheriff could present at his account. To this had to be attached a 'tally of Combustion' for the amount deducted, because the Treasurer and Chamberlains were accountable for the actual number of pence paid into the Treasury.

² The more open edge is that under the inscription on the stock and above that on the foil. See H. C. Jenkinson's 'Exchequer Tallies' (*Archaeologia*, lxii, p. 377 and Pl. xlix, Figs. 18-24); lxxiv, 289-351.

But the memoranda tally, which is always made for Blanch Farm, is somewhat shorter because, after the assay by which the farm is blanched, that first tally is broken, and a tally of full length is only issued when the combustion tally is attached to it.¹

The method of cutting is as follows. A thousand pounds are shown by a cut at the top [*or end*] of the tally wide enough to hold the thickness of the palm of the hand, a hundred that of the thumb, twenty pounds that of the little finger, a pound that of a swelling barley-corn, a shilling smaller, but enough for the two cuts to make a small notch. A penny is indicated by a single cut without removing any of the wood. On the edge of the tally on which a thousand is cut you may put no other number save the half of a thousand, which is done by halving the cut in like manner and putting it lower [*i.e. nearer the butt of the stock and the left-hand end of the foil*]. The same rule holds for a hundred, if there is no thousand, and likewise for a score and for twenty shillings which make a pound. But if several thousands, hundreds, or scores of pounds are to be cut, the same rule must be observed, that the largest number is to be cut on the more open edge² of the tally, that is to say that which is directly before you when the note is made, the smaller on the other. But the larger number is always on the obverse of the tally, and the smaller on the reverse. There is no single cut signifying a mark of silver: it is shown in shillings [*and pence*]. But you should cut a mark of gold, as you do a pound, in the middle of the tally. A gold penny [*i.e. a besant*] is not cut like a silver one; but the notch is cut in the middle of the tally with the knife perpendicular, and not sloping as with a silver one. Thus the position of the cut on the tally and the difference in the cutting settles what is gold and what is silver. But

igitur ipsa locorum dispositio et incisionis differentia quid aureum uel quid sit argenteum utrumque determinat. Ceterum oportunius hec omnia uisu quam uerbo cognoscas.

Discipulus. Quod de hiis restat oculata fide constabit. Nunc si placet de officiis proseguere.

Magister. Post hunc, ut supra diximus, interpositis uiris aliquibus discretis a rege missis, residet is qui ex precepto regis computationes facit positione nummorum pro calculis. Officium quidem satis perplexum est et laboriosum; et sine eo uix uel nunquam scaccarii ratio posset expediri. Set nulli illic residenti conuenit ex officio nisi cui rex uel iusticia mandauerit exequendum. Laboriosum inquam, quia cetera officia lingua uel manu uel hiis duobus explentur. Set in hoc 'lingua, manus, oculi mens indefessa laborant.'

Huius autem hec est ratio secundum consuetum cursum scaccarii non legibus arismetis. Memoriter, ut credo, dixisse me retines scaccario superponi pannum uirgis distinctum in cuius intersticiis numerales acerui collocantur. Porro calculator in medio lateris residet ut pateat omnibus et ut liberum habeat ministra manus excursum. Statuit autem ad dexteram in spatio inferiore aceruum nummorum ab xi. et infra. In secundo, solidorum a xix. et infra. In tertio uero librarum et hic quidem ipsi recta fronte debet opponi, quia medius est in consuetis compotis uicecomitis. In quarto aceruus est uigenarum. In quinto centenarum, in sexto millenarum, in septimo set raro decem millium librarum. Raro inquam, hoc est cum a rege uel mandato eius a magnis regni compotus a thesaurario et camerariis regni totius

you will learn all this more easily by seeing it than by verbal description.

Scholar. The rest I shall see for myself. Now, pray, go on with the duties.

Master. After the tally cutter, as we have said, and after some discreet persons sent by the King, sits the man who, by the King's command, makes out the account, using coins for counters. It is a confusing and laborious process, and without it the business of the Exchequer would be interminable, or nearly so. But it is not the specific duty of any officer sitting at the Exchequer unless the King or the Justiciar has committed the task to him. I call it laborious, because every other official duty is carried out by using the tongue or the hand or both. But in this :

Tongue, eyes, hand and restless brain
Work with all their might and main

But the system of this is according to the usual course of the Exchequer, not by the rules of Arabian arithmetic. You remember my saying, I imagine, that a cloth is laid on the Exchequer table ruled with lines, and that the coins used as counters are placed in the spaces between them. The Accountant sits in the middle of his side of the table, so that everybody can see him, and so that his hand can move freely at its work. In the lowest space, on the right, he places the heap of the pence, eleven or fewer. In the second the shillings, up to nineteen. In the third he puts the pounds; and this column should be directly in front of him, because it is the centre column in the Sheriff's usual accounts. In the fourth is the heap of the scores of pounds. In the fifth, hundreds, in the sixth, thousands, in the seventh, but rarely, tens of thousands. I say 'rarely'; that is, when an account

recepte suscipitur.¹ Licet autem calculatori pro x. solidis argenteum, pro x. uero libris, obulum aureum apponere ut compotus expeditius fiat.² Cauendum uero est ne manus preambula linguam preueniat uel e conuerso * ; set simul qui computat, et calculum mittat et numerum designet, ne sit error in numero. Disposita igitur per acruos summa que a uicecomite requiritur, disponuntur infra similiter per acruos que soluta fuerint uel in thesauro uel alias. Quod si fuerit firma numero que ab ipso requiritur, uel quodlibet aliud debitum cui solo possit numero satisfieri, simplex fiet detractio inferioris a superiore summa et de residuo tenebitur. Secus autem fiet si firmam blancam sit soluturus quod in agendis uicecomitis plenius ostendetur.

Discipulus. Parce parumper currenti calamo ut liceat paucis uti.

Magister. 'Ad aleam resides nec sunt tibi uerba neganda.'

Discipulus. Videre mihi uideor fieri posse ratione calculandi ut idem denarius pro calculo missus nunc unum nunc solidum nunc libram nunc centum nunc mille significet.

Magister. Sic est quibusdam tamen apposis. Itemque fieri potest eisdem demptis, si calculatori placeat, ut qui mille significat gradatim descendens unum significet.

Discipulus. Sic fit ut quiuis de plebe, cum homo sit et aliud esse non possit, temporalibus apposis uoluntate presidentis ab imo conscendat in summum ac deinceps

* uel e conuerso *Madox* : uel euerso *CNR*

¹ This general audit leaves no traces on the Pipe Roll, which is only concerned with sheriffs' and other subordinate accounts. We can, however, confirm that it took place from a reference in the Pipe Roll of 31 Henry I, p. 129, to such an audit by the Earl of Gloucester and Brian fitz Count. The duty ultimately fell to the Tally-Writer, who was after 1527 styled Auditor of the Receipt (Poole, op. cit., p. 190).

of the whole receipt of the realm is taken by the King, or by the magnates of the realm at his command from the Treasurer and Chamberlains.¹ The Accountant may substitute a silver halfpenny for ten shillings, and a gold one for ten pounds for convenience in counting.² But he must take care that his hand does not outrun his tongue or *vice versa* ; but as he reckons, he must put out the counters and state the number simultaneously, lest there should be a mistake in the number. So, when the sum demanded of the Sheriff has been set out in heaps of counters, the payments made into the Treasury or otherwise are similarly set out in heaps underneath. If the demand made on him is for a farm or other debt payable 'by tale,' the lower line is simply subtracted from the upper, and the Sheriff will be liable for the remainder. But for a payment of 'blanch-farm' the procedure will be different, as will be more fully explained in [*the part about*] the Sheriff's duties [*Book II*].

Scholar. Rest your flowing pen for a moment to let me say a few words.

Master. 'Your turn to play ! So have your say.'

Scholar. It seems to me that in this system of accounting, the same penny, used as a counter, may stand for either a penny, a shilling, a pound, a hundred pounds or a thousand pounds.

Master. It may, if certain 'accidents' are added to it. It may also, if the 'accidents' be removed, at the pleasure of the Accountant, begin by standing for a thousand, and sink step by step to a penny again.

Scholar. In like manner, any common man, who is essentially a man, and can be nothing else, may, if the President wills to add some worldly 'accidents,' rise to

² The practice in the sixteenth century was to use counters above the line instead of these halfpence. See Introduction, p. xxxvi.

fortune lege seruata retrudatur in imum, manens quod fuerat, licet uideatur ratione dignitatis et status a se sibi mutatus.¹

Magister. Nescis quod sermo tuus non capit in omnibus : uerum, quicquid aliis uideatur, mihi satis placet quod ex hiis alia conicis. In mundanorum enim tribulis mistici intellectus flores querere laudabile est. Nec in hiis tantum que commemoras set in tota scaccarii descriptione sacramentorum quedam latibula sunt. Officiorum namque diuersitas, iudicarie potestatis auctoritas, regie imaginis impressio, citationum emissio, rotulorum conscriptio, uillicationum ratio,² debitorum exactio, reorum condemnatio uel absolutio districti examinis figura sunt, quod reuelabitur cum omnium libri aperti erunt et ianua clausa.³ Set de hiis hactenus. Nunc prosequamur de officiis. Post hunc qui calculis inseruit primus residet ex officio clericus qui preest regis scriptorio. Ad hunc pertinet scriptores idoneos ad rotulum cancellarie et ad breuia regis que in scaccario fiunt, nec non et summonitiones conscribendas inuenire, et ut bene fiant prospicere ; que quidem officia, licet paucis exprimantur uerbis, infinitis tamen uix expleri possunt laboribus ; quod norunt hii qui hec ipsa rerum experientia didicerunt.⁴ Sic habes officia dispositorum in secundo sedili.

Discipulus. Si bene memini primus ad dexteram presidentis residet Wintoniensis episcopus, cuius officium in

¹ For the Wheel of Fortune see e.g. Nisbet on Cicero, in *Pisonem* 22.

² cf. Luke 16:2

³ cf. Rev. 20:12, Matt. 25:10

the top, and as the wheel of Fortune revolves, be thrust down again to the bottom, without changing his nature, however much he may appear to be changed by his rank and estate.¹

Master. You forget that what you say does not apply universally. But, whatever others may think, it pleases me that you should find a hidden meaning in these facts. For it is a good thing to seek the flowers of a mystic meaning among the thorns and thistles of this world. Nor is it only in the points which you mention, but in the whole account of the Exchequer, that holy mysteries hide themselves. For the diversity of the functions, the authority of the judge, the King's image expressed in his seal, the issue of summonses, the writing of the Rolls, the account of stewardships,² the exaction of debts, the condemnation or acquittal of the accused, are all a figure of that 'strict account,' which shall be revealed when the books of all are opened, and the door shut.³ But enough of this ! Let us proceed with the duties.

Next after the Accountant, *virtute officii*, sits the clerk who is Master of the Writing Office. It is his business to find suitable scribes for the Chancellor's Roll and for the King's Writs, which are drawn up in the Exchequer ; and also for writing the summonses, and to see that they are properly written. These duties need but few words to explain, but demand almost endless labour, as those know who have learned by experience.⁴ That concludes the duties of those who sit on the second bench.

Scholar. If I remember right, the Bishop of Winchester sits on the right of the President, and I should

⁴ This suggests that Richard had himself been the Master of the *Scriptorium* ; but it was more probably Richard of Ilchester, afterwards Bishop of Winchester, who is often described as *Scriptor curie*.

scaccario uellem protinus expediri. Magnus enim est et nisi magnis occupari non debet.

Magister. Magnus est procul dubio et magnis intentus in multa distrahitur sicut in Tricolumni plenius est ostensum. Hic ante tempora promotionis dum paulo inferior in regis curia militaret, uisus est fide et industria regiis negotiis necessarius et in computationibus atque in rotulorum et breuium scripturis satis alacer et officiosus. Vnde datus est ei locus ad latus thesaurarii, ut scilicet scripture rotulorum et huius omnibus cum ipso intenderet. Thesaurarius quidem tot et tantis curis et sollicitudinibus per omnia distrahitur ut fas sit interdum tanto operi subrepere sompnum. In humanis etiam actionibus uix aliquid est usquequaque perfectum.

Discipulus. Quid est quod dicis? Nec enim noui quid sit Tricolumnis.

Magister. Libellus quidam est a nobis utcunque tempore iuuentutis editus de tripartita regni Anglie historia sub illustri Anglorum rege Henrico secundo. Quem, quia per tres columnas per uniuersum digessimus, diximus Tricolumnum. In prima quidem de ecclesie Anglicane negotiis plurimis et de nonnullis rescriptis sedis Apostolice. In secunda uero de insignibus predicti regis gestis que fidem humanam excedunt. In tertia uero de pluribus negociis tam publicis quam familiaribus, nec non et curie iudiciis * agitur. Hic si forte in manus tuas inciderit, caue ne te effugiat. Vtilis enim esse poterit futuris forte temporibus, et iocundus hiis, qui de regni statu sub predicto principe solliciti fuerint. Hic enim rex licet 'attauis regibus editus'¹ fuerit et per longa terrarum spatia triumphali uictoria suum dilatauerit imperium, maius tamen est quod prodigum in se fame

* iudiciis *Madox*: iudicis *N*: iuduciis *R*: iudicibus *C*

¹ *Hor. Carm.* 1. 1. 1

like to hear next what are his duties at the Exchequer. For he is a great personage, and his business should be equally important.

Master. He is without doubt a great man, and has many avocations of great importance, as is more fully shown in the *Tricolumnis*. Before his promotion, when he held a slightly lower position in the King's Court, he approved himself a trustworthy and diligent civil servant, zealous and dutiful in the matter of accounts and in the writing of rolls and writs. Wherefore a place was given him beside the Treasurer, so that he should, jointly with him, attend to the writing of the Roll, and all such matters. The Treasurer, indeed, is so beset by so many constant great cares and anxieties, that he cannot be blamed if sleep sometimes overtakes him in the middle of it all. Moreover, in human affairs, scarcely anything is absolutely perfect.

Scholar. What are you saying? I do not even know what the *Tricolumnis* is.

Master. It is a little book which I wrote when a young man about the history of England under Henry II under three heads. And I called it *Tricolumnis* because I arranged it all in three columns. The first column dealt with the affairs of the English Church and some papal bulls. The second dealt with the King's noble deeds, which are beyond human belief. In the third are various matters of public or private interest, and also judgments of the King's Court. If it should come into your hands, take care not to let it go again. For it may be of use to posterity, and agreeable to those who are interested in public affairs under Henry II. For although this king was [*like Maecenas*] 'sprung from ancient kings,'¹ and extended his empire far and wide by his triumphs, it is his even greater glory that his actions

titulum strenuis actibus superavit. Set de hiis hactenus : nunc cepta negotia prosequamur.

Discipulus. Esto, quia sic placet. Salua sit igitur reuerentia thesaurarii, hic uidetur eius dignitati derogatum quia non est soli fidei ipsius per omnia creditum.

Magister. Absit. Immo magis sic eius laboribus parcitur et indempnitati prouidetur. Non enim quia uel ipsi uel alii non creditur tot et tanti resident ad scaccarium, set quia rebus magnis et regni negotiis sub tanto principe decet magnos ac multos deputari, non tantum ut utilitati prospiciant set excellentie et honori regio deseruiant.

Discipulus. Prosequere si placet de officiis.

Magister. Officium thesaurarii uel cura uel sollicitudo ipsius uix explicari posset uerbis, etiam si esset mihi 'calamus scribe uelociter scribentis.'¹ In omnibus enim et per omnia que uel in inferiore scaccario uel in superiore geruntur ipsius sollicita diligentia necessaria est. Ex predictis tamen magna pro parte constare poterit in quibus amplior sit eius cura, adeo ut ab hiis auelli non possit manente scaccario, in recipiendis scilicet compotis uicecomitum, et in scriptura rotuli. Ipse namque ministrat uerba² secundum qualitatem negotiorum in scripturam rotuli sui, a quo postmodum illud idem excipitur ab aliis rotulis sicut supradictum est, et cauendum est ipsi ne uel in numero uel in causa uel in persona sit error, ne absoluantur qui quietus non est, uel rursus conueniatur qui meruit absolui. Tanta namque rotuli eius auctoritas est ut nulli liceat ei contradicere uel mutare, nisi forte tam manifestus error fuerit ut omnibus pateat. Neque tunc nisi de communi consilio omnium baronum mutari debet et ipsis

¹ Ps. 44:2

² cf. Hor. *Epp.* I. xv. 20

exceeded his extravagant reputation. But I need say no more. Let us pursue the business in hand.

Scholar. Be it so, since you wish it. Well then, saving the Treasurer's reverence, this appointment seems to detract from his dignity, since his honour is not absolutely trusted.

Master. God forbid ! Say rather that his labour is spared and his security assured. For it is not because either he or anyone else is not trusted that so many sit at the Exchequer ; but because it is fitting that such great matters and the public affairs under so great a prince should be entrusted to many great personages, not merely for the King's profit, but to honour his excellence and royal state.

Scholar. Pray proceed with the duties.

Master. The Treasurer's duty, or his care and anxieties, can hardly be expressed, even if I had the pen of a ready writer.¹ For his careful attention is necessary in everything which is done in either the Upper or the Lower Exchequer. But it is pretty clear from what has been said, what are the main objects of his care, so important that he cannot be torn away from them while the Exchequer sits, viz. receiving the accounts of the Sheriffs, and writing the Roll. For he dictates the text² of his own Roll as the nature of the business demands, and from it the text is copied, as we have said, on to the other Rolls. And he must be careful to make no mistake in the amount, the account or the person, lest he who is not quit should be acquitted, or he who has earned his quittance be resummoned. For the authority of the Roll is such that no man is allowed to dispute it or alter it, unless the mistake is so obvious that it is patent to all. Nor even then should it be changed except by the assent of all the Barons and in their presence, to wit, during the

presentibus cum adhuc scilicet scaccarium illius perseuerat. Scripturam uero rotuli preterito anno factam, uel etiam huius anni extantis post solum scaccarium, nulli mutare licet nisi regi, cui super hiis licent quecunque libent. Item ad eum spectat ut ad omnia magna negotia cum superioribus assumatur et nichil eum lateat.

Scriptoris qui proximus est thesaurario officium est preparare rotulos ad scripturam ex pellibus ouinis non sine causa. Longitudo autem eorum est quanta surgit ex duabus membranarum, non tamen quibuslibet set magnis, ad hoc opus ex industria procuratis, latitudo uero paulo plus una expansa et semis. Regulatis igitur rotulis a summo pene usque deorsum et ex utraque parte lineis a se decenter distantibus, prenotantur in summo rotuli comitatus et baillie de quibus infra compotus redditur. Facto uero modico interuallo quasi trium uel quatuor digitorum prescribitur in medio linee nomen comitatus de quo primo loco agendum est. Deinde in capite sequentis linee nomen uicecomitis depingitur, subsequente hoc tenore uerborum 'Ille uel ille uicecomes reddit compotum de firma illius uel illius comitatus.' Deinde paulo post in eadem linea scribitur 'In thesauro' nec apponitur aliud nisi consummato compoto propter urgentem causam que in agendis uicecomitis manifesta est. Deinde in capite sequentis linee quid in elemosina et decimis constitutis, quid etiam in liberatione de firma comitatus expendatur,¹ exprimitur. Post hec in capite linee inferioris in terris datis annotantur ea que regum munificentia contulit ecclesiis, uel hiis qui eis militarunt, in fundis suis que corone annominantur, quibusdam blanca quibusdam numero.

¹ e.g. pensions or salaries secured on the Sheriff's farm

session of the Exchequer of that Roll. But the writing of the Roll of the previous year, or even of the same year, once the Exchequer has risen, can only be altered by the King, who, in these matters, 'can do no wrong.' It is also his right to be associated in all great matters with those of higher rank, and to be fully informed of everything.

The duty of the Scribe who sits next the Treasurer is to prepare the Rolls (which for a certain reason are of sheepskin) for writing. The length of the Rolls [i.e. the '*pipes*' or sheets of which the Roll is made up] is that of two membranes, larger than the average and carefully chosen for the purpose, but their width is a little more than a span and a half [*about 13 in.*]. They are ruled from the top nearly to the bottom, on both sides, with a reasonable space between the lines. At the head of the Roll, are entered the names of the county and bailiwicks of which the account is rendered below. A space of three or four finger-breadths is left blank. Then in the middle of the line is written the name of the county which is to be dealt with first. Then, at the head of the next line, the name of the Sheriff is engrossed, and after it the following formula: 'So-and-so the Sheriff renders account of such-and-such a county.' Farther on in the same line: 'In the Treasury.' But no more is added till the closing of the account for an urgent reason which is made clear in business of the Sheriff [*Book II*]. Then, at the head of the next line is set down how much has been spent in fixed alms and tithes, and how much in payments out of the farm of the county.¹ After this at the head of the line below, as 'Lands granted,' are noted the gifts which royal liberality has made to churches, or to those who served them, out of the lands which are assigned to the Crown, some blanch, some by tale.

Discipulus. Mouet me quod dicis quosdam fundos dari blancos quosdam numero.

Magister. Prosequamur ad presens de scriptoris officio et in agendis uicecomitis super hoc si libet interroga. Post terras datas, facto interuallo unius linee, ut uideantur etiam ipsa sui ratione seiuncta, annotantur ea que iussa sunt de firma expendi per breuia regis, quia hec constituta non sunt set casualia. Quedam etiam que sine breuibz computantur per consuetudinem scaccarii, de quibus infra dicetur; et sic terminatur compotus de corpore comitatus. Post hec facto interuallo quasi vi. uel vii. linearum fit compotus de purpresturis et escaetis sub his uerbis 'Idem uicecomes reddit compotum de firma purpresturarum et escaetarum.' Set et de omnibus firmis maneriorum et de censu nemorum que annuatim debentur et soluuntur, post hec suo ordine compoti collocantur exceptis quibusdam ciuitatibus et uillis et baillis quarum maiores compoti sunt, quia constitutas habent elemosinas uel liberationes et terras datas et ad custodes earum proprie summonitiones de debitis regis diriguntur. De hiis autem compoti fiunt post consummatum omnino compotum de comitatibus in quibus sunt; qualia sunt Lincolnia, Wintonia, Mienes, Berchamstede, Colecestria, pluraque * alia.

Discipulus. Miror dixisse te quosdam redditus constitutos dici firmas quosdam uero census.

Magister. Firme maneriorum sunt, census autem nemorum tantum. Que enim ex maneriis proueniunt, quia per agriculturam quolibet anno renouantur et redeunt, et preter hec in ipsis certi sunt constituti redditus consuetudinum iure perpetuo, merito firma et immutabilia nominantur. Que uero ex nemoribus que

* pluraque scripsimus: pleraque CNR

Scholar. It excites my curiosity that you should say that some lands are given 'blanch' and some 'by tale.'

Master. Let us, for the present, proceed with the duty of the scribe. You can question me on this point when we come to the business of the Sheriff. After the 'Lands Granted' a line is left blank to indicate a change of subject, and then are noted the payments which have been made by order of the King's Writs, because these are not fixed, but casual. Also certain payments which are allowed without writ, by the custom of the Exchequer, as will be explained below; and so concludes the account of the Farm [or 'body'] of the county.

Next, after leaving a blank space of six or seven lines, comes the account of purprestures and escheats in these words: 'The same Sheriff renders account of the farm of purprestures and escheats.' After this, furthermore, in their proper order, are placed all the accounts of farms of manors and cess of woods, except certain cities, towns and bailiwicks whose accounts are longer, because they have their own fixed alms and liveries, and lands granted, and special summonses are sent to their keepers for the debts due to the King. Their accounts are entered after the complete closing of the accounts of the counties in which they are. Such are Lincoln, Winchester, Meons, Berkhamstead, Colchester and several others.

Scholar. I am surprised at your calling some fixed rents 'farms' and others 'cesses.'

Master. Manors have farms; only woods have cesses. For the income from manors, since they are renewed and come back every year by cultivation, and besides have fixed rents established by ancient custom, is rightly called 'farm,' being firm and unchangeable. But that due annually from woods, which are daily cut down and perish, from which there is no firm and unchangeable profit, but

quotidie succiduntur et pereunt annua lege debentur, quorum non est tam firmus uel immobilis questus, set est in eis ascensus et descensus, licet non annuus, frequens tamen, census dicuntur, et sic per afferesim redditus hos censerī dicunt. Sunt tamen qui credant censum dici que a singulis hominibus soluuntur, firma uero que ex hiis surgit, ut sit firma nomen collectiuum sicut turba. Ob hoc igitur sicut creditur sic censetur ut annum indicet et firmum non esse designet. Post hec constituta, facto iterum interuallo, fit compotus de debitis super quibus summonitus est uicecomes, pretitulatis tamen nominibus illorum iudicum quorum hec sunt. Vltimo uero de catallis fugitiuorum uel mutilatorum pro excessibus suis, et hiis expletis compotus illius uicecomitatus terminatur. Cauendum autem est scriptori ne aliquid motu animi sui scribat in rotulo nisi quod thesaurario dictante didicerit. Quod si forte per negligentiam, uel alium quemlibet casum, contigerit eum errare in scriptura rotuli uel in nomine uel in numero uel in causa in quibus uis maior scripture consistit, non presumat abradere, set linea subtili subducta cancellet et scribat in serie quod oportet. Habet enim rotuli scriptura hoc commune cum cartis et aliis scriptis patentibus, quod abradi non debet et ob hoc cautum est ut de pellibus ouinis fiant, quia non facile nisi manifesto uitio rasure cedunt.

Discipulus. Scriptor iste de proprio an de fisco rotulos inuenit?

Magister. In termino sancti Michaelis scriptor iste v. solidos de fisco recipit, et scriptor cancellarie alios nichilominus v. ex quibus ad utrumque rotulum et ad summonitiones et receptas inferioris scaccarii membranas inueniunt.

a constant, though not annual, ascent and descent, is called 'cess,' and by a similar dropping of the first syllable those rents are said to be 'sessed' (*censeri*). But some people think that 'cess' is what is paid by individuals, but 'farm' the sum to which these amount; so that 'farm' is a collective noun like 'crowd.' The reason, they think, why it is thus 'assessed,' is to show that it is annual, but not fixed.

After these fixed farms, and another blank space, comes the account of the debts about which the Sheriff has been summoned, above which are written as a title the names of the judges responsible for determining them.

Finally the chattels of fugitives from justice and of those mutilated for their crimes are brought to account. And when this is finished the Sheriff's account comes to an end.

But the Scribe must be careful not to write anything of his own in the Roll, but only what the Treasurer has dictated. But if from carelessness, or from some other accident, he makes a clerical error, in a name, a number or an account, in which details the main value of the Roll consists, he must not venture to make an erasure, but must cancel by drawing a fine line underneath and write the correct version on the line after the cancellation. For the writing of the Roll has this in common with charters and other engrossed documents, that it ought not to contain any erasure. And that is why it has been provided that the 'pipes' should be made of sheepskin, on which it is difficult to make an erasure without its showing plainly.

Scholar. Does the Scribe find his own rolls, or are they found by the Treasury?

Master. In Michaelmas term he receives from the Treasury five shillings, and the Scribe of the Chancery

'Cura, labor, studium, reliqui scriptoris ad eius'¹ latus residentis in hiis maxime consistit, ut, scilicet, excipiat de rotulo altero uerbum e uerbo, eodem ut prediximus ordine seruato. Item ad hunc pertinet breuia regis de exitu thesauri scribere de hiis tantum rebus que consideratione baronum, consedente scaccario, a thesaurario et camerariis liberari debent. Nichilominus hic breuia regis scribit de computandis uel perdonandis hiis que barones ad scaccarium computanda uel perdonanda decreuerint. Ad hunc etiam spectat ut peractis compotis uicecomitum et taxatis debitis regis, de quibus summonitiones fiunt, easdem per totum regnum dirigendas diligenti simul et laboriosa discretione conscribat ex quibus et quorum gratia sequentis termini scaccarium conuocatur.

vi *Discipulus.* Breuia regis de exitu thesauri sub quo tenore uerborum fiunt.

Magister. Thesaurarius et camerarii, nisi regis expresso mandato uel presidentis iusticiarii, susceptam pecuniam non expendunt. Oportet enim ut habeant auctoritatem rescripti regii de distributa pecunia cum ab eis compotus generalis exigetur. Est autem hic tenor. 'H. rex' et cetera 'N. thesaurario et illi et illi camerariis salutem. Liberate de thesauro meo illi uel illi hanc uel hanc summam. Testibus his apud N. ad scaccarium.' Additur autem ad scaccarium ut sic fiat discretio breuium que in curia regis fiunt. Oportet etiam ut facto breui de exitu thesauri, ut diximus, faciat idem scriptor rescriptum eius, quod uulgo dicitur contrabreue, et illud penes se reseruabit clericus cancellarii

¹ Probably an echo of the 'Epitaphium Senecae' (*L. Annaei Senecae Opera*, ed. F. Haase, iii (Leipzig, 1853), 482).

other five, out of which they provide parchment for both Rolls, and for the Summonses, and the Receipt Rolls of the Lower Exchequer.

The 'care, labour and zeal'¹ of the other Scribe who sits next him are mainly directed to copying word for word from the other Roll, in the order already described. He also has to write the writs of *Liberate*, for those expenses only which the Treasurer and Chamberlains are authorized by the Barons to pay during the session of the Exchequer. He also writes the writs of *Compute* and *Perdono* for the sums which the Barons decide should be allowed or remitted. It is also his task, when the Sheriffs' accounts have been completed and the debts to be summoned determined, to write with diligent care, for transmission throughout the realm, the Summonses which are the material and final causes of the conuocation of the Exchequer of the following term.

Scholar. What is the formula used in the King's vi Writs for the issue of treasure?

Master. The Treasurer and Chamberlains do not pay out the money which they receive without the express order of the King or the presiding Justiciar. For they must have the authority of the King's Writ for the issue of the money when a general account shall be demanded of them. 'H. King,' etc. 'to N. the Treasurer and so-and-so Chamberlains, greeting. Pay from my treasure to so-and-so such-and-such a sum. Witness the following at the place of N. at the Exchequer.' 'At the Exchequer' is added in order to distinguish these writs from those made in the King's Court. It is, furthermore, the duty, as we have said, of the Chancellor's Scribe, when a writ is made for the issue of treasure, to make a copy of it, commonly called a 'counterwrit' (*contrabreue*). This the Chancellor's Clerk will keep in

in testimonium liberate facte per breue regis originale quod thesaurarius et camerarii habent. Breuia quoque de computandis uel perdonandis hiis que barones decreuerint computanda uel perdonanda, precognita domini regis uoluntate, sub hoc tenore uerborum fiunt. 'H. dei gratia rex' etc. 'baronibus de scaccario salutem. Compute illi uel illis hanc uel hanc summam quam liberauit ad hoc uel ad illud negotium meum. Testibus hiis ibi ad scaccarium.' Item. 'Rex baronibus de scaccario, salutem. Perdone illi' uel 'clamo quietum hunc uel illum de hoc uel de illo. Testibus hiis ibi ad scaccarium.' Horum autem omnium breuium rescripta penes iamdictum clericum residebunt in testimonium factorum breuium. Originalia enim computatorum uel perdonatorum breuia forulis marescalli, factis uicecomitum compotis, includuntur, de cetero, nisi contentio de eis oriatur, non exponenda. Quod autem de breuibz regis dicimus intelligendum est similiter de breuibz presidentis iusticiarii tantum cum rex absens est et cum sigilli eius impressione iura regni statuuntur, et cause citantur ut condemnentur uel absoluantur qui uocantur ad curiam; ceterum dum rex in regno Anglie fuerit breuia scaccarii nomine regio fient sub eiusdem presidentis et alicuius alterius magni testimonio. Quis autem sit tenor breuium illorum que summonitiones dicuntur plenius infra dicetur [in titulo de summonitionibus].

Clericus cancellarii qui huic proximus est, licet non proprio sed alieno nomine militet, magnis tamen occupatur et in multa distrahitur, adeo ut ab ipso initio compotorum usque ad finem inde auelli non possit, nisi forte dum sibi propitius est substituto interim sibi discreto uicario. Huic enim prima cura est post thesaurarium in hiis omnibus que illic geruntur, maxime

his own hands in witness of the payment made by virtue of the original writ, which the Treasurer and Chamberlains have.

Writs of *compute* and *perdone* for those sums which the Barons (having previously taken the King's pleasure) shall decide to be credited or remitted, are made in the following form: 'H. by the grace of God King' etc. 'to the Barons of the Exchequer greeting. Credit so-and-so with such-and-such a sum, which he has paid for this or that business of mine. Witness the following, here, at the Exchequer,' and 'The King to the Barons of the Exchequer greeting. I pardon so-and-so,' or 'I acquit so-and-so of this or that. Witness the following, there, at the Exchequer.' Copies of all these writs will remain in the hands of the Chancellor's Clerk as evidence of the writs issued. For the original writs of *compute* and *perdone*, as soon as the Sheriff's account has been taken, are put away in the Marshal's forels, not to be produced again unless some question arises concerning them. And what we say about the King's Writs applies equally to the writs of the presiding Justiciar, but only in the absence of the King, when the Justiciar's seal is used for the making of statutes and the summoning of cases to court, and for the condemnation or acquittal of the parties cited. But so long as the King is in England, the Exchequer Writs are drawn up in the King's name, and witnessed by the Justiciar and some other Baron. The form of the writs called 'Summonses' will appear more fully below [in the chapter on Summonses].

The Chancellor's Clerk who sits next, though only a deputy, is occupied with important and multifarious duties, so much so that he cannot leave his post from the beginning to the end of the accounts, unless he gives himself a holiday and leaves a competent substitute in his

tamen circa rotulorum ac breuium scripturam, in hiis enim precipue uersatur ;

‘ Nam ne forte sui calamus scriptoris aberret
Prospicit hic alium sequitur dum passibus equis.’¹

Item hic intuetur diligenter alterius anni rotulum sibi propositum donec a uicecomite satisfactum fuerit de debitis hiis que illic annotantur et de quibus summonetur. Item residente uicecomite ad compotum, computatis et scripto deputatis hiis que constituta sunt in comitatu, breue summonitionis, cui regis sigillum appensum est, suscipit a uicecomite et de hiis debitis que illic scripta sunt urget uicecomitem pronuncians in publicum et dicens, ‘ Redde de hoc tantum et de illo tantum.’ Debita uero, que soluuntur in integrum et de quibus satisfit, cancellet idem clericus linea ducta per medium, ut sit distinctio per hoc etiam inter soluta et soluenda. Hic etiam custodit contrabreuia factorum ad scaccarium. Hic etiam summonitiones factas ut predictum est corrigit et sigillat, et est ei labor infinitus atque post thesaurarium maximus.

Discipulus. ‘ Vtilis hic esset magis Argus quam Polifemus.’

Magister. Clericus constabularie magnus et officiosus in regis curia ad scaccarium etiam ad maiora queque cum magnis ascitur et assensu eius regia fiunt negotia. Destinatur autem a rege ad scaccarium cum contrabreuibus ad terminos scaccarii de hiis tantum que ad curiam fiunt. Hic etiam cum constabulario liberationibus militum uel quorumlibet aliorum intendit, ut predictum est, et est interdum laboriosum satis eius officium licet paucis exprimatur. Explet tamen illud frequentius

¹ cf. Verg. *Aen.* ii. 724

place. His office is next in importance to the Treasurer's in all Exchequer business, but his special concern is the writing of the Rolls and writs, for that is his *métier* :

His Scribe he watches lest he stray
One step from his companion's way¹

He also scans carefully the Roll of the previous year, which he has before him, until the Sheriff has cleared all the debts which are noted there, and for which he is summoned. And also when the Sheriff is sitting at his account, after the fixed payments have been allowed and written down, he takes from the Sheriff the writ of summons, from which hangs the King's Seal, and charges him with the debts which are written in it, speaking out openly and saying, ‘ Render so much from this man and so much from that.’ The debts which are paid in full and cleared, he is to cancel by a stroke through the middle, so that what is paid is distinguished in this way also from what is owing. He also keeps the counter-writs of the writs issued at the Exchequer, and corrects and seals the summonses, when they have been engrossed, as has been said, and his work is unending and only less than that of the Treasurer.

Scholar. ‘ Argus were better here than Polyphemus.’

Master. The Clerk of the Constabulary has most important duties both in the King's Court, and in the Exchequer too he is associated with the Barons in all matters of importance and helps to transact the King's business. He is sent by the King to the Exchequer at each term with the counter-writs of those writs only which are issued in the King's Court. He also, with the Constable, sees to the payment of knights and others, as already mentioned, and though his work needs little description, there is plenty of it at times. But, like the

per suppositam personam sicut cancellarius, quia propter maiora non facile possunt a regis presentia longius ire. Sic habes dispositorum in tercio * sedili ad dexteram presidentis utcunque distributa officia. Porro in capite quarti sedilis quod opponitur iusticiariis residet magister Thomas cognomento Brunus. Huius ad scaccarium non uilis est auctoritas. Magnum enim et ualidum fidei eius et discretionis est argumentum quod a tam excellentis ingenii principe electus est ut preter antiquam consuetudinem tertium habeat rotulum in quo regni iura regisque secreta conscribat et eundem penes se reseruans quocunque uoluerit deferat. Habet etiam clericum suum in inferiore scaccario, qui iuxta clericum thesaurarii residens liberam habet facultatem scribendi que recipiuntur et expenduntur in thesauro.

Discipulus. Numquid principi cognita est eo usque fides eius atque discretio quod ad hoc opus merito non estimetur alius ad illum? ¹

Magister. Magnus hic erat in magni regis Siculi curia consiliis prouidus et in regiis secretis pene precipuus. Surrexit interea rex nouus qui ignorabat illum, ² qui praua habens latera ³ patrem persequebatur in suis. Compulsus est igitur uir iste, mutatis rebus prosperis, uite sue consulere, et licet pateret ei cum summo honore accessus ad regna plurima, tamen frequenter uocatus ab illustri rege Anglorum Henrico, cum fama ueritate ipsa minor est, preelegit ad natale solum et successorium ac singularem dominum suum accedere. Susceptus igitur ab ipso sicut utrumque decuit, quia apud Siculum magnis

* tercio Poole : secundo codd

¹ Baruch 3:36

² Exod. 1:8

³ cf. Mart. vi. lxxviii. 4 and Augustine, *In Ps. 47:3. De aliquibus solemus ita loqui* : ' Bonus homo est, sed mala latera habet ' : *id est, ipse quidem probitate praestat ; sed maligni sunt ei qui ei conjuncti sunt.*

Chancellor, he very often does it by deputy, because more important business requires the attendance both of his master and himself about the King's person. That completes the functions of those who are placed on the third bench, on the President's right.

At the head of the fourth bench, that opposite the Justices, sits Master Thomas Brown. He is no inconsiderable person at the Exchequer. For it is a strong and cogent proof of his loyalty and prudence that so wise a prince chose him to have a third Roll, contrary to the ancient constitution of the Exchequer, in which to write the laws of the realm and the secrets of the King, to keep it in his own hands and to carry it about with him whithersoever he will. He also has a clerk in the Lower Exchequer, who sits next the Treasurer's Clerk, and has full freedom to take notes of all the receipts and expenses of the Treasury.

Scholar. Are his loyalty and prudence so well known to the King that he deserves that 'none shall be accounted of in comparison of him' ¹ for this task?

Master. He was a great man at the court of the great King of Sicily [*Roger II*], a prudent counsellor, and almost at the head of the King's confidential business. Now there arose a new king who knew not ² Thomas, one who kept bad company ³ and persecuted his father in the persons of his servants. So Thomas fell from power and had to flee for his life. There were many kingdoms in which he would have been received with honour. But as he had been frequently invited by our noble King Henry of England, and since report cannot compare with the plain truth, he preferred to return to his native land and his hereditary liege lord. The King received him as befitted them both ; and because Thomas had held a great position in Sicily, he is appointed here also

intenderat, hic etiam ad magna deputatur scaccarii negotia. Sic igitur et locum et dignitatis officium adeptus est, ad quolibet etiam scaccarii magna negotia cum magnis assumitur. Sic habes omnium qui ad maius scaccarium ex officio resident iura distincta. Consequens autem est ni fallor ut que sint eorum dignitates ratione sessionis ad scaccarium prosequamur.

Discipulus. Immo si placet de officio militis quem argentarium dicis, necnon et de fusoris officio dicendum est. Quia cum sibi uideantur annexa et ad maius scaccarium pertinentia hucusque dilata sunt.

Magister. Cerno quod te promissorum memoria non preterit, ex quo spes certa concipitur quod te iam dictis non fraudabit obliuio. Credebam sane de officiis tibi fuisse satisfactum quia de residentibus ad scaccarium neminem pretermiseram. Set hii de quibus commemoras certas non habent sibi deputatas sedes, immo pro imperio presidentis uel thesaurarii suum explent officium.

Porro miles argentarius ab inferiore scaccario ad superius defert loculum examinandi argenti cuius supra meminimus. Quem cum intulerit signatum sigillo uicecomitis, sub omnium oculis effundit in scaccario xliiii. solidos, quos de aceruo sumptos prius signauerat, factaque commixtione eorundem ut ponderi respondeant, mittit in unum uasculum trutine libram ponderis, in alterum uero de denariis quod oportuerit. Quo facto numerat eosdem ut ex numero constare possit si legitimi ponderis sint. Cuiuscunque uero ponderis inuenti fuerint seorsum mittit in ciphum libram unam hoc est xx. solidos ex quibus examen fiat, reliquos uero xxiiii. solidos mittit in loculum. Item duo denarii preter libram examinandam dantur fusori non de fisco sed de parte uicecomitis quasi in premium sui laboris. Tunc eliguntur a presidente, uel a thesaurario si ille absens fuerit, alii

to important duties in the Exchequer. That is how he obtained his seat and his dignified post, and he is associated with the Barons in all important business. That completes the account of the respective duties of all who sit *ex officio* at the greater Exchequer. I think the next step is to state the privileges which they have by reason of their sitting.

Scholar. No ! Let us, pray, next discuss the duties of the Knight Silversmith, as you call him, and of the Melter. Because they were deferred till this stage, as being interdependent and pertaining to the greater Exchequer.

Master. I see that you remember my promise, and that makes me confident that you will not forget what I have told you. I thought I had satisfied your curiosity about everybody who sits at the Exchequer. But the persons you name have no appointed seats, but fulfil their duties at the command of the President or the Treasurer.

The Knight Silversmith brings the purse of money to be assayed, of which we spoke, from the Lower to the Upper Exchequer. He brings it in sealed with the Sheriff's seal, and empties out on the Exchequer table the forty-four shillings taken from the heap, which the Sheriff had previously sealed. He mixes them up, so that they may be fairly weighed, puts a pound weight in one pan of the scales, and enough pence to balance it in the other. He then counts the pence to see from their number whether they are of lawful weight. But whatever they weigh, he puts aside in a cup a pound of them, that is, the twenty shillings of which the assay is to be made, and puts back the other twenty-four shillings in the purse. Besides the pound to be assayed, two pence are given to the Melter, not from the Treasury

duo uicecomites ut simul cum argentario, necnon et uicecomite cuius examen faciendum est, procedant ad ignem ubi fusor ante premonitus, preparatis necessariis, eorum prestolatur aduentum. Ibi iterum presente fusore et hiis qui a baronibus missi sunt diligenter computantur et fusori traduntur. Quos ille suscipiens manu propria numerat et sic disponit eos in uasculum ignitorum cinerum quod in fornace est. Tunc igitur, artis fusorie lege seruata, redigit eos in massam, conflans et emundans argentum. Ceterum cauendum est ei ne citra perfectum subsistat uel importunis estuationibus uexet illud atque consumat; illud propter regis, hoc propter uicecomitis iacturam; sed modis omnibus prouideat et quanta procuret industria ut non uexetur sed ad purum tantum excoquatur. Hoc autem ipsum prouidere debent hii qui ad idem missi sunt a maioribus. Facto igitur examine defert illud argentarius ad barones comitantibus illis, et tunc in omnium oculis ponderat illud cum libra predicta ponderis; supplet autem mox quod ignis consumpsit, appositis denariis eiusdem loculi donec equilibriter se habeat examen cum pondere. Tunc inscribitur idem examen, desuper ducta creta, hiis uerbis, 'Euerwicscira. Libra arsit tot uel tot denariis,' et tunc illud essaium dicitur. Non enim inscribitur nisi preconcesso quod sic stare debeat. Quod si uicecomes cuius est calumpniatus fuerit illud quasi plus iusto consumptum fuerit, ignis scilicet ex estuatione uel plumbi in fusione,¹ uel etiam fusor ipse qualibet occasione defecisse fateatur examen, iterum numerentur

¹ in fusione *scripsi*: infusione *codd.* It seems simplest to take *ex estuatione* as applying equally to *ignis* and *plumbi*, and to read *in fusione* (against the MSS) for *infusione*. Richard admits that he was no metallurgist, and it seems better to give up the metallurgical explanation offered in the Oxford edition.

but from the Sheriff as a fee for his work. Two other Sheriffs are then chosen by the President, or in his absence by the Treasurer, to go with the Knight Silversmith and the Sheriff whose money is being assayed, to the fire; where the Melter, who has been warned, has made the necessary preparations and awaits their arrival. The pence are then again counted in the presence of the Melter and of the persons sent by the Barons, and are handed to the Melter. He takes them, counts them with his own hands, and arranges them in an ash cupel [or 'test'] in the furnace. He then, following the rules of his art, melts them into an ingot, fusing and refining the silver. But he must be careful neither to stop short of completion, nor to over-refine and waste the silver by unnecessary heating; causing a loss to the King in the one case, or to the Sheriff in the other. But he must take every precaution, and try with all his might not to over-heat the silver, but only to make it pure. And it is the duty of the persons sent by the Barons for that purpose to see that this care is taken. When the assay is completed, the Knight Silversmith, accompanied by the others, brings the ingot to the Barons, and weighs it, in the sight of all, against the pound weight. He then makes good what the fire has consumed by adding pence from the same purse till the test-piece balances the pound. It is then marked with chalk as follows: 'Yorkshire. The pound lost in the fire *so many* pence'; and then it receives the name of 'Assay.' For it is not chalked until it has been agreed that it should stand as such. But if the Sheriff to whom it belongs challenges the assay, on the ground that too much has been consumed by the fierceness of the fire or the boiling over of the lead in the melting;¹ or if the Melter admits that the test has failed for any reason, another twenty

xx. solidi qui residui sunt in loculo predicto coram baronibus, sicut dictum est, et eadem ratione seruata fiat examen. Hinc tibi constare potest qua consideratione de aceruo magno proposita pecunie xliiii. solidi seorsum ab initio mittantur in loculum apposito uicecomitis sigillo. Notandum uero est quod fusor duos percipit denarios pro examine sicut diximus. Quod si quouis casu aliud faceret, etiam si tertio examinauerit, non percipiet quicquam, sed contentus erit semel susceptis duobus.

Discipulus. Miror a tantis tantam adhiberi diligentiam in unius libre examinatione, cum nec magnus ex ea questus nec multa iactura proueniat.

Magister. Non propter hanc tantum fiunt hec, sed propter omnes illas que ab eodem uicecomite sub eodem nomine firme simul cum hac persoluuntur. Quantum enim ab hac libra per ignem purgatorium decidit, tantumdem ex singulis aliis libris nouerit uicecomes de summa sua subtrahendum; ut si centum libras numeratas soluerit et libra examinis xii. denariis exciderit non computentur ei nisi nonaginta quinque.

Discipulus. Nunc uidere uideor questum ex hiis prouenire posse non modicum, sed cui cedere debeat ignoro.

Magister. Semel dictum est, et semper intelligatur, soli regie utilitati in omnibus hiis serui. Licet autem a talea uicecomitis combustio detrahatur, mittitur tamen seorsum in taleam alteram breuiorem ut de summa eius thesaurarius et camerarii respondeant. Sciendum uero quod per hanc taleam combustionis dealbatur firma uicecomitis, unde in testimonium huius rei semper maiori talee appensa coheret.

Discipulus. Pulsat adhuc me questio non dissimilis illi quam in agendis inferioris scaccarii proposuisse me

shillings must be counted out from what was left in the purse, in the presence of the Barons as we said, and the test made again as before. You can now understand why forty-four shillings were originally set aside from the great heap, put in the purse, and sealed up by the Sheriff. But you must observe that the Melter, as we have said, takes two pence for the assay. But if he makes a second, or even a third test, he receives no more, but must be content with the single payment of two pence.

Scholar. I am surprised that so much trouble is taken to test a single pound, since neither the profit nor the loss on it can be great.

Master. It is not only this one pound that is in question, but all the others paid in with it by the same Sheriff on account of his farm. For whatever this one pound has lost in the cleansing fire, the Sheriff is warned that the same sum will be deducted from each of the other pounds in the total of his payment. So that if he has paid in a hundred pounds by tale, and the assay pound is a shilling short, he will only be credited with ninety-five pounds.

Scholar. I seem to see the possibility of a considerable profit, but I do not know to whom it should accrue.

Master. I have said once for all, and it must be understood throughout, that it is the King's profit that is served in all these matters. But although the deduction for the assay is made from the Sheriff's tally, it is recorded separately in another shorter tally, so that the Treasurer and Chamberlains must answer for the whole amount. You must know that it is by this tally that the Sheriff's farm is 'blanched,' and therefore it is always attached to the longer tally to witness the fact.

Scholar. A further question strikes me, not unlike one which I remember asking concerning the business

memini ; quare uidelicet libra una plus altera decidat cum par debeat esse conditio omnium operantium in moneta.

Magister. Ad hanc sicut ad illam questionem sufficit respondere fieri posse hoc per falsarios et nummorum detonsores. Fuerunt autem qui crederent, quibus nec ego dissentio, non esse legitimam regni huius monetam si examinata libra decidat plus quam vi. a pondere que * numerata respondet ; et etiam delatam ad scaccarium huiusmodi pecuniam fisco debere cedere, nisi forte noui sint et non usuales denarii, quorum etiam superscriptio suum probat auctorem. Tunc enim idem monetarius super opere suo districte conuenietur et legibus constitutis sine iactura uicecomitis condemnabitur uel absoluetur. Quod si per examinationem probatis et reprobatis denariis, monetarius condemnatus et punitus fuerit, [denarii] † a fusore scaccarii presentibus aliis huius artis peritis redigetur in massam et pondus eius uicecomiti computabitur. [Verum totum hoc pene nunc abolitum est et multum relinquitur, quoniam in moneta generaliter peccatur ab omnibus. Cum autem ad debitum et lege determinatum modum moneta peruenerit, primitiue constitutionis legem obseruari necesse erit.¹] Contra si quis uicecomes nummos attulisset quorum libra combusta ad v. uel iiii. uel infra se cohiberet, et uiderentur de nouo facti non usuales uel cursorii, simili modo non legitimi dicebantur quasi excedentes legem communem, unde et infiscari poterant sicut et alii. Item sunt ad scaccarium liberationes constitute que statutis terminis sine breui regis soluuntur. Qualis est liberatio naucleri, custodis scilicet nauis regie quam esneccam

* que *scripsimus* : cui *Stubbs* : quam *Madox* : qua *codd*

† denarii *seclusimus*

¹ This is obviously an interpolation, and may refer to the misdeeds of Philip Aymar and his associates in 1180.

of the Lower Exchequer, namely, why one pound loses more weight than another, since all the coiners of money ought to work to the same standard.

Master. The same answer applies to both questions. It is because of forgers and clippers of coin. There were those who held (and I do not disagree) that the money of this realm is not lawful if the pound, when tested, falls short by more than sixpence from its proper weight, although the number of pence to the pound is correct ; and that such money, if brought into the Exchequer, should be confiscated, unless haply the pence are unworn, bearing the mark of their maker. For in that case the moneyer is to be brought to book and condemned or acquitted as the law requires, without loss to the Sheriff. But if the moneyer is condemned and punished because the pence have been assayed and found wanting, the money is to be melted down by the Melter of the Exchequer in the presence of other experts, and the Sheriff credited with the weight of the ingot. [But all this is now practically obsolete and out of general use, since offences against the coinage laws are universal. But when money has been restored to its proper and legal standard, it will be necessary to revert to the ancient rule.]¹ But if a Sheriff brought in pence which when assayed were fivepence or fourpence or less below the standard, and they appeared to be new and unworn, they were likewise regarded as unlawful, as having more than the usual amount of alloy, and might therefore be confiscated like the others.

There are also certain fixed payments which are made at the set terms in the Exchequer without writ. Such are the payments of the shipmaster, that is, the Keeper of the King's Ship called the 'Snake,' who receives twelve pence a day. For these and like

dicimus, qui xii. percipit quaque die. De qua et consimilibus talee fiunt a camerariis quia de hiis breuia non habent. Miles autem argentarius horum recauta habet, id est contrataleas. Hic simul et fusor rogati a camerariis cum necesse fuerit et plurima delata pecunia opprimit computatores, iuuant eos in computatione. Voluntarium tamen est hoc eis non necessarium. Sic habes militis argentarii simul et fusoris officia.

Discipulus. Que sunt signa facti uel infecti examinis?

Magister. Non satis noui, quia nec sollicitus super hiis fui, uerum quamdiu super iam liquidum argentum nigra quedam nubecula circumferri conspicitur, infectum dicitur. At cum quedam quasi grana minuta ab imo deducuntur ad summum et illic dissoluuntur signum est examinati.¹

vii *Discipulus.* A quibus uel ob quam rem instituta fuit examinatio hec uel combustio?

Magister. Vt de hiis tibi constare possit paulo altius oriendum est. Sicut traditum habemus a patribus, in primitiuo regni statu post conquisitionem regibus de fundis suis non auri uel argenti pondera sed sola uictualia soluebantur, ex quibus in usus cotidianos domus regie necessaria ministrabantur, et nouerant qui ad hec deputati fuerant quantum de singulis fundis proueniebat. Ceterum ad stipendia uel donatiua militum et ad alia necessaria de placitis regni uel conuentionibus, et ex ciuitatibus uel castellis a quibus agricultura non exercebatur, pecunia numerata succrescebat. Toto igitur regis Willelmi primi tempore perseuerauit hec institutio usque ad tempora regis Henrici filii eius, adeo ut uiderim ego ipse quosdam qui uictualia statutis temporibus de fundis regis ad curiam deferri uiderint. Certumque habebant

¹ This is the phenomenon known as 'brightening,' when the litharge is absorbed by the porous cupel, leaving the silver clear.

payments the Chamberlains make tallies, because they have no writ. But the Knight Silversmith holds the foils or counter-tallies. He and the Melter also, by request of the Chamberlains, assist the Tellers when needed, when the amount of money brought in is more than they can manage. But this is a voluntary service and not part of their duty. You now know the functions of the Knight Silversmith and the Melter.

Scholar. What are the indications whether an assay is or is not complete?

Master. I do not really know because I have never studied the subject. But so long as a black film is seen floating about over the now liquid silver, the assay is said to be unfinished. When, however, small grains appear to rise from the bottom to the top, and there dissolve, it is a sign that the assay is complete.¹

Scholar. By whom and why was this assay or combustion established?

Master. To make that clear to you we must go back a little. Our fathers have told us that in the original constitution after the Conquest no sums of gold or silver were paid to the King from the crown lands, but victuals only, from which the daily needs of the King's household were supplied; and the officers concerned knew how much came in from each estate. But for the wages and rewards of knights and other necessary expenses coined money accrued from the profits of the King's jurisdiction or from voluntary payments for privileges, and from cities and villages whose business was not agriculture. This system persisted throughout the reign of William I and until the time of his son Henry; so that I myself have seen persons who themselves saw victuals being brought in at fixed times to the Court from the crown lands. And the officers of the King's household knew

officiales domus regie a quibus comitatibus triticum, a quibus diuerse * species carnum uel equorum pabula uel alia queque necessaria debebantur. Hiis uero solutis secundum constitutum modum cuiusque rei, regii officiales computabant uicecomiti redigentes in summam denariorum. Pro mensura scilicet tritici ad panem c. hominum solidum unum, pro corpore bouis pascualis solidum i., pro ariete uel oue iiii. denarios, pro prebenda xx. equorum, similiter quatuor. Succedente uero tempore cum idem rex in transmarinis et remotis partibus sedandis tumultibus bellicis operam daret, contigit ut fieret sibi summe necessaria ad hec explenda numerata pecunia. Confluebat interea ad regis curiam querula multitudo colonorum, uel quod grauius sibi uidebatur pretereunti frequenter occursabat, oblatis uomeribus in signum deficientis agriculture. Innumeris enim molestiis premebantur occasione uictualium que per plurimas regni partes a sedibus propriis deferebant. Horum igitur querelis † inclinatus rex, diffinito magnorum consilio destinauit per regnum quos ad id prudentiores et discretiores cognouerat. Qui circumeuntes et oculata fide fundos singulos perlustrantes, habita estimatione uictualium que de hiis soluebantur, redegerunt in summam denariorum. De summa uero summarum que ex omnibus fundis surgebat in uno comitatu, constituerunt uicecomitem illius comitatus ad scaccarium teneri, addentes ut ad scalam solueret, hoc est preter quamlibet numeratam libram vi. denarios. Rati sunt enim tractu temporis de facile posse fieri ut moneta tunc fortis a suo statu decideret. Nec eos fefellit opinio. Vnde coacti sunt constituere ut firma maneriorum non solum ad scalam sed ad pensum

* diuerse *Madox* : diuersas *codd*

† querelis *Madox* : querulis *codd*

exactly from which counties wheat, or various kinds of flesh meat, or forage, or other necessities were due. But while payment was thus made of each commodity in its appointed measure, the officers credited the Sheriff with it in terms of money. For enough wheat to bake bread for a hundred men they allowed one shilling; for the carcass of a grazing ox, a shilling; for a ram or a sheep, four pence; for forage for twenty horses, likewise four pence. But in process of time, when King Henry was engaged in suppressing armed rebellion in distant places overseas, coined money became of the utmost necessity to him for that purpose. At the same time a crowd of aggrieved farmers beset the Court, or (what was even more annoying) the King himself on his progresses, presenting their ploughshares as a token of agricultural depression. For they suffered countless inconveniences in having to bring the victuals from their own homes to all parts of England. The King heard their complaints with sympathy, and after consulting his Council, sent throughout the kingdom commissioners, whom he knew to be especially wise and prudent. They made a tour of the crown lands and saw for themselves, made an estimate of the quantity of victuals paid by each of them, and expressed the value in terms of money. Adding up the total due from the crown lands in each county, they fixed the sum for which the Sheriff should be answerable at the Exchequer, adding that he should pay at a fixed rate (*ad scalam*), that is, six pence vantage money on each pound by tale. For they thought that in course of time the coinage, which was then good, might deteriorate. Nor were they mistaken. So they were compelled to ordain that the farm of manors should be paid not only *ad scalam*, but *ad pensum* [by weight], which could not be done without adding many more

solueretur quod perfici non poterat nisi longe pluribus appositis. Seruabatur per plures annos ad scaccarium lex huius solutionis, unde frequenter in ueteribus annalibus rotulis regis illius inuenies scriptum 'In thesauro c. libras ad scalam' uel 'In thesauro c. libras ad pensum.'¹ Surrexit interea uir prudens, consiliis prouidus, sermone disertus et ad maxima queque negotia per dei gratiam repente precipuus. Diceres in eo completum quod scriptum est 'Nescit tarda molimina spiritus sancti gratia.'² Hic ab eodem rege uocatus ad curiam, licet ignotus non tamen ignobilis, suo perdocuit exemplo 'Paupertas tenuis quam sit fecunda uirorum.'³ Hic igitur, succrescente in eum principis ac cleri populique fauore, Saresberiensis episcopus factus, maximis in regno fungebatur officiis et honoribus et de scaccario plurimam habuit scientiam; adeo ut non sit ambiguum sed ex ipsis rotulis manifestum plurimum sub eo floruisse. De cuius stillicidiis nos quoque modicum id quod habemus per traducem⁴ accepimus. Super hoc ad presens multa loqui supersedeo, quia pro qualitate sui status nobilissime mentis indicem superstitem sibi memoriam dereliquit. Hic postmodum ex mandato principis accessit ad scaccarium; ubi cum per aliquot annos persedisset comperit hoc solutionis genere non plene fisco satisfieri. Licet enim in numero et pondere uideretur satisfactum non tamen in materia. Consequens enim non erat ut, si

¹ The only surviving Pipe Roll of Henry I contains no payments *ad scalam*. We may therefore be sure that it had ceased to be a usual method of payment in 1130. On the other hand a writ not later than 1118 orders a payment of £25 *ad scalam*, which is authorized by a charter granting the same payment 'blanch.' Poole (op. cit. p. 32 sq.) suggests that the six-penny rate was then merely an expedient to avoid the trouble of an assay. It seems possible that the change to payment by weight was connected with the reform of the coinage in 1125.

² This, despite 'it is written,' is not a Biblical quotation, but comes from St. Ambrose, *In Luc.* 1:39. It is the homily for the third Friday in Advent in the Roman breviary, but not in that of Salisbury.

³ cf. Luc., *Phars.* 1:165, 'fecunda uirorum, Paupertas fugitur,' and note the play on Roger's name of le Poer.

pence. This regulation for payment was long observed at the Exchequer; and consequently you will often find in the old Pipe Rolls of Henry I 'In the Treasury £100 *ad scalam*,' or 'in the Treasury¹ £100 *ad pensum*.'

Meanwhile there arose a wise man, prudent in counsel, eloquent in speech and (by the grace of God) suddenly the chief mover in great matters. You might say that in him were fulfilled that which is written: 'The grace of the Holy Ghost has no slow movements.'² Called by Henry I to his Court, unknown yet not un-noble, he exemplified the saying,

How fertile is lean Poverty of *men*.³

He grew in favour with the King, the clergy and the people, was made Bishop of Salisbury, held the most important and honourable posts in the kingdom, and had the profoundest knowledge of the Exchequer; so much so that it is clear beyond all doubt from the Rolls that it flourished exceedingly under his direction. It is from the overflow of his learning that I have received, in my blood,⁴ the little I know. But I will not enlarge on this, because he has, as he deserved, left behind him a memory which attests his noble mind.

Later, by the King's command, he took his seat at the Exchequer, and after sitting there for some years, perceived that the Treasury was not completely satisfied by this method of payment. For though the tale and the weight might be correct, the standard might not.

⁴ *tradux* is a runner or layer. The Pelagians, who denied the existence of original sin, nicknamed the Catholics 'Traducians,' as deriving sin by physical inheritance from Adam. Richard is emphasizing his inheritance from his father, Nigel.

pro libra una numeratos xx. solidos etiam libre ponderis respondententes soluisset, consequenter libram soluisset argenteam. Poterat enim cupro uel quouis ere mixtam soluisse, cum non fieret examinatio. Vt igitur regie simul et publice prouideretur utilitati, habito super hoc ipso regis consilio, constitutum est ut fieret ordine predicto firme combustio uel examinatio.

Discipulus. Quomodo publice?

Magister. Sentiens enim uicecomes se pregrauari per combustionem deterioris monete, cum firmam est soluturus, sollicitam adhibet diligentiam ut monetarii sub eo constituti legis constitute fines non excedant. Quos cum deprehenderit sic puniuntur ut eorum exemplo ceteri terreantur.

Discipulus. Numquid de omnibus comitatibus firma blanca solui debet uel examinatio fieri?

Magister. Non. Sed qui de antiquo iure corone regie annominantur sic soluunt. Qui uero per incidentes aliquos casus infiscantur solo numero satisfaciunt, quales sunt Salopscir, Sudsex, Norhumberland et Cumberland. Liberum est etiam uicecomiti ut pro firma blanca soluat examinati argenti pondera et sic effugiat iacturam combustionis. Sic tamen ut fusor regis eadem suscipienda decernat. Habes igitur quod petisti, a quibus scilicet et ob quam causam instituta fuerit examinatio.

Discipulus. Uideo per hanc ad litteram impletum quod scriptum est, 'Quale fuerit cuiusque opus ignis probabit.'¹ Sed iam nunc placeat ceptis insistere.

Magister. Fiat. Consequens est, ut, credo, secundum disposite rationis ordinem, ut que sint dignitates residentium ad scaccarium ex officio uel ex regis mandato prosequamur.

Discipulus. Miror satis qua consideratione cum de

¹ 1 Cor. 3:13

For it did not follow that if a man paid in for a pound twenty shillings by tale, and actually weighing a pound, he therefore paid a pound of silver. For it might be alloyed with copper or bronze of some kind, seeing that no assay was taken. In order, therefore, to protect both the King and the public, it was ordered, after discussion in the Council, that the combustions or assay should be made as described.

Scholar. How did this protect the public?

Master. The Sheriff, finding that he suffers on account of the loss on inferior money, when he has to pay his farm, takes good care that the moneyers who work under him do not exceed the established proportion of alloy. And if he catches them, they are so punished as to discourage the others.

Scholar. Is blanch farm paid, or the coin tested, in the case of all counties?

Master. No. Those which are assigned to the Crown by ancient right pay it. But those which have accrued for accidental reasons pay by tale only. Such are Shropshire, Sussex, Northumberland and Cumberland. Furthermore, the Sheriff is free to pay his blanch farm in assayed silver, and so escape the loss on the assay; that is, if the Melter passes the silver as good. That answers your question, by whom and why the assay was instituted.

Scholar. I see that the assay literally fulfils the text: 'The fire shall try every man's work of what sort it is.'¹ But pray proceed.

Master. So be it. I think the order of our inquiry brings us to the privileges of those who sit at the Exchequer either *ex officio* or by the King's command.

Scholar. I wonder why, in your account of the duties, you either purposely suppressed the Usher of the greater

officiis ageretur, de ostiario maioris scaccarii et eius officio uel ex industria suppressisti uel obliuionis iniuria resistente, preteristi.

Magister. Gratulor te memorem predictorum. In proficiente quippe discipulo gloria doctoris est. Nosti¹ iam dictum ostiarium liberationem percipere cum aliis officialibus, et ideo merito requiris quid sit eius officium. Est autem huiusmodi.

Ostium domus illius in qua scaccarium residet ostiarius ille solus sine consorte custodit, nisi cum de domo propria seruientes assumit in onus officii sui. Nichilominus custodit idem ostium thalami secretorum qui collocatus est iuxta domum ubi scaccarium est. Ad hunc accedunt barones cum proponitur eis uerbum ambiguum ad scaccarium de quo malunt seorsum tractare quam in auribus omnium. Maxime autem propter hoc in partem secedunt, ne compoti qui ad scaccarium fiunt impediuntur; quibus moram facientibus in consiliis consuetus cursus compotorum agitur. Si quid uero natum fuerit questionis referetur ad eos. Liberum etiam est ostiario ut quibuslibet magne auctoritatis uiris ad hoc opus non necessariis impune precludat aditum cum uoluerit; solis uero hiis qui ad scaccarium ex officio uel ex regis mandato resident, uoluntarius patet ingressus in utrumque thalamum. Quod si auctentice sunt persone, quas singulariter incedere non est idoneum,² unum uel duos introducere poterunt in exteriorem domum scaccarii; sed in thalamum secretorum soli maiores introeunt, ceteris exclusis nisi cum ad quelibet regia negotia explenda a dominis suis uocantur. Item ostiarius factas summonitiones et signatas

¹ See p. 13

² The subordinate clerks or scribes have thus no business in the Exchequer Chamber, unless sent for. The Usher has presumably power to refuse

Exchequer and his duties, or were overcome by forgetfulness and left him out.

Master. I congratulate you on your memory. For a forward scholar is a glory to his master. You know¹ that the aforesaid Usher receives wages with the other officers, and very properly inquire what his duty is. It is as follows:

The Usher keeps the door of the hall in which the Exchequer sits, alone without any colleague, unless he brings in some of his own household servants to do his work. He also keeps the door of the privy Chamber adjoining the hall of the Exchequer. Into this the Barons withdraw when some doubtful case comes up at the Exchequer which they would rather discuss privately than in everyone's hearing. But their main reason for withdrawing is to avoid retarding the accounts which are in course of being heard at the Exchequer; for while they are consulting, the accounts continue their accustomed course, and any question which may arise is referred to them. The Usher also has the right to exclude from the Chamber any person, however important, whose presence is not required for the business in hand. Only those who sit at the Exchequer *ex officio* or by the King's command have free entry into both chambers. But if they are persons in authority, who cannot decently appear unattended,² they may bring one or two followers into the outer hall of the Exchequer; into the privy chamber only the Barons go, all others being excluded unless they are summoned by their masters for the expedition of the King's business.

The Usher also receives from the Marshal the

admission to the hall to casual visitors, but will admit the attendants of Barons. The scandal caused by Becket's dismissal of his cross-bearer illustrates the principle of 'decency.'

a marescallo suscipit, soluto scaccario illius termini, et in propria persona uel per fidelem nuncium per Angliam, sicut supradictum est, easdem defert. Hic etiam ex mandato presidentis conuocat in presentiam eius uicecomites qui extra domum circumquaque dispersi sunt cum indigerit illis. Item ad hunc pertinet ut sollicitus sit circa minuta quelibet necessaria que in domo scaccarii sunt, uelut ad sternenda et preparanda sedilia circa scaccarium et huiusmodi. Ex predictis, ut credimus, de officiis omnium qui ad scaccarium resident tibi constare potest. Nunc que sunt eorum iura uel dignitates ratione sessionis ad scaccarium ostendemus.

viii Oportet autem de cetero ut nobis amplius parcat lingua detractoris¹ et dens emulus ne laniet insultando. Vix enim ad notitiam tuam aliquid horum pertingeret si non usitatis rerum uocabulis, set exquisito uerborum scemati, uel confictis nominibus duxerimus insistendum.

Discipulus. Solam uerborum nouitatem a principio² uitare premonui et circa communia communibus et usitatis uti uerbis obtinui, ne disciplinalia rudimenta nouitas insueta turbaret. Sic igitur ut cepisti ceptum libeat iter explere. Quod si te sic gradientem detractoris emula mens uel lingua³ repperit, illud obtineas ab eo ut qui in scriptis suis sine peccato est primus in te lapidem mittat.⁴

Magister. Sponte parco dummodo lex ista seruetur. Dignitas residentium ad scaccarium in pluribus consistit. Siue enim de clero sint siue de regis curia qui assident ex mandato, ab ea die qua conueniunt usque ad generalem

¹ Wis. of Sol. 1:11

² See p. 6

³ cf. Hor. *Epp.* 1. xix. 15

⁴ John. 8:7

summonses drawn up and sealed, when the Exchequer breaks up at the end of Term, and delivers them, in person or by a trusty messenger, throughout England, as we have said. He also, at the President's order, summons before him Sheriffs who are dispersed outside the hall, when they are wanted. He must also attend to any minor necessities about the hall, such as covering and arranging the benches round the Exchequer table and the like. Now, I think, you are informed of the duties of all who sit at the Exchequer. I shall now set forth their rights and privileges by virtue of their sitting.

From this point I still more need that men 'refrain viii their tongue from backbiting,'¹ and that the tooth of envy tear me not. For scarcely anything would be intelligible to you, if I tried to express it, not in vulgar language but in elaborate figures of speech, or in newly coined words.

Scholar. The one thing which I insisted on at the beginning² was that you should avoid new words, and I prevailed on you to employ common and customary terms for common subjects, in order not to make an elementary treatise unintelligible by new and strange language. So pray go on as you have begun. But if, on that account, the envious mind or tongue³ of the backbiter should find you out, you must persuade him to 'let him that is without sin' in his own writings 'first cast a stone'⁴ at you.

Master. On those terms I will gladly abstain from preciosity.

The privileges of those who sit at the Exchequer are manifold. For whether those who attend by the King's command are clerks or lay courtiers, from the day of assembly to the general recess they are not summoned

secessionem ad alias quaslibet causas sub quibuscunque iudicibus non euocantur, et si forte uocati fuerint ratione publice potestatis excusantur. Quod si sunt actores et non rei qui assident et alias habent lites, in eorum erit arbitrio uel experiri per procuratorem uel absque omni detrimento sui iuris diem prorogare.* Si uero iudex sub quo litigant, siue sit ecclesiasticus siue forensis, legis huius ignarus, ab iam dicta die conuocationis ad scaccarium citauerit quemlibet eorum, et absentem forte per sententiam possessione sua uel quouis iure spoliauerit, auctoritate principis et ratione sessionis reuocabitur in eum statum causa ipsius in quo erat ante citationem. Set iudex propter hoc puniri non meruit; quod enim sui officii est executus est, licet pro publica potestate non consequatur effectum. Quod si sic citatus fuerit ut fatalis dies, lege determinatus, sibi constitutus, diem conuocationis ad scaccarium preueniat, non poterit se per illud excusare, uel iudicis sententiam declinare, uel in se latam irritam facere, etiam si alter alteri sic proximus sit ut iter cogatur arripere. Procuret itaque sibi procuratorem uel responsalem et ipse regiis addictus negociis ad curiam sine simulatione festinet. Preterea barones qui ad scaccarium resident de uictualibus sue domus in urbibus et castellis et maritimis emptis nomine consuetudinis nichil soluunt. Quod si minister uectigalium de hiis quicquam soluere compulerit, dummodo presens sit seruiens eius qui suis usibus empti fuisse oblata fide probare uoluerit, baroni quidem exacta pecunia restituetur in integrum et improbus exactor pro qualitate persone pecuniariam penam luet. Item si quilibet, etiam magnus in regno, inconsulto calore animi quemlibet ad scaccarium residentem probris uel conuiciis

* prorogare *Madox* : prerogare *CNR*

in any other cases before any judges whatsoever, and, if summoned, they are excused on the ground of public policy. But if they are the plaintiffs and not the defendants in other cases, they have the option of appearing by proxy, or of putting off the day of trial without prejudice to their case. But if the judge, ecclesiastical or civil, before whom their case is, in ignorance of this law, summons any of them after the day of summons to the Exchequer, and deprives him by his sentence of his property or rights, by the King's authority and by virtue of his sitting at the Exchequer the case will be set down for rehearing in the stage in which it was before the summons. But the judge has not on this account deserved punishment; he has only done his duty, though for reasons of public policy his action is ineffective. But if the summons be such that the 'fatal day' fixed by the law and applying to the person privileged precedes the day of assembly of the Exchequer, he cannot thus esoin himself, or turn aside the judge's sentence, or annul it when it has been delivered against him; even though the two days are so near together that he is forced to set out on his journey. He must therefore get a proctor or attorney and hasten to Court in good earnest on the King's business. Again, Barons sitting at the Exchequer pay no custom [*or toll*] on victuals for their households bought in cities, villages or seaports. But if the collector exacts payment on such commodities, provided that the Baron's servant appears and pledges his faith that the goods were bought for his master's use, the money levied will be repaid in full, and the unconscionable official pay a money penalty proportionate to the dignity of the injured party. Furthermore, if anyone, even of high rank, loses his temper and reproaches or insults anyone sitting at the

laccessierit, si presidens ille presens est excessus huius ulticem penam pecuniariam statim excipiet. Absente uero presidente, illatam iniuriam si constanter ille negauerit et acclamauerint* consedentes dixisse eum quod sibi obicitur, nichilominus regi cui militatur in pecuniam reus statim iudicabitur nisi festinauerit postulando misericordiam preuenire iudicium. Quod si se inuicem hii qui ad scaccarium resident contumeliosa qualibet obiectione molestauerint, mediantibus aliis sui ordinis ministris, in pacem redeant, et satisfiat ab ipso qui innocentem lesit ad eorum estimationem. Si uero acquiescere noluerit, set magis in sua temeritate perseuerauerit, proponatur uerbum presidenti et ab eo postmodum quod iustum fuerit uterque suscipiat. Ceterum si per incentorem malorum diabolum, qui fraterne pacis iocundam leticiam non equis aspicit oculis,¹ fieri contigerit ut inter ipsos maiores dissensionis oriatur occasio, deinde, quod absit, succrescant conuiciorum iurgia et, addente stimulos Sathana, per alios collegas operis eiusdem pax reformari non possit, horum omnium cognitio ipsi principi reseruabitur; qui secundum quod cordi suo deus, in cuius manu ipsum est,² inspirauerit, excessum puniet, ne qui presunt aliis ferre uideantur impune quod decernunt in aliis puniendum.

Discipulus. Ex hiis manifestum est quod Salomon ait 'Mors et uita in manibus lingue'³ et item Jacobus, 'Lingua modicum membrum est et magna exaltat.'⁴

Magister. Sic est, set prosequamur de dignitatibus. Fiunt interdum per comitatus communes assise a iustitiis errantibus, quos nos deambulatorios uel perlustrantes

* acclamauerint *Madox*: acclamerint *C*: acclamauerit *NR*

¹ Lewis and Short quote 'acquis oculis videre' from Curt. 8. ii. 9; 'author of all evil' and 'when the devil drives' are ecclesiastical commonplaces.

² Prov. 21:1 ³ Prov. 18:21 ⁴ Jas. 3:5

Exchequer, he will immediately be amerced for the offence if the President is present. But if the President is away, and he stoutly denies the offence, but the other members of the board assert unanimously that he did use the words with which he is charged, he will, notwithstanding his protest, be adjudged liable to pay the King, their master, a money penalty, unless he anticipates the judgment by crying for mercy. But if members of the board abuse each other, the other officers of the same rank must mediate between them and reconcile them, and the aggressor must make satisfaction as they award. But if he refuses and persists in his rash conduct, the case must be laid before the President, and each party receive the justice due to him. And if, through the author of all evil who looks with an evil eye¹ on the joys of peace and brotherly love, it should come to pass that cause for dissension should arise between the Barons themselves, that then (which God forbid) reproaches should be exchanged and (as the devil drives) that their colleagues should fail to reconcile them, the judgment of all this shall be reserved for the King. And he, as God 'in whose hand the King's heart'² is, may inspire him, shall punish the offence, lest they who govern should seem to go unpunished for the acts for which they punish others.

Scholar. This exemplifies what Solomon says: 'Death and life are in the power of the tongue,'³ and James too: 'The tongue is a little member and boasteth great things.'⁴

Master. That is so. But let us continue with the privileges. Common assessments [*or assizes*] are from time to time made in the counties by the Justices in Eyre, whom we may call itinerant or visiting judges. They are called Common Assizes because, the sum demanded

iudices nominamus, que ideo dicuntur communes quia, cognita summa que de comitatu requiritur, communiter ab hiis qui in comitatu fundos habent per hidas distribuitur, ut nichil desit de illa cum uentum fuerit ad scaccarium solutionis.¹ Ab hiis omnibus omnes hii qui ad scaccarium ex principis mandato resident liberrimi sunt, adeo ut non solum a dominiis suis sed etiam ab omnibus feodis suis nichil horum exigatur. Si uero qui residet ibi fundum habeat, uel ad firmam uel in custodiam uel etiam ad pignus pro pecunia, liber non erit, sed magis de hiis legibus publicis obnoxius fiet. Amplius autem preter has liber erit ad scaccarium a murdris, scutagiis et a danegeldis. Quod autem ad ipsum pertinet a summa constituta decidet et uicecomiti computabitur per hec uerba, 'In perdonis per breue regis illi uel illi hoc uel illud,' cum tamen nullum super hoc breue regis habuerit. Caueat autem cui dimittitur aliquid a principe ne postea sibi dimissum requirat a subditis, set magis memor sit uerbi illius 'dimittite et dimitemini,'² quia cum hoc fuerit deprehensum, princeps, euangelice emulator doctrine,³ nec dimittet eum, nec debitum dimittet ei, set forsitan in centuplum puniet, quia impensa sibi gratia uidetur abuti cum ab aliis irreuerenter exigit quod gratis sibi dimissum est.

Discipulus. Dictum est, si bene memini, quod quicumque regis precepto residet ad scaccarium a quibusdam lege determinatis ratione sessionis liber est. Additum est etiam, si bene recolo, considerare scaccarium in termino Pasche, non tamen que illic fiunt omnino terminari, set eorum consummationem termino sancti Michaelis

¹ On the Common Assizes see J. Tait's article in *E.H.R.* liii, p. 669, where a distinction is drawn between the *assisa comitatus* of 1156, which was presumably a *donum*, and levied as here described, and the *Communis assisa comitatus* of 1169 which was a composition for judicial penalties. But in both

from the county being known, it is apportioned in common, at so much a hide, by those who have lands in the county, so that nothing of it may be lacking when [*the session of*] the Exchequer comes at which it is due [*i.e. the Easter or Michaelmas sitting*].¹ All those who sit at the Exchequer by the King's command are free from all these, so much so that nothing is exacted either from their demesnes or even from any of the fees held of them. But if the member of the Court has an estate, either at farm, or in wardship, or even as security for money, he will not be exempt, but rather bound by the common law. Moreover he is exempt from murder-fine, scutage and danegeld. But his share will be deducted from the appointed sum, and credited to the Sheriff in these words: 'In pardons by the King's Writ. To so-and-so, so much,' although he has no corresponding writ. But let the man to whom anything is pardoned by the King, take care not to exact it from his tenants; let him remember the text: 'Forgive and ye shall be forgiven.'² For when this is detected, the King, following the Gospel teaching,³ will by no means forgive him the debt, but will maybe punish him an hundredfold, because he clearly abuses the grace given him, when he shamelessly demands from others what has been freely forgiven himself.

Scholar. You said, if I remember right, that everyone who sits at the Exchequer by the King's command is exempt from certain legal burdens by reason of his sitting. You also said, I think, that the Exchequer sits in Easter term, but that proceedings at that session are not final, and that the conclusion of them is reserved for

cases the charge was a lump sum charged on the county and answered for as such by the Sheriff.

² Luke 6:37

³ cf. Matt. 18:23 sqq.

reseruari. Cum igitur possibile sit, immo et frequenter contingat, aliquem ex regis mandato in termino Pasche ad hec assumi qui in termino sancti Michaelis uel fati debita soluit uel ad alia regni negotia mandato regis transfertur uel, quod fortius quibusdam uisum est, medio tempore principi factus exosus tam excellentibus negociis indignus iudicatur; quero si qui in termino Pasche quietus est quo pauca terminantur set omnia per iteratam summonitionem innouantur, hic talis in termino sancti Michaelis absolui mereatur, cum etiam et scaccarii sessionem et ipsam principis gratiam demeruerit.

Magister. Ad huius questionis partem utramque construendam copiosa forsitan est rationum inventio, set noueris regie munificentie libertatem post semel indultam absolutionis gratiam etiam cum pecunie dispendio in partem meliorem semper esse proniorem. Quippe similis est donorum et perdonorum regis ratio ut, sicut dona eius reuocari uel repeti non debent, sic nec regis dimissa, que uulgo perdonata dicuntur, nequeunt in irritum deuocari. Liber igitur et absolutus is est in termino consummationis qui quocunque modo in precedenti meruit absolui.

Discipulus. Mouent me quedam que predicta sunt; primo quod dicis aliquid alicui dimitti sub hoc tenore uerborum 'In perdonis per breue regis illi uel illi hoc uel illud,' cum tamen nullum breue regis dimissionis obtinuerit. Quo modo enim fieri posset ut sic falsa non deprehendatur scriptura rotuli non uideo.

Magister. Mouet te, nec inmerito, quod me diu mouit; atque, ut credo, nondum patuit omnibus hec scripture ratio, unde, licet non sit magnum quod petis attamen est insolitum et uidetur absurdum ut per breue regis dicatur dimissum quod sine breui semper est dimittendum. Ea propter de hac ipsa sollicitus fui circa

Michaelmas term. So then, as it is possible and indeed often happens, that a person attends in Easter term by the King's command, who in Michaelmas term is either dead or has been transferred by the King's command to some other employment, or (which some people consider a stronger case) has incurred the King's displeasure and is considered unfit for such important business. I want to know whether a man, who is quit in Easter term, in which little is concluded but everything brought up again by a second summons, can claim to be exempt in Michaelmas term, even though he has lost not only his seat at the Exchequer but also the King's favour.

Master. There is probably a great deal to be said on both sides of the question, but you must know that the King's generosity, once the quittance has been given, is always inclined to take the more liberal course, although he loses money by it. Indeed the King's pardons are like his gifts. As his gifts cannot be revoked or reclaimed, so what he has remitted, or as we commonly say 'pardoned' cannot be called back. He therefore is free and quit in the term of final, account, who has in any way earned his quittance in the term preceding.

Scholar. Some of your statements puzzle me. To begin with, you said that remissions were made in the form: 'In pardons by the King's Writ. To so-and-so, so much,' though he had no writ of remission from the King. I fail to see how the writing of the Roll can avoid being found untruthful in this point.

Master. You may well be puzzled. I was for a long while; and I do not believe that the explanation is generally known. So, though the point is unimportant, it is unusual, and even seems absurd, that what is always remitted without writ should be said to be so 'by the King's Writ.' And for that reason I asked that very

dominum Elyensem, uirum utique * huius officii peritissimum, cuius memoria in benedictione sit in eternum. Hic illustris illius Anglorum regis Henrici primi thesaurarius et nepos Saresberiensis cuius supra meminimus, incomparabilem suis temporibus habuit scaccarii scientiam. Maximus etiam existens in hiis que ad sui status dignitatem pertinebant, celebrem sui nominis famam fecit, adeo ut pene solus in regno sic uixerit et sic decederet ut gloriam eius inuida lingua denigrare non audeat. Hic etiam, ab illustri rege Henrico secundo frequenter rogatus, scaccarii scientiam continuata per multos annos bellica tempestate pene prorsus abolitam reformauit, et totius descriptionis eius formam uelut alter Esdras,¹ bibliothecae sedulus reparator, renouauit. Credidit sane uir prudens satius esse constitutas ab antiquis leges posteris innotescere quam sua taciturnitate ut noue conderentur, efficere. Vix enim modernitas in questu, pecunie mitiora prioribus iura dictauit. Ab hoc igitur super hoc huiusmodi responsum accepi. 'Frater, qui aures audiendi audias habet facile detractoris linguam inueniet. Etiam is qui non habet, non facile eandem effugiet. Accessit itaque ad regem Henricum primum uir aliquis habens sibila serpentis,² dicens ei, "Barones uestri qui ad scaccarium resident ut quid que de terris eorum exsurgunt, non soluunt, cum quidam constitutas habeant ad scaccarium liberationes pro sessione sua? Quidam etiam pro officio suo fundos habent et fructus eorum. Hinc ergo grauis iactura fisco prouenit." Cum igitur ille principis emolumentum allegans frequenter instaret, mentem eius uix tandem uerbum istud eo usque possedit ut omnia constituta ab omnibus solui preciperet,

* utique scripsi : itaque codd

¹ cf. 4 Esdras 14:22-47.

² cf. Wis. of Sol. 17:9 *serpentium sibilatione commoti*

question of the Bishop of Ely, one certainly of the greatest experience in this matter, whose memory be blessed for ever! He was Treasurer of Henry I and nephew of [Roger] the Bishop of Salisbury mentioned above, and had no match in his day for knowledge of the Exchequer. Moreover, being equally excellent in his own high calling, he earned so high a reputation, that he was almost the only man in England who so lived and so died that the tongue of envy dare not blacken his character. He, too, at the repeated instance of Henry II, restored the knowledge of the Exchequer, which had almost perished during the long years of civil war, and like another Ezra,¹ the diligent restorer of the Scriptures, revived its form in all its details. For he was wise enough to hold that it is better to make known to posterity the laws appointed by their forefathers than by keeping silence to cause new laws to be made. For in matters of finance progress is scarcely ever towards a milder practice. This, then, is the answer approximately, which I received from him. 'Brother, listeners seldom hear good of themselves, and even those who do not listen do not easily escape the slanderous tongue. And so it happened that a man with a serpent's tongue² came to Henry I and said to him, "Why do your Barons who sit at the Exchequer not pay the dues arising from their lands, seeing that some of them have fixed salaries at the Exchequer for their sitting, and others have lands and their fruits for their service? This causes a serious loss to the Treasury." And as he kept on pressing the argument of the King's profit, the King, reluctantly, so far yielded to the idea that he ordained that all should pay the appointed dues and nothing be remitted to anyone without his express command. This was accordingly done. But as time went on, and the King remembered

nec aliquid alicui dimitti, nisi quis super hoc expressum eius optinisset mandatum ; factumque est ita. Succedente uero tempore, cum recordaretur princeps consilii Architophel, penituit eum acquieuisse. Decreuit autem omnibus illic ministrantibus omnia predicta computari, nil ducens iacturam modici eris respectu magni honoris.* Destinauit itaque breue suum ad scaccarium ut assidentes illic ab hiis liberi essent iure perpetuo. Ab hoc igitur breui ex tunc et modo dicitur "in perdonis per breue regis." Sicque factum est ut quod indultum est patribus, et nunc perseueret in posteris.' Simile autem huic aliquid temporibus modernis nos uidisse meminimus, quod tractu temporis sub consimili uerborum tenore hiis qui absolui meruerint computabitur. Precepit namque dominus rex Henricus secundus in termino sancti Michaelis xxiiii. anni regni sui ut milites Templi et fratres Hospitalis et monachi Cisterciensis ordinis, quibus per carte sue libertatem longe ante quietantiam indulserat omnium que ad denarios pertinent, excepta iustitia mortis et membrorum, amodo quieti essent de hiis omnibus que ad denarios per singulos comitatus pertinerent, adeo ut de cetero cartas suas ad scaccarium deferre non cogerentur. Hoc enim regie pietatis decreuit auctoritas, ut sic semel baronum consideratione de hiis omnibus expedirentur ; ne qui ad frugem uite melioris transierunt et orationibus potius uacare tenentur, ad scaccarium propter hoc cum cartis suis inutilem et tediosam moram facere compellantur. Consilio igitur et consideratione baronum qui interfuerunt factum est breue domini regis sub hoc tenore 'Clamo quietos milites Templi de v. marcis que exiguntur ab hominibus eorum pro defectu, et prohibeo ne amodo ab ipsis uel hominibus eorum uel terris aliquid exigatur uel capiatur

* honoris Codd : oneris Poole

this Ahitophel's advice, he repented his acceptance of it, and ordered that all the aforesaid allowances should be made. For he thought the loss of a few pence nothing as compared with his great honour. He therefore directed his writ to the Exchequer, that those who sat at it should be for ever free from these demands. From that time forward, and now also, on the strength of that writ it is said "In pardons by the King's Writ." And so it comes to pass that the privilege granted to our forefathers is still in force for their posterity.'

I remember something of the kind in recent times in my own experience, which will be allowed to those entitled to it by a similar formula. For King Henry II in Michaelmas term in his twenty-fourth year [1178] ordained that the Knights Templars, the Brethren of the Hospital and the Cistercian monks, who had long before had exemption by their charters from all pecuniary imposts [*including amercements*], except justice of life and limb, should henceforth be quit of all these in every county, without being in future compelled to produce their charters at the Exchequer. For the King, of his devotion, decreed that they should be freed once for all by the decision of the Barons from these burdens ; so that those who have passed over to the reward of a better life, and are bound to spend their time in prayer, may not be forced to a useless and tiring stay at the Exchequer with their charters. Accordingly, by the advice and judgment of the Barons present, the King's Writ was couched in these terms : 'I quit-claim to the Knights of the Temple five marks, which are demanded from their men for a default, and I forbid from henceforth the exaction or taking of any money from them, their men or their lands. Witness the following. At such a place.' So also for the Hospitallers and the aforesaid

quod ad denarios pertineat. Testibus hiis ibi.' Sic et fratribus Hospitalis et monachis predictis. Huius autem auctoritate mandati amodo per singulos comitatus de omnibus que ad denarios pertinent quieti erunt sic ut dicatur in annali 'In perdonis per breue regis,' illud scilicet cuius supra meminimus.

Discipulus. Satis intellexi quod dictum est ; nunc si placet quid sit scutagium, murdrum uel danegeldum aperire non differas. Barbara quidem esse uidentur set eo magis me sollicitant quod ab hiis dicis liberos esse scaccarii ministros.

ix *Magister.* Fit interdum ut imminente uel insurgente in regnum hostium machinatione, decernat rex de singulis feodis militum summam aliquam solui, marcam scilicet uel libram unam, unde militibus stipendia uel donatiua succedant. Mauult enim princeps stipendarios quam domesticos bellicis opponere casibus. Hec itaque summa, quia nomine scutorum soluitur, scutagium nuncupatur. Ab hac autem quieti sunt ad scaccarium residentes.

x Porro murdrum proprie dicitur mors alicuius occulta cuius interfector ignoratur. Murdrum enim idem est quod absconditum uel occultum. In primitiuo itaque regni statu post conquisitionem qui relictis fuerant de Anglicis subactis, in suspectam et exosam sibi Normannorum gentem latenter ponebant insidias, et passim ipsos in nemoribus et locis remotis, nacta opportunitate, clanculo iugulabant. In quorum ultione cum reges et eorum ministri per aliquot annos exquisitis tormentorum generibus in Anglicos deseuerent, nec tamen sic omnino desisterent, in hoc tandem deuolutum est consilium, ut centuriata, quam hundredum dicunt, in qua sic interfectus Normannus¹ inueniebatur, quod mortis eius minister non extabat, nec per fugam quis esset patebat, in summam grandem argenti examinati² fisco condemnaretur ;

monks. By virtue, then, of this order, they shall be quit henceforth of all amercements in money, so that the Pipe Roll will run : 'in pardons by the King's Writ,' namely, the writ which we have just mentioned.

Scholar. I understand that clearly enough. Now please, make haste to explain what are scutage, murder-fine or danegeld. They seem barbarous terms, but I am the more interested in them because you say that the officials of the Exchequer are free from them.

Master. It sometimes happens that when enemies ix threaten or attack the kingdom, the King decrees that a payment shall be made, say a mark or a pound from every knight's fee, to provide payment or rewards for soldiers. For the prince prefers to expose mercenaries to the hazards of war, rather than his own people. This sum, being paid according to the number of shields [*of the knights*], is called scutage. And from it those who sit at the Exchequer are quit.

Murder, strictly speaking, is the concealed death of a x man at the hands of an unknown slayer. For 'murder' means 'hidden' or 'secret.' In the period immediately following the Conquest what were left of the conquered English lay in ambush for the suspected and hated Normans and murdered them secretly in woods and unfrequented places as opportunity offered. Now when the kings and their ministers had for some years inflicted the most severe penalties on the English without effect, it was finally decided that the hundred in which a Norman¹ was found killed, without his slayer being known or revealing his identity by flight, should be mulcted in a large sum of assayed² silver, £36 or £44 according to

¹ This must not be pressed. It was exacted in 13 Henry II for a 'Fleming' (Pipe Roll p. 200).

² There is no evidence that the fine was ever paid 'blanch.' Under Henry II it was 'by tale.'

quedam scilicet in xxxvi libras, quedam in xliiii libras, secundum locorum diuersitatem et interfectionis frequentiam.¹ Quod ideo factum dicunt, ut scilicet pena generaliter inflicta pretereuntium indemnitem procuraret, et festinaret quisque tantum punire delictum, uel offerre iudicio per quem tam enormis iactura totam ledebat viciniam. Ab horum, ut prediximus, solutione sedentes ad tabulam liberos noueras.

Discipulus. Numquid pro murthero debet imputari clandestina mors Anglici sicut Normanni?

Magister. A prima institutione non debet sicut audisti, set iam cohabitantibus Anglicis et Normannis et alterutrum uxores ducentibus uel nubentibus, sic permixte sunt nationes ut uix decerni possit hodie, de liberis loquor, quis Anglicus quis Normannus sit genere; exceptis dumtaxat ascriptitiis qui uillani dicuntur, quibus non est liberum, obstantibus dominis suis, a sui status conditione discedere. Ea propter pene quicunque sic hodie occisus reperitur, ut murtherum punitur, exceptis hiis de quibus certa sunt ut diximus seruilis conditionis indicia.

Discipulus. Miror singularis excellentie principem et acerrime uirtutis hominem in subactam et sibi suspectam Anglorum gentem hac usum misericordia, ut non solum colonos per quos agricultura posset exerceri indempnes seruaret, uerum ipsis regni maioribus fundos suos et amplas possessiones relinqueret.

Magister. Licet hec ad suscepta negotia, quibus debitor factus sum, non attineant, tamen que super hiis ab ipsis indigenis accepi gratis exponam. Post regni conquisitionem, post iustam rebellium subuersionem, cum rex ipse regisque procures loca noua perlustrarent, facta est inquisitio diligens qui fuerint qui contra regem in bello dimicantes per fugam se saluauerint. Hiis

the locality of the murder and the commonness of the crime.¹ This is said to have been done for the security of travellers and to induce all men to make haste to punish such a crime or to deliver up to judgment the man by whose fault so great a loss injured the whole neighbourhood. You are aware that, as we said before, those who sit at the Exchequer table are quit of these fines.

Scholar. Does the secret death of an Englishman, like that of a Norman, give rise to a murder-fine?

Master. It did not do so originally, as I have told you. But nowadays, when English and Normans live close together and marry and give in marriage to each other, the nations are so mixed that it can scarcely be decided (I mean in the case of the freemen) who is of English birth and who of Norman; except, of course, the villeins, who cannot alter their condition without the leave of their masters. For that reason whoever is found slain nowadays, the murder-fine is exacted, except in cases where there is definite proof of the servile condition of the victim.

Scholar. I am surprised that that uniquely great prince and brave warrior [*William I*] was so merciful to the conquered, and probably disloyal, English, as not only to save harmless the tillers of the soil, but to leave the nobility their lands and large possessions.

Master. Although this is no part of what I undertook, I will freely tell you what I have been told by native-born English. When, after the Conquest and the just suppression of the rebels, the King and his nobles made a progress through the new territories, strict inquiry

¹ The legal authorities put the fine at 46 marks (£30 14s 4d). From 1130 to 1207 the amount gradually declined from twenty to two marks (Pipe Rolls).

omnibus, et item heredibus eorum qui in bello occubuerunt, spes omnis terrarum et fundorum atque reddituum quos ante possederant preclusa est; magnum namque reputabant frui uite beneficio sub inimicis. Verum qui uocati ad bellum necdum conuenerant, uel familiaribus seu quibuslibet necessariis occupati negotiis non interfuerant, cum tractu temporis deuotis obsequiis gratiam dominorum possedissent, sine spe successionis, sibi tantum, pro uoluntate tamen dominorum possidere ceperunt. Succedente uero tempore, cum dominis suis odiosi passim a possessionibus pellerentur, nec esset qui ablata restitueret, communis indigenarum ad regem peruenit querimonia, quasi sic omnibus exosi et rebus spoliati ad alienigenas transire cogarentur. Communicato tandem super hiis consilio, decretum est ut quod a dominis suis, exigentibus meritis, interueniente pactione legitima, poterant optinere, illis inuiolabili iure concederetur. Ceterum autem nomine successionis a temporibus subacte gentis nihil sibi uendicarant. Quod quidem quam discreta consideratione cautum sit, manifestum est, presertim cum sic modis omnibus, ut sibi consulerent, de cetero studere tenerentur deuotis obsequiis dominorum suorum gratiam emercari. Sic igitur quisquis de gente subacta fundos uel aliquid huiusmodi possidet, non quod ratione successionis deberi sibi uidebatur adeptus est, set quod solummodo, meritis suis exigentibus uel aliqua pactione interueniente, obtinuit.

Discipulus. Quid sit centuriata uel hundredum non satis noui.

Magister. Sustine modicum, scies postea loco suo [hoc est in titulo de libro iudiciario¹]. Nunc prose-

¹ This is obviously a gloss. In any case, the chapter is that following that on Domesday (p. 64).

was made as to the persons who had fought against the King and saved themselves by flight. All these and the heirs of those who had fallen in battle were deprived of all hope of recovering their former lands, farms and rents; for they counted it great gain to be allowed to live in subjection to their enemies. But those who had been summoned to battle and failed to obey, or had been detained by domestic or other business, by loyal service to their new masters began to acquire tenancies at the will of their lords, without hope of succession, but only for themselves. But in course of time, when they were everywhere being expelled from their holdings as enemies of their lords, nor was there anybody to give them back what had been taken away, there was a general complaint by the native English, which came to the King's ears, that since they were hated by everyone and robbed by everyone, they would be forced to take service abroad. At last, after discussion in council, it was decreed that they should be given an inviolable title to whatever they had acquired from their lords by their own deserts and by a lawful bargain. But they did not succeed in establishing a title to inherit pre-Conquest property. This was obviously a wise decision, since they were thus obliged, in their own interest, to purchase the favour of their lords by devoted service. Thus, whoever of the conquered race possesses lands or anything of the sort, has acquired not what he considered due to him by right of succession but only what he has earned by his services or got by some kind of contract.

Scholar. I am not quite sure what a century or 'hundred' is.

Master. Have a little patience. You shall know later, in its proper place [That is in the chapter about Domesday Book].¹ Let us now proceed to Danegeld; and

quamur de danegeldo et, ut ratio nominis tibi constet, paulisper aduerte.

- xi 'Insula nostra suis contenta bonis, peregrinis
Non eget, hanc igitur merito dixere priores
Diuitiisque sinum deliciisque larem.'

Propter hoc innumeras ab exteris iniurias passa est, quia scriptum est 'Furem pretiosa signata sollicitant.'¹ Circumiacentium enim insularum predones, irruptione facta, maritima depopulantes, aurum, argentum et queque pretiosa tollebant. Verum cum rex et indigene bellicis apparatibus instructi in sue gentis defensionem instarent, illi 'fugas' aggrediebantur 'equoreas.'² Inter hos itaque pene precipua, et semper pronior ad nocendum, erat bellicosa illa et populosa gens Dacorum, qui preter communem raptorum auaritiam acrius instabant, quia aliquid sibi de antiquo iure in eiusdem regni dominatione uendicabant, sicut Britonum plenius narrat historia.³ Ad hos igitur arcendos a regibus Anglicis statutum est ut de singulis hidis regni, iure quodam perpetuo, duo solidi argentei soluerentur in usus uirorum fortium, qui perlustrantes et iugiter excubantes maritima impetum hostium reprimerent. Quia igitur principaliter pro Dacis institutus est hic redditus, Danegeldum uel Dane-geldus dicitur. Hic igitur annua lege, sicut dictum est, sub indigenis regibus soluebatur⁴ usque ad tempora regis Willelmi primi de gente et genere Normannorum. Ipso namque regnante, tam Daci quam ceteri terre marisque predones hostiles cohibebant incursus, scientes uerum esse quod scriptum est⁵ 'Cum fortis armatus custodit

¹ cf. Sen. Ep. 68, s. 4 *Furem signata sollicitant* ² cf. Verg. Geo. 3:243

³ cf. Gaimar *L'Histoire des Engles*, (Rolls ser.) 2083 sqq. and 4317 sqq. But it is possible that the reference is to the lost source of Gaimar and of Geoffrey of Monmouth's *Historia Reg. Brit.*, or even (for the Danish raids generally, and not for the claim) to Henry of Huntingdon (Book V).

you must give me your attention while I briefly explain the reason of the name :

Our island, self-supporting, has no need
Of foreign luxuries. It is indeed
A store of riches and a home of joys,
As said our fathers.

xi

That is why it has suffered from countless foreign attacks, for it is written 'Hoarded treasures tempt the thief.'¹ For pirates from the adjacent islands made raids on it, made its sea-coast desolate, and carried off gold, silver and anything else of value. But when the King and the native English, came in armed force to protect their kinsfolk, the pirates 'fled o'er the main.'² Chief among these pirates, and most destructive, were the Danes, who were not merely greedy for plunder but had some claim, based on ancient right, to the lordship of the kingdom ; as is more fully told in the *History of the Britons*.³ For defence against these enemies the kings of England decreed that two shillings should be paid ever after from each hide of land in the kingdom for the wages of stout fellows who should patrol the coasts and keep diligent watch to repel hostile attacks. So because this tax was instituted mainly on account of the Danes, it was called 'Danegeld.' Under the native English kings this was, as we have said, paid yearly⁴ until the time of William, the first sovereign of Norman nationality and family. For in his reign both the Danes and all other pirates refrained from raiding, knowing the Scriptures to be true⁵—'When a strong man armed keepeth his palace, his goods are in peace.' For they

⁴ The *Leges Edwardi Confessoris*, cap. 11, from which this seems to be copied, agree in the error as to annual payment, but state the rate at one shilling. Danegeld was in fact abolished by Edward the Confessor.

⁵ Luke 11:21

atrium suum, in pace sunt ea que possidet.' Nouerant etiam quod acerrime uirtutis homines impunitas non ferunt iniurias. Cum ergo diu siluisset terra sub eiusdem regis imperio, noluit hoc ut annum solui, quod fuerat urgente necessitate bellice tempestatis exactum, nec tamen omnino propter inopinatos casus dimitti. Raro igitur temporibus eius uel successorum ipsius solutus est; hoc est cum ab exteris gentibus bella uel opiniones bellorum insurgebant.¹ Verum quocumque tempore soluatur, ab ipso liberi sunt qui assident ad scaccarium sicut dictum est. Vicecomites quoque, licet inter barones scaccarii non computentur, ab hoc quieti sunt de dominiis suis propter laboriosam eiusdem census collectam. Noueris autem dominia cuiuslibet hec dici que propriis sumptibus uel laboribus excoluntur, et item que ab ascriptitiis suis suo nomine possidentur. Quia enim ascriptitii de regni iure non solum ab hiis que modo possident ad alia loca a dominis suis transferri possunt, uerum etiam ipsi quoque licite uenduntur uel quomodolibet distrahuntur, merito tam ipsi, quam terre quas excolunt ut dominis suis seruiant, dominia reputantur. Item fertur ab hiis quibus antiqua scaccarii dignitas oculata fide pernotuit, quod barones eius ab essartis forestarum liberi sunt de dominiis suis; quibus et nos consentire uidemur, adiecta determinatione ut de hiis essartis dicantur quieti, que fuerant ante diem qua rex illustris Henricus primus rebus humanis exemptus est. Si enim de omnibus, quocumque tempore factis uel faciendis, quieti essent, liberum uideretur baronibus, propter impunitatem, nemora sua, in quibus regia foresta consistit, pro sui arbitrii voluntate succidere,

¹ cf. Mark 13:7. The Pipe Rolls do not bear out Richard's statement. In 1130 Danegeld appears as an annual payment (see the instances collected by Madox, *Hist. of the Exchequer*, chap. 17, s. 1 (p. 475). It was collected in

knew that men of valour do not leave wrongs unpunished. So when the land had long been quiet under his rule, he was unwilling that a tax imposed by the necessities of war should be paid annually, nor did he wish that it should be entirely remitted in case of unforeseen attacks. It was accordingly rarely paid in his time or in that of his successors; only when wars with foreign peoples or rumours of wars arose.¹ When, however, it is paid, those who sit at the Exchequer are quit of it, as has been said. Sheriffs also, though not reckoned as Barons of the Exchequer, are quit so far as their demesne lands are concerned, on account of their trouble in collecting it. You must know that 'demesne' lands are those which are tilled at the cost, or by the labour, of the owner, and those held in his name by his villeins. For because villeins, by the law of the land, may not only be transferred by their lords from the lands which they actually till to other spots, but may even themselves be sold or otherwise disposed of; both they and the lands which they cultivate as service to their masters are rightly deemed to be demesne.

It is also reported by those who have seen with their own eyes the ancient dignity of the Exchequer, that the Barons are quit of assarts of forests for their own demesnes; and we agree with them, with the reservation that they are held quit of assarts made before the death of Henry I. For if they were quit of all assarts, at any time made or to be made, the Barons would appear to be free, being unpunishable, to cut down at their pleasure their own woods, in which the King's forest consists; a thing which they cannot do without

1156 and 1162. Summonses were sent out for it in 1175, but no receipts appear on the Pipe Roll.

quod nequaquam impune possunt nisi precedente regis consensu uel principalis forestarii. Porro in necessarios etiam usus sue domus de propriis nemoribus non assumunt hii, qui in foresta sua habent domicilia, nisi per uisum eorum qui ad foreste custodiam deputantur. Verum sunt plures qui suis uelint argumentis astruere, quod de essartis hiis nullus liber sit ratione sessionis ad scaccarium. Si quis enim illic residentium erga principem quouis delinqueret infortunio, unde pecuniariter puniri mereretur, a pena illa liber non esset nisi speciali principis mandato. Cum ergo essartum factum excessus sit in forestam regis, non debet, ut dicunt, is qui sic delinquit et propter hoc punitur, nisi regis expresso mandato liberari. Hec itaque ratio licet subtilis sit et uideatur aliquibus pene sufficiens, obuiat tamen illi quod pena pro essartis constituta sit et communis in illos qui sic delinquant, ut scilicet pro essarto iugeris unius triticei solidus unus soluatur, pro iugere uero quo seritur auena vi. denarii iure perpetuo. Ex hiis autem particulis coacta summa quedam exurget de qua uicecomes ad scaccarium respondere tenetur, sicut ex constitutis duobus solidis uel uno per singulas hidas comitatus summa una, que communis assisa nuncupatur, excrescit. Quia igitur in hiis expressam habet similitudinem essartum cum assisa communi, sicut dictum est, uideri potuit non inmerito similiter quietos habendos illos ab essartis ut ab aliis communibus assisis. Item obuiat eis consuetudinis ususque longeuus non uilis auctoritas. Sicut enim retroactis temporibus fuisse commemorant quibus cana memoria est, uidi ego ipse, qui loquor tecum, modernis temporibus Legrecestrie comitem Robertum,¹ uirum discretum, litteris eruditum et in negotiis forensibus exercitatum. Hic ingenitam habens animi uirtutem paterne quoque prudentie sedulus emulator effectus est,

the previous consent of the King or of his chief forester. Furthermore, those who have their homes in the forest do not take wood from their own woods for necessary domestic use except by view of those who are appointed keepers of the forest. There are many, on the other hand, who attempt to prove that nobody is quit of these assarts by virtue of sitting at the Exchequer. For if any of those who so sit were unhappily to commit an offence against the King which rendered him liable to a pecuniary penalty, he could only be quit of it by the King's express command. Since, then, the making of an assart is an offence against the King's forest (they say), the offender, thus punished, ought not to go quit without the special command of the King. Now although this reasoning is subtle and almost convinces some; it has this objection, that there is a common and fixed penalty for such offenders, to wit a perpetual rent of one shilling for each acre sown with wheat, and sixpence for each sown with oats. These sums make up a total for which the Sheriff must answer at the Exchequer, just as he does for the total amount of the shilling or two shillings per hide throughout the county which is called a common assize. Now, as assart exactly resembles common assize in this point, it might reasonably be held that the Barons of the Exchequer are quit of it as they are of the other common assizes. There is also the objection of ancient prescription against them—a not inconsiderable authority. For not only do those with long memories say that this was the ancient practice, but I myself who now speak to you have seen Robert, Earl of Leicester, in recent times,¹ a man of sound judgment, well educated, and practised in legal affairs. He was naturally strong

¹ This was Robert de Beaumont 'le bossu,' 2nd Earl, Justiciar, 1154-67.

cuius industria pluribus examinata est penes principem nostrum, Henricum secundum, atque adeo conualuit penes eum, quem nec palliata prudentia nec dissimulata fallit ineptia, ut ex mandato ipsius non solum ad scaccarium uerum etiam per uniuersum regnum presidentis¹ dignitatem optinuerit. Hic semel imminente uisitatione nemorum, quam reguardam uulgo dicunt, que tertio anno fit, breue regis obtinuit ut quietus esset ab hiis que de terra ipsius pro essartis exigebantur, apposito numero qui de hiis exurgebat. Quo delato et lecto ad scaccarium in publico stupebant omnes et mirabantur, dicentes 'Nonne comes iste libertatem nostram infirmat?' Con-
tuentibus igitur se inuicem qui assidebant exorsus est felicitis memorie Nigellus, tunc Elyensis episcopus, sic inquam cum modestia. 'Domine comes, irritam fecisse uideris per hoc breue scaccarii dignitatem, qui mandatum regis de hiis rebus impetrasti a quibus liber es per sessionem scaccarii; ac si consequenter amodo per locum a maiori debeat inferri, qui de essartis breue regis non obtinet, solutioni mox obnoxius fiat. Set, salua reuerentia, perniciosus est, propter exemplum, hic absolutionis modus.' Cum igitur, ut fit in dubiis, quidam sic, quidam aliter sentirent, allatus est in huius rei ualidius argumentum, rotulus annalis de tempore regis illius magni, cuius supra meminimus, sub quo plurimum floruisse dicitur dignitas et scientia scaccarii, et inuentum est aliquid quod episcopo de dignitate residentium alleganti consonum uidebatur. Quibus auditis paulisper deliberans secum comes sic ait 'Fateor me super hiis breue regis impetrasse, non ut ius uestrum infirmarem, set ut sic sine molestia declinarem infortunam nimis, regi

¹ *Praesidens* (used by Tacitus and in the Civil Law for *Praeses*) was the governor of a province

mindred, and came to rival his father in wisdom, and his diligence was repeatedly proved by his present majesty, Henry II. The King, who can discern both hidden wisdom and hidden folly, had such a high opinion of him, that he appointed him Justiciar, head¹ not only of the Exchequer, but of the whole kingdom. He once, when a general survey of the woods, commonly called a 'regard,' was impending, which happens every third year, procured the King's Writ exempting him from the demands on his land for assarts, and stating the sum due from them. When this was brought in and read at the Exchequer, publicly, everyone was thunderstruck and marvelled, saying, 'Is not the Earl weakening our liberties?' As those at the table looked at one another, Nigel, late Bishop of Ely, of blessed memory, rose and said with proper modesty, 'My Lord Earl, by obtaining this writ from the King you seem to have impaired the dignity of the Exchequer, invoking the King's command to secure an exemption to which you have the right through sitting at the board; since henceforth it might be argued *a fortiori* that any Baron who had not obtained the King's Writ as to assarts was bound to pay. I most humbly submit that this method of securing acquittance is a bad precedent.' Well, since opinions differed, as they generally do on doubtful points, a stronger proof was adduced, a Pipe Roll of that great King of whom we spoke above, under whom the dignity and knowledge of the Exchequer had its full flower, and something was found in it which supported the Bishop's assertion of the dignity of members of the Court. On hearing this, the Earl considered for a few moments and then said, 'I must admit that I got the writ from the King, not with any intention of weakening your rights, but in order more easily to escape the very pressing demands (unknown to

tamen incognitam, Alaniorum exactionem.' Abdicans ergo breue suum per libertatem sessionis preelegit absolui.¹ Succedente tempore cum predictus episcopus infirmitate detentus adesse non posset, me ipso supplente ad scaccarium uices ipsius in quibus poteram, contigit essarta solui. Cum ergo de dominio eius exacta soluerentur, questus sum in publicum allegans ius absolutionis. De communi ergo omnium consilio et consideratione, que iam soluta fuerat mihi restituta est summa ; reseruans autem que de dominio suo prouenerant, ascriptititiis eius, quod de quolibet exactum fuerat, cum integritate restitui, ut huius rei testis esset superstes memoria.²

Discipulus. Salua reuerencia non exemplis set rationibus in hiis utendum est.

Magister. Ita est. Set fit interdum ut cause rerum dictorumque rationes occulte sint, et tunc sufficit de hiis exempla subicere, presertim de uiris prudentibus sumpta, quorum opera circumspecta sunt et sine ratione non fiunt.³ Verum quicquid super hiis dixerimus allegantes pro hac libertate uel contra eam, certum habeas quod nichil in hac parte certum dicimus nisi quod principis auctoritas decreuerit obseruandum. Sane forestarum ratio, pena quoque uel absolutio delinquentium in eas, siue pecuniaria fuerit siue corporalis, seorsum ab aliis regni iudiciis secernitur et solius regis arbitrio uel cuiuslibet familiaris ad hoc specialiter deputati subicitur. Legibus quidem propriis subsistit quas non communi regni iure

¹ This episode may very well be attributed to 1167, in which year Alan de Nevill held pleas of the Forest throughout England, and the Earl of Leicester and many others had pardons *per breue regis*. On the schedule of combustions attached to the Chancellor's Roll of that year are the words, 'Ricardus de Nevilla est niger et malus homo.' He may have been one of the *Alanii* of the text.

² This presumably happened in 1167, between the Bishop's retirement in 1164 and his death in 1169 (since Nigel could not claim exemption by

the King) of Alan and his gang.' He therefore abandoned the writ, and chose to be acquitted by the privilege of those sitting at the Exchequer.¹

Later on, when the Bishop was too ill to be present, and I was doing my best to act as his deputy at the Exchequer, it happened that a payment for assarts was due. As this had been levied on the Bishop's demesnes and paid, I complained publicly, alleging his right to exemption. So, by the unanimous judgment of the Court, the sum which had been levied was restored to me. But I kept back only what had been levied on the Bishop's own demesne, and restored to the villeins in full what had been levied on each of them, so that a memory of the transaction should remain.²

Scholar. I submit with all respect that this point should be argued, and not decided by precedents.

Master. Yes. But there are cases where the causes of events and the reasons for decisions are obscure ; and in these it is enough to cite precedents, particularly those derived from men of sense, whose actions are cautious and always founded on reason.³ But whatever we may have put forward for or against this privilege, you may be sure that we do not lay down anything as certain, except the rules that the King has definitely sanctioned. The whole organization of the forests, the punishment, pecuniary or corporal, of forest offences, is outside the jurisdiction of the other courts, and solely dependent on the decision of the King, or of some officer specially appointed by him. The forest has its own laws, based,

virtue of his sitting, unless Richard was his deputy). Richard was, I suppose, replacing his father as a councillor, being already Treasurer himself ; while he repaid the villeins in his capacity as Archdeacon of Ely and manager of his father's affairs.

³ cf. Arist. *Eth.* 6:5

set uoluntaria principum institutione subnixas dicunt, adeo ut quod per legem eius factum fuerit non iustum absolute set iustum secundum legem foreste dicatur.¹ In forestis etiam penetralia regum² sunt et eorum maxime delicie. Ad has enim uenandi causa, curis quandoque depositis, accedunt ut modica quiete recreentur. Illic, seriis simul et innatis curie tumultibus omissis, in naturalis libertatis gratiam paulisper respirant, unde fit ut delinquentes in eam soli regie subiaceant animaduersioni.

Discipulus. Ab ungue primo³ didici quod prae pudentis⁴ est ignorantiam pati malle quam dictorum causas inquirere. Vt ergo de predictis plenius constet, aperire non differas quid foresta sit et quid essartum.

xii *Magister.* Foresta regis est tuta ferarum mansio, non quarumlibet set siluestrium, non quibuslibet in locis set certis et ad hoc idoneis. Vnde foresta dicitur, *e* mutata in *o*, quasi 'feresta,' hoc est ferarum statio.

Discipulus. Numquid in singulis comitatibus foresta regis est?

Magister. Non, set in nemorosis ubi et ferarum latibula sunt et uberrima pascua. Nec interest cuius sint nemora, siue enim regis sint siue regni procerum, liberos tamen et indempnes habent fere circumquaque discursus.

xiii *Essarta* uero uulgo dicuntur que apud Isidorum *occationes*⁵ nominantur, quando scilicet foreste nemora uel dumeta quelibet pascuis et latibulis oportuna succiduntur; quibus succisis et radicitus auulsis terra subuertitur et excolitur. Quod si nemora sic excisa sint

¹ Walter Map was even more severe (*De Nugis Curialium*, i. 9). *Absolute* and *secundum quid*, 'absolute' and 'relative,' are a reminiscence of Richard's logical training.

² cf. Verg. *Aen.* 2:484 and Ps. 104:30

³ cf. Hor. *Carm.* 3, vi. 24

⁴ Hor. *Ars Poetica* 88

⁵ cf. Isid. *Etym.* xvii. ii, who however explains the word as 'harrowing.'

it is said, not on the Common Law of the realm, but on the arbitrary legislation of the King; so that what is done in accordance with forest law is not called 'just' without qualification, but 'just, according to forest law.'¹ It is in the forests too that 'King's chambers'² are, and their chief delights. For they come there, laying aside their cares now and then, to hunt, as a rest and recreation. It is there that they can put from them the anxious turmoil native to a court, and take a little breath in the free air of nature. And that is why forest offenders are punished only at the King's pleasure.

Scholar. I took in with my mother's milk³ that it is false shame⁴ to choose to be ignorant rather than inquire the reason of a statement. So, to explain more fully what you have been saying, tell me next what a 'forest' and an 'assart' are.

Master. The King's forest is a safe abode for wild xii animals, not all of them but only the woodland ones, and not everywhere, but in particular places suitable for the purpose. That is why it is called 'forest' (*foresta*), as though the *e* of *feresta* (i.e. a haunt of wild animals, *ferarum statio*) were changed into *o*.

Scholar. Has the King a forest in every county?

Master. No, only in the wooded ones, where wild beasts have their lairs and plentiful feeding grounds. It makes no difference to whom the woods belong, whether to the King or the nobles of the realm; in both alike the beasts wander free and unscathed.

Assarts (*essarta*) is the common name for what Isidore xiii calls *occationes*,⁵ namely, when forests, woods or thickets fit for feeding or covert are cut down. When they have been cut down and stubbed up, the soil is turned [*by the*

ut subsistens quis in uix extanti succise quercus uel alterius arboris stipite circumpiciens v. succisas uiderit, uastum reputant, hoc est uastatum, per sincopam sic dictum. Excessus autem talis, etiam in propriis cuiuslibet nemoribus factus, adeo grauis dicitur ut nunquam inde per sessionem scaccarii liberari debeat, set magis iuxta sui status possibilitatem pecuniariter puniri. Hactenus de dignitatibus residencium ad scaccarium quod breuitas succincta permisit, et menti mee repente se obtulit, utcumque figuraliter exposui. Ceterum regum munitientie terminum in hiis, quem non transgrediantur,¹ non constitui. Proni enim sunt omnes propter gratiam sibi creditam in sue dignitatis gloriam promouendam,² hii presertim qui recte sapiunt. At ille maxime mundanorum principum maximus, illustris Anglorum rex Henricus secundus, in augendis dignitatibus sibi militantium semper aspirat, sciens pro certo quod indulta suis beneficia nominis sui gloriam immortalis fame titulis emercentur. Nunc igitur ad alia currentem calamum conuertamus.

Discipulus. Consequens est, ni fallor, sicut ex predictis uideor comperisse, ut de regis sigillo et libro iudiciario prosequaris, quorum primum si bene memini in thesauro seruatur et inde non recedit.

Magister. Immo et utrumque, set et pleraque alia.

xiv Noueris autem thesaurum quandoque dici pecuniam ipsam numeratam, uasa quoque diuersi generis aurea uel argentea ac uestimentorum mutatoria.³ Secundum hanc acceptationem dicitur 'Vbi est thesaurus tuus ibi est et cor tuum.'⁴ Dicitur enim thesaurus locus in quo

¹ Ps. 103:9

² cf. Rom. 11:13

³ cf. Isa. 3:22

⁴ Matt. 6:21

plough] and cultivated. But if woods are so severely cut that a man, standing on the half-buried stump of an oak or other tree, can see five other trees cut down round about him, that is regarded as 'waste,' which is short for 'wasted.' Such an offence, even in a man's own woods, is considered so serious, that he can in no way be quit of it by his session at the Exchequer, but must all the more suffer a money penalty proportionate to his means.

Such is a brief and hasty outline of the privileges of those who sit at the Exchequer. But I have not set 'bounds which they shall not pass'¹ to the liberality of Kings. For all men, especially sensible men, are inclined, because of the grace committed to them, to promote the glory of their own rank.² But the greatest of earthly princes, Henry II, is always striving to augment the dignity of those who serve him, knowing full well that the benefits conferred on his servants purchase glory for his own name, by titles of undying fame. Now let us direct our flowing pen to other subjects.

Scholar. If I am not mistaken, the next step, judging by what has gone before, is for you to proceed to describe the royal Seal, and Domesday Book; the former of which I seem to remember, is kept in the Treasury and not taken out.

Master. That applies to them both, and to other things as well.

You must know that *thesaurus* (treasure) sometimes xiv means coined money, gold and silver plate of different kinds, and changes of raiment.³ In this sense it is said, 'Where your treasure (*thesaurus*) is, there will your heart be also.'⁴ For the place in which treasure is stored is also called *thesaurus*, wherefore that place is

reponitur, unde thesaurus auri thesis,¹ id est positio, nominatur; ut nunc incongrue respondeatur querenti de quolibet ubi sit, 'In thesauro est'; hoc est ubi thesaurus reponitur. Numerata quidem pecunia, uel alia predicta, semel in tuto loco reposita non efferuntur, nisi cum ex regis mandato in necessarios usus distribuenda sibi mittuntur. Verum plura sunt in repositoriis archis thesauri que circumferuntur et includuntur et custodiuntur a thesaurario et camerariis, sicut supra plenius ostensum est,² qualia sunt sigillum regis de quo queris, liber iudiciarius, rotulus qui exactorius dicitur, quem quidem nominant breue de firmis: item magni annales compotorum rotuli, priuilegiorum numerosa multitudo, receptarum recauta ac rotuli receptarum ac breuia regis de exitu thesauri et pleraque alia que consedente scaccario cotidianis usibus necessaria sunt.

xv Vsus sigilli regii qualis esse debeat, ex premissis³ constare potest. Hoc enim facte summonitiones et alia, pertinentia dumtaxat ad scaccarium, regis mandata signantur. Nec effertur alias,⁴ set sicut supra dictum est a cancellario custoditur per uicarium. Expressam autem habet imaginem et inscriptionem⁵ cum deambulatorio⁶ curie sigillo, ut par cognoscatur utrobique iubentis auctoritas et reus similiter iudicetur pro hoc ut pro illo qui secus egerit.

Porro liber ille de quo queris sigilli regii comes est

¹ Isid. *Etym.* 16:18

² p. 14

³ See pp. 19, 32 sq.

⁴ This may be true for the reign of Henry II. Under Henry III it was sometimes used in the King's absence abroad as a substitute for the Great Seal of the Chancery. See Lyte, *The Great Seal*, p. 59.

⁵ Luke 20:24

named the Treasury as it were *auri thesis*,¹ i.e. placing of gold. So the question, where each of these things is, receives the incongruous answer, 'In thesauro est' [*it is in the Treasury*], that is, in the place where the treasure is deposited. Coined money, and the other things previously mentioned, once safely put away, are not brought out again, except to be sent to the King, upon his order, to be employed for necessary purposes. But there are several things in the vaults of the Treasury, which are taken about the country, and are locked up and kept safe by the Treasurer and Chamberlains, as has been more fully explained already,² such as the King's seal, about which you ask, Domesday Book, the Roll of Demands, which is called the 'Writ of Farms'; the great yearly Rolls of Accounts [*Pipe Rolls*], a multitude of Charters; countertallies and Rolls of Receipts, royal writs for the Issue of Treasure, and sundry other things which are needed for daily use while the Exchequer is sitting.

You may gather from what has gone before³ what xv the proper use of the royal seal should be. For with it are sealed the summonses and other royal mandates, but only such as pertain to the Exchequer. It is not brought out on other occasions,⁴ but, as has been said, is kept by the Chancellor in the person of his deputy. It has the same 'image and superscription'⁵ as the itinerant seal⁶ of the King's Court in order that the two seals may be recognized as of equal authority in commanding, and those equally guilty who disobey either of them.

Domesday Book, about which you inquire, is the

⁶ The Great Seal proper, with the Chancellor, accompanied the King on his progresses; that of the Exchequer was only itinerant when the Exchequer was held away from the permanent Treasury.

individuus in thesauro. Huius institutionis causam ab Henrico quondam Wintoniensi episcopo¹ sic accepi.

xvi Cum insignis ille subactor Anglie, rex Willelmus eiusdem pontificis sanguine propinquus, ultiores insule fines suo subiugasset imperio et rebellium mentes terribilibus perdomuisset exemplis, ne libera de cetero daretur erroris facultas, decrevit subiectum sibi populum iuri scripto legibusque subicere.² Propositis igitur legibus Anglicanis secundum tripartitam earum distinctionem, hoc est Merchenelage, Danelage, Westsexenelage, quasdam reprobavit, quasdam autem approbans illis transmarinas Neustrie leges que ad regni pacem tuendam efficacissime uidebantur,³ adiecit. Demum ne quid deesse uideretur, ad omnem totius providentie summam, communicato consilio, discretissimos a latere suo destinavit uiros per regnum in circuitu. Ab hiis itaque totius terre descriptio diligens facta est tam in nemoribus quam pascuis et pratis, nec non et agriculturis, et uerbis communibus⁴ annotata in librum redacta est, ut uidelicet quilibet iure suo contentus alienum non usurpet impune.⁵ Fit autem descriptio per comitatus, per centuriatas et hidas, prenotato in ipso capite regis nomine, ac deinde seriatim aliorum procerum nominibus apposis secundum status sui dignitatem, qui uidelicet de rege tenent

¹ Henry of Blois, younger brother of Stephen, and nephew of the Conqueror (d. 1171), can hardly have been old enough to remember the actual writing of the larger (and later) volume; and the history attributed to him is largely conjectural. It seems to be derived from the *Leges Edwardi Confessoris*, the *Leis Willelme*, and the fact of the existence of Domesday Book. But it may represent the traditional account current in Winchester.

² This is the so-called Witan of 1070, for the date of which the preface to the *Leges Edwardi Confessoris* is the earliest evidence. The tripartite code is mentioned in the *Leis Willelme*. It seems generally agreed that William's undertaking to abide by the laws of Edward, attested by his writ in favour of the Londoners (Davis, *Regesta*, 15) applies merely to the common law of the land and not to any written code. The point is discussed in Stubbs's *Lectures*, pp. 46-50.

inseparable companion in the Treasury of the royal seal. The reason for its compilation was told me by Henry, Bishop of Winchester,¹ as follows:

When the famous William, 'the Conqueror' of xvi England, the Bishop's near kinsman, had brought under his sway the farthest limits of the island, and had tamed the minds of the rebels by awful examples, to prevent error from having free course in future, he decided to bring the conquered people under the rule of written law.² So, setting out before him the English Laws in their threefold versions, namely, Mercian law, Dane law and Wessex law, he repudiated some of them, approved others and added those Norman laws from overseas which seemed to him most effective in preserving the peace.³ Lastly, to give the finishing touch to all this forethought, after taking counsel he sent his most skilful councillors in circuit throughout the realm. By these a careful survey of the whole country was made, of its woods, its pastures and meadows, as well as of arable land, and was set down in common language⁴ and drawn up into a book; in order, that is, that every man may be content with his own rights, and not encroach unpunished on those of others.⁵ The survey is made by counties, hundreds and hides. The King's name heads the list, followed by those of the nobles who hold of the

³ There seems to be no evidence that either the murder-fine or view of Frankpledge was introduced from Normandy.

⁴ i.e. without any attempt to invent classical equivalents for English terms.

⁵ The criticism of this statement, based on Round's argument that Domesday is primarily an assessment of geld, is much weakened by Professor Galbraith's hypothesis that it was based on *Brevia* embodying the claims of the Crown and its tenants in chief in each county. See *E.H.R.* lvii, pp. 161-77.

in capite. Apponuntur autem singulis numeri secundum ordinem sic dispositis, per quos inferius in ipsa libri serie que ad eos pertinent facilius occurrunt. Hic liber ab indigenis 'Domesdei' nuncupatur id est dies iudicii per metaphoram. Sicut enim districti et terribilis examinis illius nouissimi sententia nulla tergiuersationis arte ualet eludi, sic cum orta fuerit in regno contentio de hiis rebus que illic annotantur, cum uentum fuerit ad librum, sententia eius infatuari non potest uel impune declinari. Ob hoc nos eundem librum 'iudiciarium' nominauimus, non quod in eo de propositis aliquibus dubiis feratur sententia, set quod ab eo, sicut a predicto iudicio, non licet ulla ratione discedere.

Discipulus. Quid comitatus, quid centuriata uel quid sit hida si placet edissere. Alioquin plana non erunt que premissa sunt.

xvii *Magister.* Ruricole melius hoc norunt. Verum, sicut ab ipsis accepimus, hida a primitiua institutione ex c. acris constat.¹ Hundredus uero ex hidarum aliquot centenariis set non determinatis. Quidam enim ex pluribus, quidam ex paucioribus, hidis constat. Hinc hundredum in veteribus regum Anglicorum priuilegiis centuriatam nominari frequenter inuenies. Comitatus autem eadem lege ex hundredis constant; hoc est quidam ex pluribus quidam ex paucioribus, secundum quod diuisa est terra per uiros discretos. Comitatus igitur a comite dicitur, uel comes a comitatu. Comes autem est qui tertiam portionem eorum que de placitis proueniunt in comitatu quolibet percipit. Summa namque illa, que nomine firme requiritur a uicecomite, tota non exurgit ex fundorum redditibus set ex magna parte de placitis

¹ This is the 'long hundred.' Four virgates of thirty acres each. It must be remembered that the hide is not a unit of measurement, but of assessment. The author omits the parallel 'carucates' and 'bovates' of the Danelaw counties.

King in chief, according to their order of dignity. The list is then numbered, and the matter in the actual text of the book relating to each tenant is easily found by the corresponding number. This book is metaphorically called by the native English, Domesday, i.e. the Day of Judgment. For as the sentence of that strict and terrible last account cannot be evaded by any skilful subterfuge, so when this book is appealed to on those matters which it contains, its sentence cannot be quashed or set aside with impunity. That is why we have called the book 'the Book of Judgment' [*Domesday*], not because it contains decisions on various difficult points, but because its decisions, like those of the Last Judgment, are unalterable.

Scholar. Tell me, pray, what are counties, hundreds and hides. Otherwise I shall not understand what you have told me.

Master. Countrymen know best about that. But, so xvii they tell us, a hide as originally defined contains a hundred acres.¹ The hundred contains some hundreds, but not a fixed number, of hides; for some have more, some fewer. For this reason you will find a hundred, in the old charters of the English kings, called a century (*centuriata*). Counties likewise consist of hundreds, that is to say, some of more, some of fewer, according to the division of the land made by our prudent forefathers. A county is either called after the Earl (*comes*), or the Earl after the county. But the Earl is the person who receives the third penny of the profits of the pleas in each county. For the sum demanded of the Sheriff on account of his farm does not arise solely from the rents of lands, but largely from the pleas, and of these the Earl receives the third part. And he is said to be called Earl (*comes*) because he is a partner with the Treasury, and a

prouenit et horum tertiam partem comes percipit. Qui ideo sic dici dicitur quia fisco socius est et comes in percipiendis. Porro uiccomes dicitur eo quod uicem comitis suppleat in placitis illis quibus comes ex sue dignitatis ratione participat.

Discipulus. Numquid ex singulis comitatibus comites ista percipiunt?

Magister. Nequaquam. Set hii tantum ista percipiunt quibus regum munificentia obsequii prestiti uel eximie probitatis intuitu comites sibi creat et ratione dignitatis illius hec conferenda decernit, quibusdam hereditarie quibusdam personaliter.¹

xviii Rotulus exactorius ille est in quo distincte satis et diligenter annotantur firme regis que ex singulis comitatibus exurgunt, cuius summa minui quidem non potest set per operosam iusticiarum * diligentiam frequenter augetur. Reliquorum ratio, scilicet annalium rotulorum, et aliorum quorum supra meminimus que in thesauro sunt et inde non recedunt, ex predictis satis liquet. Restat igitur ut ad maiores et magis necessarias institutiones scaccarii conuertamur, in quibus ut predictum est excellentior est et utilior et a pluribus remotior scaccarii scientia.

[Explicit liber primus]

* iusticiar' CR : iusticiarium N : iustitiorum Liebermann

¹ On the 'third penny' see H. A. Doubleday's article in *The Complete Peerage*, iv, App. H., pp. 657-62. Also Round, *Geoffrey de Mandeville*, p. 287.

companion (*comes*) in receiving. The Sheriff (*vicecomes*) is so called because he supplies the place (*vicem*) of the Earl in those pleas [*in the county court*] in which the Earl by virtue of his dignity shares the profits.

Scholar. Are there in every county earls who receive those profits?

Master. No. Only those men receive them whom the royal bounty creates earls in consideration of their services or of their sterling character, and to whom by reason of that dignity it decrees that these sums are to be granted, whether in fee or for life.¹

The Roll of Demands [*or 'Writ of Farms'*] is that in xviii which are carefully noted the King's farms arising from each county, of which the sum cannot be reduced, but is frequently augmented by the devoted labour of the justices. As to the other things such as Pipe Rolls and the rest of what we have said is in the Treasury and stays there, we have given sufficient explanations. We must therefore now turn to the more important rules of the Exchequer, in which, as has been said, the more noble, valuable and esoteric science of the Exchequer consists.

[End of Book I]

[Incipiunt capitula secundi libri.]

- I Ex quibus et qualiter et ad quid fiunt summonitiones.
- II Que sit differentia summonitionum utriusque termini.
- III De agendis uicecomitis multipliciter.
- IV Quibus de causis absentia uicecomitis ualeat excusari.
- V Quid sit quosdam fundos dari blancos, quosdam numero.
- VI Que sint uicecomiti computanda, elemosine scilicet, decime, liberationes utriusque generis, et terre date.
- VII Que sint per solam consuetudinem scaccarii uicecomiti computanda, hoc est sine breui.
- VIII Quo ordine computanda sunt uicecomiti que in operibus missa sunt per breue regis numerum non determinans.
- IX Quod non absoluitur quis a debito per breue regis numerum non habens etsi causam determinet.
- X De excidentibus et occupatis quod usitatus dicimus de purpresturis et escaetis.
- XI De censu nemorum qualiter de hiis compoti fieri debeant.
- XII De placitis et conuentionibus quo ordine de hiis compoti fiant cum exacta soluuntur.
- XIII De distinctione personarum que soluendo non sunt, de quibus a uicecomite fides offertur et sub quo tenore uerborum detur.
- XIV Que catalla debitorum uendenda sint cum ipsi non soluunt et quis in uendendis ordo sit obseruandus.

Book II Contents

- I From what materials, how and why the Summonses are made up
- II What is the difference between the Summonses of the two terms
- III The manifold business of the Sheriff
- IV For what reasons the Sheriff's absence may be excused
- V The meaning of 'Blanch' and 'by Tale' as applied to farms
- VI Allowances on the Farm : Alms, Tithes, Liveries of both kinds and Lands Granted Out
- VII Allowances by 'Custom of the Exchequer,' i.e. without Writ
- VIII How the Sheriff obtains allowance for Expenditure upon Works, when the sum is not named in the Writ
- IX The King's Writ does not acquit anyone of a debt, unless it names the amount, even though it specifies the nature of the debt
- X Windfalls and Encroachments, or vulgarly, Escheats and Purprestures
- XI Cess of Woods, and how it should be accounted for
- XII Pleas and Covenants, how accounted for, when the sums arising from them are paid
- XIII The different classes of Insolvent Debtors : for which class the Sheriff pledges his faith and in what terms
- XIV What Chattels of Insolvent Debtors may be sold, and the rules to be observed in selling them

xv Quod uicecomes a debitoribus debitoris illius, qui regi non soluit, debitam regi summam prius suscipiat.

xvi Quod uicecomes, a fundis eius qui non soluit, quod requiritur percipiat etiam si eosdem ex quo regi teneri ceperit quomodolibet alienauerit.

xvii Quod non licet uicecomiti debitam sibi pecuniam a non soluentibus suscipere et quid sit agendum si forte susceperit.

xviii Qualiter uir pro uxore uel uxor pro uiro conuenienda est cum ille uel illa soluendo non est.

xix Quod non sit idem modus coercionis baronum regis et aliorum in penis pecuniariis.

xx Quid faciendum cum economus qui fidem dedit de satisfaciendo non comparet.

xxi Quid cum ueniens non satisfacit, si miles est. Quid, si non miles.

xxii Qualiter ipse dominus puniendus est qui sponte militem exposuit ut possit interim liberari.

xxiii Quid de sponte offerentibus faciendum cum et ipsi non soluunt.

xxiv Quid de releuiis sponte non solutis.

xxv Quid de auibus oblatiis faciendum et quo tempore summonende.

xxvi De auro regine.

xxvii Quod aliter de firmis atque aliter de custodiis respondendum et sub alio tenore fides danda.

xxviii Quod fides uicecomitis semel data de legitimo compoto sufficiat per uniuersum.]

xv That the Sheriff must give priority to the debts owing to Insolvent Debtors

xvi That the Sheriff must raise the sum due to the King from the lands of Insolvent Debtors, even though they have been alienated since the debt was incurred

xvii That the Sheriff may not accept payment of debts due to himself from the King's Insolvent Debtors, and what is to be done if he has so acted

xviii How the husband is to be summoned for the debt of an Insolvent wife, and vice versa

xix That pecuniary penalties are not exacted from Barons in the same fashion as from others

xx What is to be done when a Steward who has pledged his faith fails to appear

xxi What is to be done when he comes and fails to pay, if he is a knight ; and what if he is not

xxii How a Lord is to be punished, who wilfully exposes his knight to a penalty in order to remain free for the time himself

xxiii What is to be done if those who have offered money willingly fail to pay

xxiv What, if reliefs are not voluntarily paid

xxv What is to be done as to offers of Hawks, and how they should be summoned

xxvi Concerning Queen's Gold

xxvii That Farms are accounted for differently from Custodies and faith pledged in a different form

xxviii That the Sheriff's faith that he will make his lawful account, once pledged, suffices throughout his whole account

AUDI me frater et auribus audiendi¹ percipe que loquar tibi. Non penitebit te modicum tempus ereptum otii impendere uelle negotiis. Sunt enim non nulli qui non erubescunt dicere in cordibus suis 'qui apponit scientiam apponit et dolorem.'² Hiis onerosa est doctrina et iocundum desipere :³ propter hoc ab hiis longe facta est ueritas, quia metuentes iocundum discipline laborem incidunt in errorem. Fiunt igitur ceci corde,⁴ uiarumque pericula non uidentes pronis gressibus in precipitium ruunt. Verum te, frater, nullus dies otiosum inueniat ne te forte uacantem pessimis quibusque subiciat⁵ pronior in malum infirmitatis humane conditio. Quod si forte tibi nulla sunt, honesta tamen finge negotia, ut semper exercitatus animus expeditior sit ad doctrinam. Hiis igitur negotiis in que nos impegisti paulisper attende ; non ut ex eis magni laboris metas fructus, set tantum ne otiosus.

Discipulus. Vereor ne instantis noctis crepusculum precipitem inponat finem negotiis, et omissis pluribus necessariis acceleres, ut careas inopportunitate querentis.

Magister. Immo ego magis ueritus sum, ne te post longa silentia, propter agrestem stilum, diu suppressus cachinnus succuteret, uel forte tacitus tecum pertrac-tasses qualiter sine nostra molestia ab hiis auelli posses ad que nos coegisti. Ob hoc fateor me finem intem-pestium pene posuisse dicendis. Set tamen cum docilis sis, et in te nondum tepuerit attentionis industria cepto ferar itinere. Vt igitur disposite rationis ordini

¹ Matt. 11:15 ; Mark 4:9 ; Luke 8:8 ; Rev. *passim*

² Eccles. 1:18

³ Hor. *Carm.* iv. xii. 28

⁴ cf. Isa. 6:10 (*Vulg.*) ; Matt. 15:14

⁵ cf. Matt. 12:43-5

Master. Listen to me, brother, and receive with 'ears to hear'¹ what I shall say. You will not repent snatching a short time from your leisure to bestow on your business. For there are some who do not blush to say in their hearts, 'He that increaseth knowledge increaseth sorrow.'² For them learning is a burden and folly a joy.³ Wherefore truth is far removed from them, since, fearing 'the labour we delight in,' our training, they fall into error. They become blind of heart,⁴ and not seeing the perils of the way, rush headlong to destruction. But let no day find you idle, brother, lest human weakness, prone to evil, find you 'empty' and deliver you over to the most wicked spirits.⁵ If you are unemployed, find yourself some fitting occupation, so that your mind, being always in practice, may be the better fitted to learn. Spare a little attention for the business in which you have involved us, not in hopes of a reward for strenuous toil, but merely to avoid being idle.

Scholar. I am afraid lest nightfall put a sudden end to our labours, and you, in your haste to escape my importunate questions, omit many necessary details.

Master. Nay, I was more afraid, lest you, who have so long been silent, should suddenly burst out laughing at my vulgar style or that you were silently considering how best you might break away from the task which you imposed upon us without offending me. I admit that that did nearly make me bring my words to an untimely close. But since you are anxious to be taught, and your attention has not slackened, I will proceed on my course.

To conform to the order of the argument, we must first speak of the Summonses, from what materials, how and for what purpose they are compiled ; and, to make

satisfiat, de summonitionibus primo loco dicendum est, ex quibus scilicet, et qualiter, et ad quid fiant; atque ut de hiis tibi plenius constet, sit trium premonstrandorum primo prius ultimum, hoc est ad quid fiant.

i Fiunt autem summonitiones ut scaccarium fiat.

Precedente namque breui summonitionis, quod regie auctoritatis signatur imagine, conuocantur ad locum nominatum qui necessarii sunt. Nec enim necesse habent accedere nisi summonitione premissa. Accedunt autem quidam ut sedeant et iudicent, quidam ut soluant et iudicentur. Sedent et iudicant, ex officio uel ex principis mandato, barones quorum supra meminimus. Soluunt autem et iudicantur uicecomites et alii plures in regno quorum quidam uoluntariis oblationibus, quidam necessariis solutionibus obnoxii sunt, de quibus infra plenius dicemus in agendis uicecomitis.¹ Horum itaque cum per omnes comitatus numerosa sit multitudo, oportet in ipsa citatione emissa de singulis seriatim exprimi, quantum in instanti termino solui debeat, adiecta etiam causa ut sic dicatur 'de illo habeas hanc uel illam summam propter hanc, uel hanc causam.' Quod si a residente ad compotum uicecomite requiratur aliquid de quouis debitore qui sit in comitatu suo de quo tamen in summonitione nulla fiat mentio, non tenebitur respondere, set magis excusabitur quia non precessit huius rei summonitio. Ad hoc ergo summonitiones fiunt ut firme regis et debita multiplici ratione requirenda fisco proueniant. Verum sunt aliqua que per manum uicecomitis prouenire necesse est etiam si nulla de hiis summonitio fiat, set hec magis casualia sunt quam constituta uel certa, sicut ex consequentibus liquebit.²

¹ This is a general reference to the latter part of this Book, i.e. chapters iii to xxviii.

² See pp. 98 and 101

everything the more clear to you, we will take the last of these three preliminary points first. That is, why they are compiled.

The Summonses are compiled in order that there i may be an Exchequer. For it is by the previous issue of the writ of Summons, of which the seal is authenticated by the portrait of the King, that the persons required are called together to the appointed place; since unless previously summoned they need not attend. Some come to sit and judge, some to pay and be judged. Those who sit and judge, *ex officio*, or by the King's command, are the Barons of whom we have spoken above. Those who pay and are judged are the Sheriffs, and many others in the kingdom, liable, some to voluntary, others to enforced payments, about whom we shall have more to say when we deal with the business of the Sheriff.¹ Now since there are many such debtors in every county, the Summons for that county must contain the names of the individual debtors, how much each is required to pay in the coming term, and on what account; so that the summons reads 'have from so-and-so such-and-such a sum on this or that account.' But if, when the Sheriff is sitting at his account, any debt is demanded from any debtor who is not mentioned in the Summons, the Sheriff is not bound to answer, but is the rather excused because the Summons has not preceded the demand. The object, then, of the Summons is that the farms and the debts due to the King in different ways may accrue to the Treasury. But there are some items which come in by the hands of the Sheriff, although no Summons was issued for them. Still, these are rather casual profits than fixed and certain debts, as will appear later.²

We must next explain, how and by what rules Summonses are drawn up, and lastly, from what

Qualiter autem uel quo ordine fiant primo dicendum est ac demum ex quibus. Noueris autem quod soluto scaccario termini illius quo fiunt summonitiones, excipiuntur a clericis thesaurarii debita regis per singulos comitatus a magno rotulo illius anni et in breuioribus annotantur simul cum causis. Quo facto secedunt hii in partem quos maiores diximus, proposito comitatu quolibet, et de singulis debitoribus illius decernunt quantum summoneri debeat, habita consideratione secundum qualitatem persone et secundum qualitatem negotii et cause pro qua regi tenetur. Autenticus etiam annalis rotulus, a quo debita excepta sunt, tenetur a thesaurario uel eius clerico ne forte fuerit in excipiendo quomodolibet erratum. Est etiam alius clericus,¹ qui, quod illi taxauerint, in exceptis annotat studiose, de quibus summonitio fit per hec uerba 'H. rex Anglorum illi uel illi uicecomiti salutem. Vide sicut te ipsum et omnia tua diligis quod sis ad scaccarium ibi uel ibi in crastino sancti Michaelis uel in crastino clausi Pasche, et habeas ibi tecum quicquid debes de ueteri firma uel de noua et nominatim hec debita subscripta ; de illo x. marcas pro hac causa' et sic deinceps. Annotatis autem omnibus debitis illic seriatim cum causis que in maiore annali rotulo continentur, proferuntur minores quique perambulantium iudicum rotuli, ex quibus excipiuntur que in singulis comitatibus domino regi debentur labore et industria ipsorum, et hiis taxatis a maioribus in summonitionibus annotantur. Quibus per ordinem digestis terminatur summonitio per hec uerba 'et hec omnia tecum habeas in denariis et talliis et breuibis et quietantiis uel capientur de firma tua. Teste illo uel illo ibi ad scaccarium.' [Fuerunt * tamen qui crederent

* Fuerunt . . . continentur *seclusimus*

¹ The Chancellor's Scribe, see p. 32

materials. You must know, then, that after the rising of the Exchequer of the term in which the Summonses are made up, the Treasurer's clerks extract from the Pipe Roll of the year, county by county, the King's debts, and write them down in shorter rolls together with the accounts on which they are due. After that the Barons, as we call them, withdraw, select one or other of the counties, and decide how much is to be summoned from each debtor, having regard to the *status* of the debtor, the nature of the transaction and the account on which the debt to the King is incurred. The authoritative Pipe Roll, from which the debts have been extracted, is held by the Treasurer or his Clerk, to check any possible error in copying. There is also another clerk,¹ who carefully notes on the extracts the amounts which the Barons have settled, and from these the Summonses are made out in the following form: 'H. King of the English, to such-and-such a Sheriff, greeting. See that, as you love yourself and all that you have, you be at the Exchequer at such a place on the morrow of Michaelmas, or on the morrow of Low Sunday, and have with you whatsoever you owe of the old farm or of the new and in particular these debts underwritten: of such an one ten marks on such an account,' and so forth. But when all the debts and accounts contained in the Pipe Roll have been set down, all the smaller rolls of the Justices in Eyre are produced, from which are extracted the debts to the King in each county arising from their labour and diligence. When these have been assessed by the Barons, they are set down in the Summonses. When all this has been arranged in the Summons, it concludes with the words: 'And have all these with you in money, tallies, writs and acquittances, or they will be deducted from your farm. Witness so-and-so, at such a place, at the

dicendum in denariis, uel talliis, uel breuibus, uel quietantiis, non intelligentes 'et' ¹ quandoque subdisiunctive poni. Superflua tamen est huiusmodi de uerbis contentio cum de eorum intellectu constiterit. Siue enim dixeris 'in denariis uel breuibus uel quietantiis' uel 'in denariis et breuibus et quietantiis,' idem est intellectus, ut scilicet in hiis omnibus uel eorum aliquibus satisfiat de hiis que in summonitione continentur.] Preterea, quia nouis morbis per noua remedia decet subueniri, additum fuit in summonitionibus hoc subscriptum ex nouella constitutione, hoc est post tempora regis Henrici primi, 'Quod si forte de alicuius debito summonitus es qui terram uel catalla non habet * in baillia tua, et noueris in cuius baillia uel comitatu habuerit, tu ipse uicecomiti illi, uel balliuo, per breue tuum hoc ipsum significes, deferente illud aliquo a te misso, qui ei breue tuum in comitatu, si potest, uel coram pluribus liberet.' Hec que prediximus apponere ridiculosa satis et dispendiosa quorundam subterfugia compulerunt. Cognito enim quibus determinatis temporibus summonitiones emittebantur, antequam peruenisset ad comitatum summonitio de debito suo, uacuatis horreis et pecuniis suis quocunque sibi distractis uel ad loca tuta translatis, uacuu² in domo sua residens uicecomitis et ceterorum officialium securus expectabat aduentum, et hac arte plurimis annis regie summonitionis auctoritas non sine dispendio uidebatur illudi. Ille enim ad quem cum facultatibus suis, metus huius causa,† transierat, cum inde mandatum non haberet, in res suas manum mittere non presumebat. Hac ergo consideratione per aliquot annos in summonitionibus appositum fuit uerbum quod premissum est; nec postea alicui patuit locus subterfugii

* habet *Madox*: habent *codd* † causa *Madox*: cause *codd*

¹ The text has *uel*; but the sense demands *et*, which I have therefore adopted.

² cf. *Juv. Sat.* 10:22

Exchequer.' [Some people, however, used to think that the words should run 'in money or tallies or writs or acquittances; not understanding that *et*¹ is sometimes used subdisjunctively. But this dispute about words is otiose when their meaning is clear. For whether you say 'in money or writs or acquittances' or 'in money and writs and acquittances,' the meaning is the same, namely, that the demands in the Summons must be met in all or some of these.]

Moreover, since new diseases demand new remedies, the following clause has been added to the Summons by a recent decree, i.e. later than the reign of Henry I: 'But if you happen to be summoned for the debt of a man who has no land or chattels in your bailiwick, and you know in whose bailiwick or county he has any, you shall signify this to that Sheriff or Bailiff by your writ, to be delivered to him in the county court, if possible, or at least before more witnesses than one.' The addition of this clause was forced upon us by the laughable, but costly, expedients of some of the debtors. A man, knowing the fixed times at which the Summonses were issued, would empty his barns and dispose of his cattle, or convey them to a safe hiding-place, before the Summons for his debt could reach the county. Then, relieved of his wealth,² he would stay at home, calmly awaiting the arrival of the Sheriff and his subordinates. By this means the King's Summons was flouted for years together, and at the King's own expense. For the Sheriff to whose jurisdiction he had, for fear of the Summons, transferred himself and his property, dared not lay hands upon any of it, having no orders to that effect. For this reason the clause in question was for some years added, and left no opportunity for a debtor to evade payment, except the excuse of extreme poverty.

quin satisfaciat omnis debitor per omnem modum, nisi quem sola suprema excusat inopia. Cum autem iam omnibus uicecomitibus et debitoribus constitisset quod sic sophistice poterant importunitates determinari, non oportuit amplius illud uerbum apponi, nec apponitur. Modus tamen ille qui dictus est coercionis debitorum quacunque se transtulerint perseuerat apud uicecomites et quasi quodam iure perpetuo constitutus seruatur.

Discipulus. Audiui iam dudum, referentibus multis, quod bis in anno scaccarium conuocetur, hoc est in termino Pasche et in termino sancti Michaelis. Dixisti etiam, si bene memini,¹ nisi premissis summonitionibus scaccarium non teneri. Cum ergo summonitiones ad utrumque terminum fiant, rogo te, si placet, aperias si in utrisque summonitionibus lex una seruetur, uel si in uerborum tenore dissonantia est que sit et quare sic.

ii *Magister.* Magnum tue prouectionis est argumentum quod super hiis dubitare iam nosti. Porro certo certius est quod bis scaccarium in anno convocatur et tenetur, precedentibus tamen, ut predictum est, summonitionibus; terminorum etiam utriusque sessionis satis bene meministi. Set attende quod in termino Pasche a uicecomitibus non compoti set quidam uisus compotorum fiunt, unde pene nichil eorum que illic tunc geruntur scripture commendatur. Set totum reseruatur alii termino ut tunc diligenter in magno annali rotulo singula per ordinem annotentur.² Tamen quedam memoranda que frequenter incidunt a clerico thesaurarii seorsum tunc scribuntur ut soluto scaccario illius termini de hiis discernant maiores, que quidem non facile propter

¹ See p. 69

² The Sheriff's Account is divided by more modern writers into three parts; the 'proffer' made by the Sheriff on his arrival at the Exchequer (see p. 81); the 'view' or *viva voce* inquiry described here; and the 'sum' or final operation in Michaelmas term, when the account is, if possible cleared (pp. 84-126). At the view the Sheriff did not need to produce

But when all the Sheriffs, and debtors too, were fully assured that the subtlety of the law set a limit to these impudent devices, there was no more need for the clause to be added, nor is it now. But the method which it prescribes for the compulsion of debtors, to whatever place they remove, is still the practice of the Sheriffs, and is observed as though it were and always had been the law.

Scholar. I have often been told that the Exchequer is convened twice a year, in Easter and Michaelmas terms. You said also, if I remember right,¹ that no Exchequer is held without the previous issue of Summonses. Since, then, there are Summonses for both terms, I beg you to tell me whether both are in the same form, or, if there is a difference in the language, what it is and why?

Master. It is a good proof of your progress that you ii know enough to raise the point. Most certainly the Exchequer is convened and held twice a year, and as we said, Summonses are issued previously. And you are quite correct in your recollection of the terms of the two sittings. But please to note that in Easter term it is not the 'Accounts' which are taken from the Sheriffs, but only 'Views of Account,' and consequently hardly anything which occurs at the Easter Exchequer is recorded in writing. But all is held over for the other term, so that everything may be duly set down in its place on the Pipe Roll.² But certain *Memoranda*, which often crop up, are at that term written on a separate Roll by the Treasurer's Clerk, in order that, after the Exchequer of that term is closed, the Barons may decide the points

vouchers, but stated the sums due and paid. A balance was struck and a memorandum made for production at Michaelmas. These, if the account were not cleared then, might be sewed to the Chancellor's Roll; but under Henry III they were enrolled on the Memoranda Rolls, of which they became a definite section.

numerosam sui multitudinem nisi scripto commendarentur occurrerent.¹ Insuper quicquid uicecomes in thesauro soluerit de firma, ac deinde, si satisfecit, in eadem linea scribitur 'Et quietus est.' Si non, debitum eius in inferiori linea distincte ponitur, ut sciatur quantum de summa illius termini desit, et statim satisfaciat ad arbitrium presidentium. Quilibet enim uicecomes medietatem firme illius que de suo comitatu per annum exurgit in termino illo soluturus est.² Noueris autem quod in hiis summonitionibus tenor uerborum non mutatur nisi quod ad terminum pertinet uel locum, si scilicet decreuerint maiores alias tenendum scaccarium Pasche et alias sancti Michaelis. Sed, eadem virtute uerborum in utrisque summonitionibus seruata, dissimilis est debitorum exceptorum annotatio. In summonitione namque contra terminum Pasche facta, quia tunc annus ille dicitur initiari, simpliciter dicitur, 'de illo habeas x.' Et de hac summonitione non nisi soluendo tunc uel satisfaciendo de x. absoluetur. At cum facienda est summonitio de termino sancti Michaelis, in quo clauditur et terminatur idem annus et fit annalis rotulus, addentur predictis x. alia x. uel plura, sicut presidentibus taxantibus uisum fuerit, et dicitur, 'de illo habeas xx.' qui tamen in termino Pasche de hac ipsa summa x. soluerat, set soluens x. in denariis nunc, et proferens taleam de x. iamdudum solutis absolui merebitur a summonitione. Dictum est enim in summonitione 'hec omnia habeas in denariis et breuibus

¹ This record by the Treasurer's Clerk is probably the germ of the Lord Treasurer's Remembrancer's Memoranda Roll. The earliest surviving Roll of this series, that of 1 John, has been printed by the Pipe Roll Society (N.S. 21, 1943).

² This quittance is only for the half due in Easter term, and is entered on the Memorandum, not on the Pipe Roll. The Memorandum of the Easter view, together with the schedules of combustion for both terms, is

in question, which are so numerous that it would be difficult to recall them if they were not written down.¹

Furthermore, whatever the Sheriff has paid on account of his farm is noted, and then, if he has paid in full, there is written on the same line 'And he is quit.' If not, the debt remaining due is written on the line below, so that it may be seen how much is missing from the sum due at that term, and the Sheriff has to meet it as the Barons may decide. For every Sheriff is due to pay half of the farm arising from his county at Easter term.² You must know also that in these Summonses the wording is not altered except for the term, and the place, if the Barons have decided that the Michaelmas and Easter Exchequers are to be held in different places. But, although the words in the two Summonses are to the same effect; there is a difference in the statement of the debts estreated. For in the Summons for Easter term, because the Exchequer year is said to begin with that term, the single demand is made: 'Have ten [pounds or marks] from such an one.' And the Sheriff will not be quit of the demand unless he pays or accounts for the 'ten.' But when the Summons for Michaelmas term is to be drawn up, the term in which the year closes and ends, and in which the Pipe Roll is made up, there will be added to the 'ten' other ten, or more, as the Barons assessing the sums due may have settled, and the Summons will run: 'Have twenty from such an one,' although he has already paid ten out of the total in Easter term. But he will get his quittance from the Summons by paying ten in cash and producing a tally for the ten previously paid. For the Summons says: 'Have all these in money, writs and tallies.'

attached to the Chancellor's Roll of 8 Richard I (Pipe Roll Soc. N.S. 7, pp. 1-3).

et taleis.' Noueris preterea quod, facta summonitione, si dum corrigitur inuentus fuerit error, non debet subducta linea cancellari set nec abradi, quia patens scriptum est, immo potius in quo erratum fuerit debet penitus obliterari, ut quod scriptum fuerat, nulli pateat. Cuius rei causa, si tecum super hiis actitaueris, facile tibi ualet occurrere.¹

Discipulus. Cum, sicut commemoras, patens sit illud scriptum, et sic uicecomiti destinetur, et per longa tempora penes ipsum suosque resideat, soli fidei eius summonitionis indempnitas committitur. Posset enim, quod uellet, impune delere, mutare uel minuere, cum non exstet aliquod penes barones eius rescriptum.

Magister. Posset fortasse si uellet, set foret hoc insani capitis argumentum,² si tantis se sponte periculis opponeret, presertim cum non auferre sic regis debita posset set uix differre: omnia namque debita de quibus summonitiones fiunt, alias diligenter annotata seruantur, unde non posset quis a debito suo, etiam procurante uicecomite, hac arte liberari; uerum ad maiorem huius rei cautelam, uidimus a Pictauense archidiacono, nunc Wintonense episcopo, omnium summonitionum rescripta fieri nec aliquatenus originales emitti, nisi factis et diligenter correctis earum rescriptis. Cum autem, sedente uicecomite ad compotum, legeretur summonitio a clerico cancellarii, inspiciens clericus archidiaconi³ rescriptum obseruabat eum, ne exorbitaret. Procedente uero tempore, cum numerus debitorum cresceret in inmensum, adeo ut uni summonitioni uix unius

¹ The Summons, being delivered open, was more liable to be tampered with. The 'blacking-out' was to prevent the debtor from knowing whether the amount had been raised or reduced by the assessors.

² cf. Hor. *Ars Poetica*. 300 'tribus Anticyris caput insanabile.'

³ This is the only mention of the Archdeacon's clerk. It looks as though he was introduced with the duplicate Summons and superseded when it went out of use.

Note, moreover, that when the Summons has been written, if some mistake is found in it while it is being checked, the error must not be underlined for cancellation, nor yet erased, because the Summons is an open letter; but it must be completely blacked out, so that nobody can read what had been written. The reason for this will easily occur to you, if you consider the point.¹

Scholar. Since, as you say, the Summons is an open letter and sent open to the Sheriff, and is a long time in his custody and that of his staff, its integrity depends solely on the Sheriff's honour. He could, if he would, delete, alter or reduce any charge, since the Barons have no copy.

Master. He could, perhaps, if he would; but it would be a proof of madness² to expose himself wilfully to such grave risks, especially as he could not thus annul the debts to the King, but only defer their payment. For all the debts included in the Summonses have been previously noted and are kept on record; so that even with the Sheriff's connivance, nobody could be freed from them by this method. But to make assurance doubly sure, the Archdeacon of Poitiers, now Bishop of Winchester, to my own knowledge had copies of all the Summonses made, and would not allow the originals to go out until the copies had been made and checked. So, when the Sheriff was sitting at his account and the Chancellor's Clerk was reading the Summons, the Archdeacon's clerk,³ with his eye on the copy, watched him to see that he made no mistake. But as time went on, and the number of debtors enormously increased so that a whole skin of parchment was scarcely long enough for a single Summons the number of names and the labour involved proved overpowering, and the Barons were

membrane longitudo sufficeret, cessum est multitudini et laborioso operi, et sola originali summonitione, sicut antiquitus, contenti * sunt. Sic habes ut credo, quantum breuitas permisit, qualiter et ad quid summonitiones fiant; nunc ex quibus fieri debeant libet intueri, licet ex premissis hoc ipsum magna pro parte iam constet.

Illustris Anglorum rex, Henricus, hoc nomine participantium regum secundus dictus est, set nulli modernorum fuisse creditur in rebus componendis animi uirtute secundus.¹ Ab ipso enim sue dominationis exordio, totum in hoc direxit animum ut paci rebellantes et discolos² multiplici subuersione contereret, et pacis ac fidei bonum in cordibus hominum modis omnibus consignaret. Huius igitur insignia cum iam in omnes gentes celeberrima fama uulgauerit, adeo ut hiis exponendis insistere superuacuum uideatur, unum tamen est quod cum silentio preterire non ualeo ex quo solo singularis eius probitas et pietas inaudita firmatur.

‘Non tamen hoc hominis fuit immo dei miserentis quod sibi quod toti cum paucis restitit orbi.’

Discipulus. Qualiter sibi resistere dici possit opus insigne, nisi planum feceris, non uideo.

Magister. Licet hec ad opus ceptum uel propositum non attineant, memor tamen regis illius magnanimi cum pace mee mentis hiis supersedere non ualui. Videas ergo quam miraculose uir ille sibi restitit in suis.† Filios quidem, sue carnis immo et anime sue spem post deum unicam et gloriam singularem, dum paruuli essent et ratione etatis cerei³ supra modum et in omnem animi

* contenti *Stubbs* : contempti *codd*

† suis *scripsimus* : suo *C* : suos *NR*

¹ For this panegyric compare the introduction to Glanvill. The reference in both cases is to the events of 1173–75. Mr H. G. Richardson has suggested (*E.H.R.* xliii, pp. 339–40) that this whole passage, down to *pecuniarum penam luant* (p. 77) is an interpolation by the author, added as late (possibly) as 1189.

satisfied, as of old, with the original Summons. I think this is enough, though I could say more, to explain how and why Summonses are drawn up. It remains to consider from what sources they are compiled; though that is apparent for the most part from what has gone before.

The noble King of the English, Henry is styled the second of that name, but is considered to have been ‘second to none’ in dealing with a crisis.¹ For from the very beginning of his rule he gave his whole mind to crushing by all possible means those who rebelled against peace and were ‘froward,’² and sealing up in men’s hearts the treasure of peace and good faith. And though Fame has trumpeted his noble deeds throughout all nations, so that it appears superfluous to dwell upon them, there is one which I cannot pass over in silence, one enough by itself to establish his singular uprightness and unheard of sense of duty :

Tw’as heavenly mercy, more than human might,
Himself, and all the world, with few to fight.

Scholar. How ‘fighting himself’ can be called a noble deed, I fail to see, unless you will explain.

Master. Although it is no part of the task we began and mean to finish; I cannot, when I mention that great-hearted king, with a good conscience pass over these actions. Behold how wonderfully he fought against himself in the persons of his children. For while his sons, after God the sole hope and singular glory of his body and soul, were yet young, and by reason of their age ‘wax to receive’³ and easily swayed by any emotion,

² cf. 1 Pet. 2:18

³ cf. Hor. *A.P.* 161–3

motum proni, uulpecule¹ pertinaces consiliis prauis demolite sunt; et tandem in patrem tanquam in hostem sua uiscera² conuerterunt. Facti sunt etiam 'inimici hominis domestici eius'³ et qui custodiebant latus eius⁴ consilium inierunt aduersus eum,⁵ dicentes filiis et hostibus, 'persequimini et comprehendite eum quia non est qui eripiat.'⁶ Diceret in hiis completum uerbum prophete 'filios enutriui et exaltaui, ipsi autem spreuerunt me.'⁷ Cum igitur uxor in uirum, filii in patrem suum, domestici sine causa deseuerent in dominum, nonne satis optime sibi rebellantem uirum diceret? Verum contra numerosam hostium multitudinem solius diuine gratie magnitudo subuenit et, quasi pugnante pro se domino, sic in breui pene rebelles omnes optinuit⁸ ut longe fortius quam prius ex eo quo infirmari debuit, confirmaretur in regno. Norunt enim propter hoc potentissimi qui conspirauerant aduersus eum in omni uirtute sua, clauam a manu Herculis nisi uix extorqueri non posse.⁹ Comprehensis insuper hostibus, tam enormis sceleris incentoribus inaudita pepercit misericordia, ut eorum pauci rerum suarum, nulli uero status sui uel corporum dispendia sustinerent. Si legeres ultionem quam exercuit Dauid in subuersores Absalonis, filii sui,¹⁰ diceret hunc illo longe mitius egisse: cum tamen de illo scriptum sit 'inueni uirum secundum cor meum.'¹¹ Licet autem rex insignis pluribus habundaret exemplis et posset in eos iustissimam exercere uindictam, maluit tamen expugnatis parcere, quam

¹ Song Sol. 2:15. The 'little foxes' were Queen Eleanor and Louis VII.

² Philem. 12; Ovid. *Meta.* 6:651

³ Matt. 10:36; Micah. 7:6

⁴ cf. Jer. 20:10

⁵ cf. Matt. 27:1

⁶ Ps. 70:11

⁷ Isa. 1:2

⁸ cf. 3 Kings 20:25; 1 Macc. 8:5

⁹ cf. Donatus, *Vita Vergili* i. 191, 'facilius esse Herculi clauam quam Homero verum surripere'; and Macr. *Sat.* 5:3. 16.

certain 'little foxes'¹ corrupted them with bad advice; so that at last his 'own bowels'² turned against their father as their enemy. 'A man's enemies are the men of his own house.'³ His 'familiar'⁴ 'took counsel against him,'⁵ saying to his sons and his enemies, 'Persecute him and take him, for there is none to deliver him.'⁶ You might say that herein was fulfilled the word of the Prophet, 'I have nourished and brought up children, and they have rebelled against me.'⁷ Since without cause a wife was angry with her husband, sons with their father, menials with their lord, might you not well say that a man was in rebellion against himself? But against his many enemies, the greatness of God's grace alone helped him, and as though the Lord himself were fighting for him, in a short time he so overcame⁸ almost all his enemies, that his position in the kingdom was immensely strengthened by the very thing which was to have weakened it. For this has shown the powerful ones who conspired against him in all their strength that it is no joke to snatch the club from Hercules.⁹ His clemency too, after capturing his enemies, to the abettors of so heinous a crime was so unheard of that few of them lost their property, none their civil rights or life or limb. If you were to read of the revenge which David took on the destroyers of his son Absalom,¹⁰ you would say that King Henry acted much more gently than he; though it is written of David, 'I have found . . . a man after mine own heart.'¹¹ But though our King had no lack of precedents, and might most justly have taken vengeance on them, he preferred to spare his conquered foes rather

¹⁰ There seems to be some confusion here. If *subversor* is taken literally, Joab may be meant, if in the sense of 'corrupter,' Ahithophel. But David took no revenge on Ahithophel and a very tardy one on Joab.

¹¹ Acts 13:22

eos punire, ut eius regnum crescere uiderent * uel inuiti. Viuat igitur in longa tempora rex ille gloriosus et felix et 'pro impensa gratia, gratiam mereatur ab alto.' Viuat et proles eius ingenua, patri suo subiecta nec ei dissimilis, et quia nati sunt populis imperare paterno simul et proprio discant exemplo quam gloriosum sit 'parcere subiectis et debellare rebelles.'¹ Nos autem suscepta negotia prosequamur. Quod si de hiis et aliis eius strenuis actibus libet plenius instrui libellum cuius supra meminimus,² si placet, inspicio.

Igitur, post naufragum regni statum pace reformata, studuit iterum rex auita tempora renouare et, eligens discretos uiros, secuit regnum in sex partes ut eas electi iudices, quos errantes³ uocamus, perlustrarent et iura destituta restituerent. Facientes ergo sui copiam in singulis comitatibus, et hiis qui se lesos putabant iustitie plenitudinem exhibentes, pauperum laboribus et sump-tibus pepercerunt.⁴ Contigit autem in hiis plerumque uarios excessus uariis modis pro negotiorum qualitate puniri ut quidam corporalem, quidam pecuniariam penam luant. Porro pecuniarie delinquentium pene in rotulis errantium diligenter annotantur et, con-se-dente scaccario, coram omnibus thesaurario traduntur. Caueant autem iudices ut correctos et per ordinem dispositos rotulos thesaurario liberent. Non enim fas erit ipsis etiam iudicibus, facta traditione, iota⁵ unum mutare etiam in quod omnes iudices consenserint.

* uiderent *scripsimus* : uiderant CR : uicl'ant N

¹ cf. Verg. *Aen.* 6:851-3

² See p. 27

³ John of Salisbury (*Polycraticus*, v, chap. xv) plays on the ambiguity of *errantes*, ('itinerant' or 'erring'), and accuses the justices of extortion. This is probably the reason why Richard usually avoids using the word.

⁴ i.e. the trouble and expense of coming to Westminster, to obtain in the King's court the justice which they had failed to get in that of the county. The reform described is the 'Assize of Northampton' in 1176.

⁵ cf. Matt. 5:18

than punish them, in order that they might, however unwillingly, watch his kingdom grow. So long live our happy and glorious King and

For his grace shown be God's grace his reward !

Long live also his noble offspring, subject to their father and not unlike him, and may they learn by their own example how glorious it is

To spare the conquered and beat down the proud.¹

Now let us return to our task. But if you wish to learn more of these and of other mighty deeds of King Henry, you may, if you please, consult the little book which we mentioned above.²

Well then, when the kingdom was saved from shipwreck and peace restored, the King once more essayed to renew the 'golden days' of his grandfather ; and, making choice of prudent men, he divided the kingdom into six parts, so that the justices chosen, whom we call 'Justices in Eyre'³ might go on circuit through them and restore the rights which had lapsed. They, giving audience in each county, and doing full justice to those who considered themselves wronged, saved the poor both money and labour.⁴ But, as it happens, in these proceedings different offences are punished in different ways, according to their nature, some by corporal and others by pecuniary penalties. These latter are carefully set down in the Eyre Rolls and, when the Exchequer sits, are handed to the Treasurer in full court. But let the justices see to it that they hand over their rolls to the Treasurer correct and in order ! For, once they have been handed over, not even the justices themselves may alter one jot,⁵ though all should agree to it,

Discipulus. Hoc mirabile est quod, cum scriptorum suorum auctores sint, et non nisi de ipsorum industria uel labore proueniant, etiam in unum aliquid consentientes scriptum proprium mutare non possunt.

Magister. Cum indulta sint correctionis tempora et legem nouerint constitutam, sibi imputent. Oblatorum enim summa uel ab ipsis debitoribus, si in hac condemnati sunt, uel ab ipsis iudicibus requiretur. Vt si in rotulo suo condemnatum aliquem in solutione xx. descripserint et, tradita iam cautione¹ thesaurario, recordati fuerint quod non teneatur ille nisi in x. ipsi iudices de residuo satisfacient, quia scriptum suum cum deliberatione factum et correctum post traditionem reuocare non possunt. Susceptorum uero rotulorum debita thesaurarius in magno annali rotulo diligenter et distincte per singulos comitatus annotari facit simul cum causis, prenotatis, ut iam dictum est,² nominibus iudicum, ut per hoc exactorum fiat discretio. Ex hiis igitur summonitiones fiant sic 'De placitis illorum N. de illo hoc et de illo illud' secundum quod presidentes prius debita taxauerunt.

Habes ex predictis, ut credimus, quantum necesse est, ex quibus et qualiter et ad quid summonitiones fiant: nunc ad agenda uicecomitis transeamus. Decet autem te dicendis sollicitam adhibere diligentiam, quia in hiis excellentior scaccarii scientia consistit sicut dictum est ab initio.³

iii Omnes igitur uicecomites et balliui, ad quos summonitiones diriguntur, eadem necessitate legis constringuntur, hoc est auctoritate regii mandati, ut scilicet die nominato designatoque loco conueniant et de debitis

¹ The roll is regarded as a bond (*cautio*) for the payment of the sum.

² See p. 31

³ p. 15

Scholar. That is astounding. What they have written is their own, and results solely from their own diligence and pains; and yet, even when unanimous, they have no power to alter their own writing!

Master. They have been allowed time for correction, and they know the law: they have only themselves to blame. For the sum of the payments will be demanded from the debtors themselves, if they have been condemned to pay them, and if not, from the justices. So that if they have set down anybody in their rolls as condemned to pay 'twenty,' and after giving their bond¹ to the Treasurer, recollect that he is only bound to pay 'ten'; the judges themselves must account for the remainder, because they cannot, after delivery, revoke their own writing, made of set purpose and corrected. But after receiving the Rolls, the Treasurer has the debts contained in them carefully set out in the Pipe Roll, county by county, with the cases to which they relate; placing at the head of the list, as has been mentioned,² the names of the justices so that the particular debts can be distinguished. From these lists the Summonses are compiled: 'Of the Pleas of so-and-so (giving the names). From such-and-such a person, so much,' according to the previous assessment by the Barons.

That completes, I think, so far as is needed, the account of the sources, the manner and the purpose of the Summonses. Let us now proceed to the business of the Sheriff. But you must give your careful attention; since in this, as I said at the beginning,³ consists the more profound learning of the Exchequer.

All the Sheriffs and Bailiffs, then, to whom the Sum- iii
monses are addressed, are bound by the same legal compulsion (that is by the authority of the King's order), to wit that they must assemble on the day named, at the

satisfaciant ; quod ut manifestius fiat ipsius summonitionis tenorem diligentius intuere. Ait enim, 'Vide, sicut te ipsum et omnia tua diligis, ut sis ad scaccarium ibi tunc et habeas tecum quicquid debes de ueteri firma et noua et hec debita subscripta.' Attende igitur,¹ quia duo dicuntur que duobus sequentibus coaptantur, hoc enim 'uide sicut te ipsum diligis' refertur ad 'sis ibi tunc,' illud uero 'et sicut omnia tua diligis' referri uidetur ad hoc 'et habeas ibi tecum hec debita subscripta,' ac si aperte dicatur 'Absentia tua, tu, quicumque suscipis summonitionem, nisi necessariis et lege diffinitis causis possit excusari, in capitis tui periculum redundabit;² uideris enim sic regium spreuisse mandatum et in contemptum regie maiestatis irreuerenter egisse, si citatus super regiis, quibus addictus es, negotiis, nec ueneris nec excusatorem miseris. Verum si per te steterit quominus debita subscripta soluantur, tunc de firma, quam soluturus es, aliena debita de quibus summonitus es, capientur ; firma uero de catallis tuis et fundorum tuorum redditibus perficietur, te interim, si barones decreuerint, in loco tuto sub libera custodia collocato.'³ Cum ergo premissa fuerit et a uicecomite suscepta summonitio, ipsa die nominata ueniat et ostendat se presidenti, si adesse eum contigerit, uel thesaurario, si presidens ille presens non fuerit. Deinde, salutatis maioribus, ipsa die sibi uacet, in crastino et deinceps die qualibet ad scaccarium rediturus. Quod si forte nec uenerit nec iustam

¹ Compare the similar alternating arrangement on p. 20, 'sive in scriptis,' etc.

² It must not be supposed that the Sheriff ran any real risk of execution, or even of losing his civil *status*. No doubt the omission to appear was technically 'rebellion.' The instances quoted by Madox (*H.E.* 23, s. 22) show distress and amercement as usual penalties.

³ See p. 21. It seems to mean 'on parole' not to quit the town without leave ; like the German 'Festungstrafe' or the Italian 'domicilio coatto.'

place appointed, and answer for their debts. To make this clearer, consider the wording of the Summons. For it says, 'See, as you love yourself, and all that you have, that you be at the Exchequer there and then, and have with you whatever you owe of the old farm and the new, and these debts underwritten.' Take heed then,¹ for there are two clauses in the Summons corresponding with the two following clauses. 'See, as you love yourself' relates to 'that you be . . . there and then,' and 'as you love all that you have' appears to refer to 'have there with you these debts underwritten.' As though it were plainly said, 'Your absence, whoever you are who receive the Summons, unless it can be excused by necessary causes within the legal definition, will endanger your head ;² for in so doing you have clearly despised the King's order and acted insolently in contempt of his Majesty, if when called up on the King's business, which is your official duty, you neither come nor send anyone to excuse you. But if by your fault the debts underwritten remain unpaid, then those debts of others for which you are summoned will be taken out of your farm, which you must pay, and the farm will be made up from your chattels and the rents of your property ; while you, if the Barons so decide, will be lodged in a safe place in "free custody."³

When the Summons has been sent out, and received by the Sheriff, he must come on the day named and shew himself to the President, if present, and if not, to the Treasurer. He may then, after greeting the Barons, have the rest of the day to himself, returning to the Exchequer the next day and every day after. But if he neither comes nor sends a valid excuse, he will be condemned to pay the King one hundred shillings on the

premierit excusationem, prima die regi condempnabitur in c. solidis argenti de quolibet comitatu,¹ sequenti uero in x. libris argenti [similiter in centum].² Tertia, sicut ab hiis accepimus qui nos precesserunt, in beneplacito regis erunt quecunque mobilia possidet. Quarto uero, quia iam ex hoc contemptus regie maiestatis conuincitur, non solum in rebus suis sed in propria persona soli regie misericordie subiacebit. Sunt tamen qui credant ad omnem summam solam penam pecuniariam sufficere, ut scilicet in prima die in c. solidis, secunda similiter in c. solidis, et ita deinceps per singulos dies in singulis centenariis puniantur absentes. Hiis ego non dissensio; si tamen is, cui delinquitur, in hoc ipsum consenserit. Hunc autem pene modum uelle regem admittere satis probabile est cum eius gratia singularis

'ad penam pigra sit et hec ad premia uelox.'³

Discipulus. Imprudentis pariter et impudentis est auditoris currentem calamum ante prouisum dicendorum finem preoccupare: ideoque sustinui uoluens in animo quod ex parte me turbat. Dixisti enim, si per uicecomitem steterit quominus debita subscripta soluantur, tunc de firma quam soluturus est, capientur. Si ergo uicecomes per breuia regis uel in operationes uel alias uniuersa distribuerit que hic fuerat soluturus, quid fiet?

Magister. Cum ex regis mandato uel in camera curie uel in operationibus, uel quibuslibet aliis firmam comitatus expenderit, si in debitis soluendis minus egisse deprehenditur, per fidem suam, ubi maiores

¹ A Sheriff usually had two, e.g. Norfolk and Suffolk, and might have, as in 1130, a larger number.

² These words, which we have bracketed as an interpolation, represent what seems, from the Pipe Rolls, to have been the actual practice. After three days the fine was at the King's discretion.

³ cf. Ovid, *Epp. ex Ponto*, 1. ii. 123

first day for each of his counties,¹ and on the day after ten pounds of silver [again one hundred].² On the third, as our predecessors have told us, whatever moveable property he possesses will be forfeited to the King. But on the fourth, because from thenceforward his contempt of the King's Majesty is proved, he will be at the King's mercy, not only as regards his goods, but in his own person. Some people, however, hold that the money penalty alone is enough, namely, for the first day a hundred shillings, for the second likewise a hundred and so on day by day, at the rate of a hundred shillings a day, as the penalty for absence. I have no objection to this, provided that the King, who is the offended party, consents. And it is very probable that the King will permit this moderation of the penalty, such is his gracious nature

To punish slow, but eager to reward.³

Scholar. It argues imprudence as well as impudence in the hearer to interrupt the pen of a ready writer before the appointed end of his discourse: I have therefore waited patiently turning over in my mind a point which somewhat troubles me. You said that if it is the fault of the Sheriff that the debts underwritten are not paid, they will be deducted from the farm which he is about to pay. What will happen, then, if the Sheriff have spent by order of the King's writs, or on works, or otherwise, all that he was due to pay in?

Master. When he has spent the farm of the county by the King's order, or in payments into the privy Chamber, or on works or other expenses; if he fails in his duty of paying the debts, he will be detained on

decreuerint, detinebitur donec de hiis satisfiat, sicut de firma satisfactorius fuerat.

Discipulus. Cum citatum uicecomitem et non uenientem uel excusantem tum rerum mobilium tum immobilium tum etiam proprii corporis grauis iactura sequatur nisi suam non uoluntariam sed necessariam absentiam excusauerit ; rogo te, si placet, ut quas citatus pretendere possit absentie sue sufficientes causas, aperire non differas.

iv *Magister.* Plures sunt excusationum modi, quibus uicecomitis absentia seruatur indemnis ; sic tamen ut occasione uel excusatione postposita die nominata per legitimos uiros pecuniam regis antea collectam premittat, qui porrigentes presidenti litteras excusationis, et absentie domini sui causas necessarias allegantes, etiam sacramento corporaliter¹ prestito, si presidenti placuerit, easdem confirmet. Quod si uicecomes uel alius seruientis citatus, infirmitate detentus adesse non poterit, addat in litteris excusationis que ad scaccarium diriguntur ‘Et quia uenire non possum, mitto uobis hos seruientes meos N. et N. ut loco meo sint et quod ad me pertinet faciant, ratum habiturus quod ipsi fecerint.’ Prouideat autem qui excusat ut alter uel uterque missorum miles sit uel laicus alius ratione sanguinis uel aliter sibi coniunctus : hoc est cuius fidei uel discretionis se et sua committere non diffidat : solos enim clericos ad hoc suscipi non oportet, quia si secus egerint non decet eos pro pecunia uel ratiociniis comprehendere. Si uero citatum uicecomitem abesse contigerit, non infirmitate quidem, sed qualibet alia causa prepedito, sic forsitan a pena constituta poterit liberari ; uerum ad explendum compotum suum nullus pro eo suscipietur nec primogenitus

¹ The essence of a *corporal* oath is the *touching* of the object sworn upon. ‘Take the book in your hand,’ etc.

parole, wheresoever the Barons appoint, until the debts are satisfied, just as though he had been in debt for the farm.

Scholar. Since the Sheriff suffers serious loss of both moveable and immoveable property, and even of personal liberty, if he fail to appear when summoned or to send an excuse, unless he can show that his absence was involuntary and enforced ; pray make haste to tell me what sufficient reasons he can allege to account for his absence when summoned.

Master. There are several methods of excuse which iv will exempt him from penalties for absence ; provided always that without fail he send on the day named the King’s money already collected by the hands of lawful men, who shall present to the President his letter of excuse, and state the unavoidable reasons for his absence, confirming their statement, if the President so please, by their corporal oath.¹ But if the Sheriff or other officer summoned be too ill to appear, he must add, in his letter of excuse directed to the Exchequer, ‘And because I cannot come, I send you these my servants (naming them) to be in my place and do what is my duty ; and I will ratify what they shall have done.’ But the sender of an excuse should take care that one or both of his messengers should be a knight, or other layman, related to him by kindred or otherwise ; one, that is, to whose honour and prudence he does not hesitate to confide himself and his goods. For clerks alone should not be selected for such a mission ; since, if they misbehave, it is improper that they should be arrested for matters of money or account. But if the Sheriff summoned is not absent through sickness, but for some other reason, he may still escape the penalty in the same fashion ; but nobody can be received in his place to render his account ;

filius; nec * generalis eius procurator,¹ etiam si breue suum direxerit se ratum habiturum quod ille uel ille pro se fecerit. Solius uero mandati regii, uel etiam presidentis auctoritate, si rex absens fuerit, ad compotum suum explendum alium poterit substituere; si tamen aliud a domino rege negotium sibi gerat assignatum, ipse ad scaccarium in propria persona presentem nominet qui, iuxta quod supradictum est, possit et debeat uicecomitis absentis negotia procurare. Illud autem breue regis uel presidentis uel uicecomitis excusantis in forulo marescalli² cuius supra meminimus in testimonium huius rei reseruabitur. Quod si uicecomes alias regi necessarius ab ipso uocatus fuerit extra regnum, uel, accepta licencia, pro familiaribus negotiis exire disposuerit, prius presidentem adeat et uiua uoce uices suas ad scaccarium deleget cui uoluerit uiro legitimo; quo facto, cum absens fuerit, nec breue mittere nec absentiam suam excusare cogetur. Excusante uero se uicecomite causa infirmitatis, cum uentum fuerit ad scribendum eius compotum in annali rotulo, dicetur 'Willelmus, uicecomes Londonie, Robertus filius eius pro eo, reddit compotum de firma de Londonia.' At si per regis mandatum alius sibi substituitur, uel ipse uiua uoce sicut predictum est aliquem pro se designauerit presidenti, sic per omnia dicendum est ac si ipse in propria persona ad compotum resideret.³

* nec, C, R; nisi N probante Poole

¹ cf. *generalis oekonomus* (p. 116 below) which is equated with *senescallus*. The rule is (1) To make the proffer it is only necessary to send two persons, one of whom must be a layman. (2) To pass the account (a) in case of sickness, the eldest son may represent this father; (b) if he is engaged on the King's business, he must get a writ from the King (or the Justiciar) nominating someone to act for him at the Exchequer, or certifying that he has presented his attorney *coram rege*; (c) if he is summoned abroad on the King's service or has leave to go home, he must personally present his attorney at the Exchequer.

neither his eldest son nor his steward,¹ even though he may have sent his writ undertaking to ratify whatever such-and-such a person shall have done in his name. Only by virtue of the King's command, or in the King's absence by the authority of the President, will he be able to substitute another to make his account. If, however, he has been appointed by the King to some other business, he must in his own person nominate someone present at the Exchequer, who, as has been explained, can or ought to manage his affairs at the Exchequer in his absence. But the writ of excuse, whether from the King, the President or the Sheriff himself, shall be kept in the Marshal's forel,² already mentioned, as evidence. But if the Sheriff, being wanted by the King for other duties, is summoned out of the realm, or has received licence to quit the Exchequer on his private affairs, he must first approach the President and by word of mouth depute his business at the Exchequer to any lawful man whom he may choose. After this, though absent, he will not be compelled to send a writ or a letter of excuse. But if the Sheriff excuse himself on the score of illness, when his account comes to be written in the Pipe Roll, it will run: 'William, Sheriff of London, Robert, his son, for him, renders account of the farm of London.' But if another is substituted for him at the King's command, or he himself by word of mouth before the President appoint a deputy as aforesaid, the wording will be exactly the same as if he were sitting at his account in person.³

² See p. 21 above

³ The formula for sickness was used later in the other cases also, including those in which a Sheriff in Fee was represented by his under-Sheriff.

Discipulus. Numquid infirmitas sola sufficiens est excusatio per quam citatus absens seruetur indempnis?

Magister. Absit : sunt enim plures ad scaccarium, set hec tam in litibus quam in aliis negotiis ecclesiasticis et forensibus est usitatio. Porro decet te esse memorem predictorum ut intelligas nullam excusationem hoc efficere ut regis pecunia de comitatu collecta penes eum detineatur impune uel ad scaccarium die nominata non mittatur. Premissa ergo pecunia, poterit excusari per infirmitatem sicut dictum est. Item, si filius eius primogenitus quem declarauit heredem post se futurum, morti proximus iudicetur, excusabitur ; item, si uxor eius dolore partus periclitari ceperit uel quauis alia de causa morti proxima decubuerit, quia portio sue carnis est, excusari poterit. Item si dominus eius qui uulgo ligius dicitur, hic est, cui soli ratione domini sic tenetur ut contra ipsum nichil alii debeat, rege dumtaxat excepto, uocauerit ipsum, ut adsit sibi tracto in ius de toto feodo suo uel eius maxima parte, uel super alia causa que in status uel corporis sui detrimentum redundare uideatur excusari poterit ; sic tamen si dominus ille nec amplius excusare nec aliter litem declinare ualuerit. Quod si idem dominus alium super huiusmodi sollicitauerit, et liberum sit ei absque enormi dampno diem prorogare, si uocauerit domini regis uicecomitem, hominem quidem suum, uenire non tenebitur quia nec sic ad scaccarium posset excusari. Item si idem dominus eius infirmitatis pondere pressus testamentum coram suis condere uoluerit et ad hoc cum aliis fidelibus suis ipsum euocauerit, excusabitur. Item, si dominus eius, uel uxor uel filius, debita carnis soluerit, et hic debita funeris obsequia procurauerit, excusari merebitur. Sunt

Scholar. Is sickness the only valid excuse for the absence of a person summoned ?

Master. God forbid ! There are several 'essoins' at the Exchequer, but sickness is the commonest, both in lawsuits and in other ecclesiastical and civil business. Besides, you must remember what I have told you, and understand that no excuse will protect the Sheriff from punishment, if he keeps the King's money which he has collected in the county in his own hands, or fails to send it to the Exchequer on the appointed day. But if he has sent the money, sickness will excuse him as has been said. He will also be excused if his first-born son, whom he has declared to be his heir, is considered to be at death's door ; or if his wife is in labour, or in danger of dying for some other reason, he may be excused, since she is 'flesh of his flesh.' Again he may be excused if his liege lord, as he is commonly called, (that is, the one to whom alone he is so closely bound, by reason of his lordship, that he cannot owe any service to another lord, the King excepted, to that lord's prejudice), have called him for his support in a lawsuit involving the whole or the greater part of his fee, or any other cause threatening damage to his estate or person ; provided always that his liege lord can neither esoin himself further, nor otherwise avoid the suit. But if his liege lord have impleaded another in like manner, and is free, without grave damage, to adjourn the day of trial, and if he call upon the Sheriff as being his man ; the Sheriff will not be bound to come, because that would not be a good esoin at the Exchequer. Again, if his liege lord, feeling his health failing, desires to make his will in the presence of his men and summons the Sheriff among his other tenants for the purpose, he will be excused. Also, if his lord, or his lord's wife or son, have gone the way of all

et alie plures excusationes absentie uicecomitis, necessarie quidem et legibus determinate, quas non abdicamus uel excludimus, immo cum sufficientes uise fuerint, a maioribus libenter suscepimus. Sed has que menti mee se ad presens optulerunt quasi frequentiores, exempli causa, subiecimus.

Discipulus. Videor ex predictis perpendere quod miles, uel quilibet alius discretus, possit a rege uicecomes, uel alius balliuus creari, etiam si nil ab ipso possideat sed solum ab aliis.

Magister. Debetur hec prerogatiua dignitatis publice potestati, ut cuiuscunque sit, cuicunque uir aliquis in regno militet uel ministret, si regi necessarius uisus fuerit, libere possit assumi et regiis obsequiis deputari.

Discipulus. Ex hoc etiam cerno uerum esse quod dicitur

‘ An nescis longas regibus esse manus ? ’¹

Sed iam nunc, si placet, ad agenda uicecomitis manum mittere non differas. Ad hec enim, te monente, totam attentionis industriam iam collegi² sciens ex hiis excellentem scaccarii scientiam, sicut predictum est, debere requiri.

Magister. Gratulor te memorem premissorum ; unde fateor languenti pene calamo te stimulos addidisse ; noueris autem quod uicecomes, nisi facto prius examine, debitisque de quibus summonitus est solutis, residere non debet ad compotum. Cum autem accesserit et iam residerit, alii uicecomites excludantur, et resideat solus cum suis ad interrogata responsurus. Prouideat autem ut ipsa die uel precedente debitoribus sui comitatus innotuerit, qua die sit ad compotum sessurus, uel etiam

¹ Ovid, *Her.* 17:166

² *supra*, p. 15

flesh, and he has had to conduct the funeral ; he will have earned his excuse. There are many other essoins for the Sheriff's absence, valid and defined by law, which I do not reject or exclude. Indeed, since they were adequate, I have been glad to receive them from my predecessors. But I have instanced those which occurred to my mind as the most usual.

Scholar. I seem to gather from what you have said, that any knight or other sensible man may be appointed by the King as Sheriff or Bailiff, even though he holds nothing of him immediately.

Master. It is the King's prerogative as chief of the executive that any man in the kingdom, if the King need him, may be freely taken and assigned to the King's service, whose man soever he be, and whomsoever he serves in war or in peace.

Scholar. I see the poet's words are true :

Have you forgotten that kings' arms are long ?¹

But now, pray, make haste to take up the business of the Sheriff. For on your advice I have mustered all my attention,² knowing that the subject demands, as you said, ‘ the highest skill at the Exchequer.’

Master. I am delighted that you remember my words ; a thing which I own has revived my flagging pen. Take note then that the Sheriff may not sit at his account until the assay has been made and the debts for which he is summoned paid. But when he appears and has taken his seat, the other Sheriffs must be shut out, and he must sit alone, except for his staff, to answer the questions put to him. He must see, too, that on the day of his account or the day before, he give notice to the debtors of his county on what day he is to sit at his

circa domum scaccarii, uel uicum uel uillam, uoce preconia ipsis denuntiet se tunc uel tunc sessurum. Tunc, sedentibus et audientibus omnibus, thesaurarius, qui, sicut dictum est,¹ ratione officii sibi uidetur aduersari, querat si paratus est reddere compotum suum; quo respondente, 'Presto sum,' inferat thesaurarius, 'Dic igitur, in primis, si elemosine, si decime, si liberationes constitute, si terre date, sic se habent hoc anno sicut in preterito?' Quod si similiter se habere responderit, tunc scriptor thesaurarii preteritum annalem rotulum diligenter in hiis constitutis scribendis sequatur, con-
 tuente simul thesaurario, 'ne forte manus scriptoris aberret'²; et quia satis in titulo de officio scriptoris thesaurarii³ de ordine scripture dixisse me memini, hiis ad presens supersedeo.

Discipulus. Dic ergo, si placet, de hiis que iam dudum usque ad agenda uicecomitis distulisti, quid scilicet sit quasdam terras a rege dari blancas quasdam numero.⁴ Hoc enim me sollicitauit ab initio.

Magister. Satis, ut credo, tibi constat ex predictis quid sit quasdam firmas solui blancas quasdam numero.⁵ Firma quidem blanca soluitur cum ipsa, facto examine, v dealbatur. Quis insuper fuerit huius institutionis auctor et que instituendi ratio satis innotuit: porro firmam numero solui diximus cum tantum numerando non examinando de ipsa satisfat. Cum ergo rex fundum aliquem alicui contulerit simul cum hundredo, uel placitis que ex hoc proueniunt, dicunt fundum illum illi blancum collatum; at cum, retento sibi hundredo, per quod firma dealbari dicitur, simpliciter fundum dederit non determinans 'cum hundredo' uel 'blancum,'

¹ *supra*, p. 7
⁴ *supra*, p. 30

² *supra*, p. 34
⁵ *supra*, pp. 40-3

³ *supra*, pp. 29-32

account, or even send round the crier to proclaim outside the Exchequer building, in the street, or in the town, that he will sit at such-and-such a time. Then, when all are seated, and listening, the Treasurer, who as we have said,¹ appears by virtue of his office as his opponent, will ask whether he is prepared to render his account. He answers, 'I am ready,' and the Treasurer proceeds, 'Tell me first whether the alms, tithes, fixed payments and lands granted out, are the same this year as last?' If he replies that they are, the Treasurer's Scribe will carefully follow the Pipe Roll of the preceding year in writing the fixed items, while the Treasurer watches him 'lest he stray.'² And as I remember that I explained the writing of the Roll sufficiently in the chapter on the duties of the Treasurer's Scribe,³ I will omit the description here.

Scholar. Tell me then, please, what you put off until the 'Sheriff's business,' namely, what it means that some lands are given by the King 'blanch' and some 'by tale.'⁴ For that puzzled me in the first instance.

Master. I think it is pretty clear from what has gone before⁵ what is meant by some farms being paid 'blanch' and some 'by tale.' A farm is paid 'blanch' when it is 'blanched' by the taking of an assay. You v also know who made this arrangement, and why. We said also that a farm is paid 'by tale' when it is met by merely counting the coins without an assay. So, when the King confers an estate upon anybody 'with the hundred' (*or the pleas which arise in the hundred court*), that estate is said to be granted 'blanch.' But when the King retains the hundred court (by which the farm is said to be 'blanched'), and merely grants the estate without specifying 'with the hundred' or 'blanch,' it is

numero datus dicitur.¹ Oportet autem ut de fundo collato breue regis, uel cartam eius, in termino sancti Michaelis is, cui collatus est, ad scaccarium deferat, ut uicecomiti computetur; alioquin in magno annali rotulo non scribetur nec uicecomiti computabitur. Scribetur autem sic, post elemosinas et decimas et liberationes utriusque generis constitutas, in capite linee 'In terris datis illi N. xx. libras bl. ibi et illi N. xx. libras numero ibi.' Aduerte etiam quod si forte inter terras datas inueneris 'illi uel illi x. libras bl.' uel 'numero ibi de prestito regis,' cum is, qui commodati uel prestiti beneficio gauisus est, fati debita soluerit, nisi per gratiam regis, non uxori, non liberis non alicui nomine eius propter prestitum reclamandi locus relinquitur. Similiter, si dictum fuerit, 'Illi x. quamdiu regi placuerit.'²

vi *Discipulus.* Quid est quod dixisti 'liberationes utriusque generis'?

Magister. Liberationum quedam sunt indigentium cum ex solo caritatis intuitu ad uictum et uestitum alicui a rege denarius diurnus, uel duo, uel plures constituuntur. Quedam uero sunt seruientium ut hec pro stipendiis suscipiant, quales sunt editui regii,³ tibi-cines, luporum comprehensores et huiusmodi. Hee sunt igitur diuersi generis liberationes, quia diuersis ex causis soluuntur, inter constituta tamen computantur. [Et nota quod, licet liberum sit regi quibuslibet indigentibus

¹ cf. *Leges Henrici primi*, c. 19. The king has jurisdiction in every demesne manor (including the hundred court if the manor is the chief manor of the hundred), and can grant the manor out either with or without its jurisdiction. The profits of the court are regarded as being roughly equivalent to the loss consequent on the assay.

² Examples of both these entries will be found in Pipe Roll, 7 Henry II, p. 22. The allowance was not technically an 'imprest' (in spite of the *commodati* of the text) and therefore to be accounted for by the recipient, but a grant for life, or during pleasure.

said to be granted 'by tale.'¹ But the grantee ought to bring the writ or charter concerning the grant of the farm to the Exchequer in Michaelmas term, so that the Sheriff may be credited with it. Otherwise it will not be written in the Pipe Roll nor allowed to the Sheriff. The entry on the Roll will be as follows, after the alms, tithes and fixed payments of both kinds thus, at the beginning of a line: 'In lands granted out, to N. twenty pounds blanch at such a place, and to N. twenty pounds by tale at such a place.' Take note also that if you find among the lands granted out 'to so-and-so ten pounds blanch' (or 'by tale') 'at such a place, of the King's allowance (*prestito*)' when the recipient of this 'loan' or 'allowance' dies, neither his children, nor anyone in his name has any claim upon it, unless by the King's special grace. The same holds if the entry is: 'To so-and-so ten [*pounds or marks*] during pleasure.'²

Scholar. What did you mean by 'payments of both vi kinds'?

Master. Some payments [*or 'liveries'*] are to the poor, as when the King, out of pure charity, appoints a penny, two pence or more per day to any person for food and raiment. Others are to servants, who receive them in place of wages, such as keepers of the King's palaces,³ pipers, wolf-takers and the like. These are therefore, different classes of payments, being paid from different motives, they are, however, reckoned amongst the 'fixed payments' [Note further, that although the King is at liberty to grant these liveries to any poor persons, they are by ancient custom assigned to those

³ The sense seems to demand this rendering, and it may be derived from the use of the word in Ezech. 44:11. The keeper of the palace of Westminster was paid 7d a day from the farm of London (Pipe Roll, 2-4 Henry II, pp. 3, 111. See also C. T. Clay's article in *E.H.R.* lix, pp. 1-21).

has liberationes conferre, ex antiqua tamen institutione solent hiis assignari qui in curia ministrantes, cum redditus non habeant, in corporum suorum inualitudinem decidunt et laboribus inutiles fiunt.]¹ Hiis omnibus per ordinem annotatis, querit thesaurarius a uicecomite, ' si quid expenderit de firma comitatus per breuia regis preter constituta.' Tunc seriatim missa sibi regis breuia tradit clerico cancellarii, qui lecta in publicum eadem liberat thesaurario ut ipse, secundum formam in breuibz conceptam, in scripturam rotuli sui opportuna uerba ministret.² Ipse namque, sicut dictum est, prescribit et alii conscribentes ab eodem excipiunt. Hoc facto, ostendit uicecomes si quid expenderit non per breuia sed per constitutam scaccarii legem sibi computanda, qualia sunt liberationes probatorum regis et item ea que mittuntur in iustitiis et iudiciis explendis.

vii Aduerte autem iustitias hic usualiter nuncupari prolati in aliquos iuris executiones, iudicia uero leges candidis ferri uel aque.³ Liberationes igitur probatorum hac ratione fiunt: propter innumeras regni huius diuitias et item propter innatam indigenis crapulam, quam semper comes libido sequitur, contingit in ipso frequentius furta fieri manifesta⁴ uel occulta, necnon et homicidia ac diuersorum generum scelera, addentibus stimulos mechis ut nichil non audeant uel non attemptent, qui suis se consiliis subiecerunt. Cum autem a regis ministris regni pacem excubantibus reus horum famosus aliquis comprehenditur, propter numerosam sceleratorum multitudinem, ut uel sic peruersis terra

¹ This statement is not borne out by the Pipe Rolls, and may be an interpolation by one of the salaried officers.

² cf. p. 28 above

³ Hence the Scots ' justified in the Grassmarket.' *Judicium* is of course also applicable to trial by battle and by jury. Glanvill xiv. i, regards the hot iron as appropriate to freemen, and the water to villeins.

who performed some service at court, but have no lands or rents, and fall into ill health and become incapable of their work.]¹

When all these have been set down, the Treasurer asks the Sheriff ' if he has spent anything beyond the fixed payments, by the King's Writs, out of the farm of the county? ' The Sheriff then hands to the Chancellor's Clerk, in order, the royal writs sent to him. The Clerk reads them aloud and hands them to the Treasurer so that he may dictate the correct wording² for the writing of the Pipe Roll according to the form of the writs. For, as I said before, he dictates and the others copy from him. After this the Sheriff shows what he has paid without writ and is to be allowed to him by the custom of the Exchequer, such as are the liveries of the King's approvers, and the expenses of justice and trial.

Now observe that acts of ' justice ' is the usual name vii for the execution of sentences pronounced against individuals, while ' trial ' is that for the ordeals of the hot iron and of water.³ The liveries of approvers have this origin. The untold riches of the kingdom and the natural drunkenness of its inhabitants, with its invariable concomitant, lust, bring about a multiplicity of thefts, robberies as well as larcenies,⁴ besides manslaughter and other crimes; and the evildoers are so urged on by their women, that there is nothing they will not venture under their influence. But when some notorious criminal is apprehended by the King's officers of the peace, crime being so rife, the justices sometimes consent, as an extreme measure to purge the country of criminals, that if such a man confesses and turns King's evidence against

⁴ *Fur manifestus* is technically the thief taken ' with the manner,' i.e. before he can dispose of his booty (cf. Just. Inst. iv. i. 3), but it seems probable that the author was thinking of open robbery as opposed to larceny.

purgetur, consentiunt in hoc interdum iudices, quod si quis huiusmodi de se crimen confitens sceleris eiusdem consortes prouocare uoluerit, et obiectum alii uel aliis crimen commissio duello probare ualuerit, mortem quam meruit effugiat, et cum impunitate sui corporis exiens, regni tamen totius demereatur et abiuret ingressum. Quidam autem, conuentione cum iudicibus prius facta, licet obiecta probauerint non tamen immunes abscedunt, sed effugientes suspendium, uel aliud turpe genus mortis, quam de se confessi meruerint, mutilatione tamen membrorum puniti miserabile spectaculum fiunt in populo et temerarios ausus consimilium terribilibus compescunt exemplis. Quoniam igitur, obiecto et probato criminis eiusdem reatu, uitam sibi saluare potest, et item quia ad regis utilitatem procul dubio fit quicquid ad regni pacem uidetur accedere, regis probator dicitur. A die uero qua ad probationem suscipitur usque ad expletum promissum, uel usque quo defecerit, ad uictualia de fisco percipit quaque die denarium unum, qui uicecomiti per solam consuetudinem scaccarii computatur. Quod si probator ille iussus fuerit ad alia loca transferri, ut conuenientibus illic iudicibus, opportunius promissum expleat uel forte deficiens scelerum suorum penam condignam excipiat, solum id quod in uehiculis illuc conducendis et uictualibus illi ministrandis per denarium diurnum inuenerit, uicecomiti computabitur per consuetudinem; cetera uero non, nisi per breue regis. Sunt preterea in quibusdam comitatibus plures qui, ratione fundorum suorum, in condemnatos ultrices manus mittunt ut alios suspendio, alios membrorum detruncatione, uel aliis modis, iuxta quantitatem perpetrati sceleris puniant.¹ Sunt etiam quidam comi-

¹ It is difficult to find any serjeanties for the execution of criminals in the *Book of Fees* or in *Feudal Aids*. Sheffield-upon-Loddon was however held

his associates, and succeeds in proving by battle a charge against one or more of them, he may escape the death he has deserved, and save his skin by losing his civil rights and abjuring the realm. Some, however, by the terms of their bargain, do not get off scot free, even though they prove their charges. They escape the hanging or other shameful death which they confess they have deserved, but are punished by mutilation, and become a public spectacle and a terrible example to discourage the rash attempts of other offenders. Since, then, a man can save his life by accusing and convicting others of guilt like his own, and also because whatever contributes to the peace of the realm is undoubtedly to the King's advantage, he is called the King's approver. But from the day on which he is admitted to make his proof to that on which he either fulfils his promise or fails to do so, he receives from the Treasury a penny a day for his victuals, which is allowed to the Sheriff by the custom of the Exchequer without further warrant. But if the approver be ordered to be moved to another place where the judges are assembled, that he may more conveniently fulfil his promise, or failing to do so, receive the due penalty of his crimes; the expense of vehicles and provisions will only be credited to the Sheriff by custom of the Exchequer so far as the penny a day will meet it. Any thing beyond that needs the King's Writ.

There are, besides, in certain counties sundry persons who, by reason of the lands which they hold, lay avenging hands on condemned criminals, and punish them according to the degree of their crimes,¹ some by hanging, others by mutilation or otherwise. There are

by a service of this kind. The reference may be to the various lords who had 'gallows and tumbil' and could hang 'their own thieves.' Examples of payments for ordeals and executions will be found in Madox, *Hist. of the Exchequer*, chap. 10, s. 12 (p. 256) n. x.

tatus in quibus sic condemnandi non nisi numerata de fisco pecunia puniuntur. Quicquid igitur ad hec iudicia uel iustitias effectui mancipandas detestabilis auaritie hominibus, qui hec pro sanguinis effusione suscipiunt, a uicecomite numeratur, per consuetudinem scaccarii sibi computatur, hoc est non per breue regis. Est et aliud quod per consuetudinem solam uicecomiti debeat computari. Cum regis thesaurus de loco in locum maiorum consideratione deferendus uehiculis et huiusmodi minoribus indiguerit, precipiente thesaurario uel camerariis uel seruientibus eorum ad hec missis, uicecomes de firma sua quod oportuerit inuenit et hoc ipsum uicecomiti sine breui computatur, perhibente tamen super hoc testimonium coram maioribus ipso thesaurario uel quolibet predictorum qui hec fieri mandauerit; et tunc dicitur in rotulo 'in hiis uel illis necessariis thesauri hoc uel illud per hunc uel illum.' Item si piscis regius, rumbus uel cetus uel alius huiusmodi comprehenditur, quod in hiis salientis et aliis necessariis ministrandis a uicecomite mittitur, sine breui computatur. Item quod in excolendis dominicis uineis regis et hiis uindemiandis uel uasis et aliis necessariis ministrandis expenditur, sine breui per fidem uicecomitis computatur. De qua fide, si semel aut sepius et qualiter fiat, infra dicitur.¹ Hec sunt igitur que ad presens nobis occurrunt uicecomiti per solam consuetudinem computanda: nunc de ceteris que ad compotum de corpore comitatus pertinent prosequamur.

viii Fit interdum ut precipiat rex uicecomiti per breue suum quod in castris firmandis, uel in edificiis et huiusmodi instruendis, de firma sua necessaria ministret, per uisum duorum uel trium uirorum, quorum nomina in ipso breui exprimuntur, et addat in fine uerbum breue

¹ pp. 106-7 below

also counties in which money must be paid out from the Treasury for their punishment. Whatever, then, is paid by the Sheriff to the greedy wretches who receive it for the shedding of blood is credited to him by the custom of the Exchequer, that is, without the King's Writ. There is also another expense which ought to be credited to the Sheriff by the custom alone. When the transport of the King's treasure from one place to another by order of the Barons demands carriages and other minor expenses, on the order of the Treasurer and Chamberlains or their servants sent for the purpose, the Sheriff finds what is required, and it is allowed him without writ, on the evidence given before the Barons by the Treasurer or other actual giver of the order. Then the entry in the Roll will be: 'in such-and-such necessities for the treasure, so much, by such a person.' Again, if a royal fish, a turbot or a whale, or the like is caught, the necessary materials for salting it and what else is needed are sent by the Sheriff and credited to him without writ. What is spent also in cultivating the King's vineyards and gathering the vintage, and on vats or other necessities, is credited without writ, on the Sheriff's *affidavit*. Whether one of these is enough or more are needed, and how it is given, I will tell you later.¹ This is all that occurs to me at present which is credited to the Sheriff without writ. Let us now proceed to the other points relating to the *corpus comitatus* account.

The King sometimes orders the Sheriff by writ to viii provide from his farm what is needful for fortifying castles, or erecting buildings, and the like, by the view of two or three men, whose names are given in the writ; adding at the end a clause, brief but needed by accountants, 'and it will be allowed you at the Exchequer.' So, when the Sheriff's account is reached, those who

set computantibus necessarium, 'et computabitur tibi ad scaccarium.' Cum igitur uentum fuerit ad compotum uicecomitis, ueniant simul qui electi sunt custodes operum et, fide in publica ab ipsis prestita quod secundum conscientiam suam ad regis utilitatem in ipso opere nominata summa prouenerit, fiat inde breue regis ad scaccarium¹ sub testimonio presidentis et alterius quem preceperit in quo summa illa de qua testati sunt et item nomina custodum exprimantur; et tunc demum uicecomiti computabitur. Quod si per hec missa consummatum regis opus fuerit, primum illud breue de necessariis ministrandis, quod uicecomiti directum est, et hoc ultimum, quod ad scaccarium fit, in forulo marescalli de compotis factis recluduntur. Si quid autem restat de ipso opere faciendum, uicecomes quod sibi directum est breue usque ad idem opus completum penes se reseruabit, ut hinc sit ei auctoritas operi perficiendo necessaria ministrare. Reliquum uero in forulo de quo dictum est, recludetur. Cum enim scribatur in annali 'in operatione illa c. libras' oportet consequenter apponi 'per breue regis et per uisum horum N.' Quod si non extaret breue regis numerum ipsum et nomina custodum continens falsa uideri posset scriptura rotuli dicentis 'per breue regis.'²

Discipulus. In hoc uerbo sic mihi satisfactum est ut hiis ad que requirenda iam ora laxaueram sponte superseam. Cum enim uicecomiti delatum sit breue regis de necessariis ad hoc uel ad illud opus inueniendis, et sit adiectum 'et computabitur tibi ad scaccarium' uel hoc 'Inueni de firma tua' quod eiusdem pene est auctoritatis, superfluum uidebatur ut super alio breui

¹ cf. p. 32 above

² There is a marked inconsistency between this *dictum* and the account of allowances to Barons of the Exchequer on pp. 49-51, although the credit of the Pipe Roll is saved in both. The difference is presumably due to the

were chosen 'Keepers of the Works' should come with him, and when they have publicly made oath upon their conscience that the sum has been spent on the work named for the King's service, a writ must be made¹ for it at the Exchequer, witnessed by the President and another whom he may assign, specifying the sum certified and the names of the keepers. The allowance will then, at last, be made to the Sheriff. Now, if the King's works are completed by this expenditure, both the first writ ordering the necessities to be supplied and this last writ made at the Exchequer are put away in the Marshal's forels of closed accounts. But if any work remains to be done, the Sheriff will keep the writ addressed to himself until the work is completed, so as to retain his authority for supplying what is needed to complete the work. The other writ will be put away in the forel we spoke of. For when there is written in the Pipe Roll 'In such a work a hundred pounds,' there ought to follow 'by the King's Writ and by the view of the following:—' But if there were no writ containing the sum and the names of the keepers, the words of the Roll 'by the King's Writ' might be considered false.²

Scholar. You have so completely satisfied me on this point that I will omit the question which I had opened my mouth to ask. For when the King's Writ for the provision of necessities for such-and-such a work had been brought to the Sheriff, and there was added 'and it will be allowed you at the Exchequer,' or 'Find out of your farm,' which is practically the same; it seemed to me unnecessary for him to trouble to get another writ.

necessity of giving the names of the Keepers of the Works and the varying amounts allowed in the several cases.

sollicitus esset. Nec enim intelligebam quod in ipso breui numerus esset exprimendus ut sic in eodem uerborum tenore autentico respondeat annali.

ix *Magister.* Intellige similiter quod in scaccarii negotiis secus est quam in aliis. Dicitur enim in plerisque quod 'expressa nocent non expressa non nocent'¹; uerum

'hic expressa iuuant et non expressa fatigant.'

Verbi gratia; si tenetur quis regi in c. et breue eius deferat ad scaccarium ut quietus sit de debito quod ei debet, addat etiam toto, et causam simul exprimat set non numerum, non propter hoc absoluetur, set magis per hoc dilationem usque ad aliam summonitionem promerebitur. Oporteret enim scribi in rotulo 'in perdonis per breue regis illi N. c. libras,' set quia non uidetur omnino dimissum quod nondum est in breui expressum, cogetur is multo labore querere per quod mereatur absolui. Ergo in hiis 'non expressa fatigant.'

Discipulus. Salua sit reuerentia presidentis et assidentium, hic non uidetur per omnia regis mandato satisfactum. Nec enim quietus est quem quietum esse mandauit, addens etiam causam pro qua sibi tenebatur.

Magister. Immo salua sit in hiis scrupulose mentis tue subtilitas: nosse quidem debueras quod ei qui lege plurimum indiget eius ignorantia non subuenit.² Is ergo qui regi tenetur qualiter ab hoc absolui plene possit, hoc est secundum legem de hiis constitutam, diligenter inquirat. Quod si non fecerit, non presidenti set sibi imputet. Nec enim licet presidenti ab eo, quod detulit in breui, iota³

¹ Dig. L. xvii. 195

² This seems to be a reminiscence of the Civil Law, possibly Dig. xxxii. vi. 7 or 9. The latter, though with less verbal resemblance, seems to state the same principle.

³ cf. Matt. 5:18

For I had not understood that the amount must be specified in the writ, so that its wording should tally with that of the authoritative Pipe Roll.

Master. You must likewise grasp that Exchequer business has its own rules. For it is commonly said that 'Precision does harm; vagueness does not.'¹ Here, however, the reverse is the case: Precision aids, the lack of it impedes. For example, if anyone is a hundred pounds in debt to the King, and brings a writ to the Exchequer acquitting him of his debt, even though it add 'in full' and specify the cause but not the amount; the debtor shall not thereby be freed from his debt, but shall rather obtain a respite until the next Summons. For the entry in the Pipe Roll ought to read, 'Pardoned by the King's Writ to N. a hundred pounds.' But as what is not specified in the writ is not regarded as remitted, the debtor will have all the trouble of suing out a valid acquittance. Here, then, the 'lack of' precision 'impedes.'

Scholar. With all respect to the President and his colleagues, this does not seem completely to satisfy the King's command. For the man is not quit whom the King has ordered to be acquitted, though he has specified the cause of the debt.

Master. With all respect to your ingenuity in splitting hairs, you should have known that ignorance of the law is of no avail to the man who most needs its help.² So, let every man who is in the King's debt inquire carefully in what manner he can be fully quit, that is, according to the law in that case made and provided. If he does not, he must blame himself and not the President. For even the President has no power to alter one jot³ of what he has presented in his writ. Since, then, it does not

mutare. Cum ergo per hoc quietus non sit, festinet quod expedit impetrare.

Discipulus. Cerno quod hec maxime propter hoc obseruantur ut scripture rotuli non obloquantur. Set iam nunc proseguere de ceteris.

Magister. Cum igitur omnia fuerint annotata que uel constituta sunt, uel per breuia regis uel per consuetudinem scaccarii computanda, sic compotus uelut infectus relinquitur et ad alia conuertuntur. Nec enim 'et quietus est' uel 'et debet' in annali scribetur, per que scilicet compotus consummatus dicitur, donec de omnibus que in summonitione continentur satisfecerit. Cuius rei causa satis ex consequentibus liquere poterit.¹ Post compotum de corpore comitatus, hoc est de principali firma, qui sicut predictum est usque in finem infectus relinquitur, post modicum interstitium ponitur compotus de ueteri firma comitatus: hoc est que casu aliquo de anno preterito remanserat, ita tamen si uicecomes qui tunc ministravit mutatus fuerit. Quod si idem perseuerat etiam hoc anno, de ueteri firma ante inchoatum compotum de noua satisfaciet; et diligenter ac distincte scribetur 'de ueteri' in principio et consequenter 'de noua.' Ad hec noueris mutatum uicecomitem de firma ueteri summonendum sicut quemlibet aliorum debitorum, non de parte eius set de uniuerso quia firma est cuius solutio differri non debet²; set debitum firme ueteris, quo tenetur is qui adhuc ministrat, sufficit sub hoc pretextu uerborum summonuisse 'quicquid debes de ueteri firma et noua' de quo satis supradictum est x [in titulo de summonitionibus³]. Post hoc autem, facto

¹ See p. 125 below

² The Summons to the old Sheriff will state the sum left owing as it appears on the Roll of the previous year. (cf. p. 73 above). If the Sheriff is reappointed, he must clear his old debt before his new one.

³ See p. 70 above

suffice to acquit him, let him hasten to sue out the writ he needs.

Scholar. I perceive that the main reason for this practice, is to protect the wording of the Pipe Roll from criticism. But now proceed with the rest of the story.

Master. Well, when all the allowances have been set down, which are either fixed, or authorized by the King's Writs or the custom of the Exchequer; the account of the farm is left unfinished, and attention is given to other debts. For neither 'and he is quit' nor 'and he owes . . .,' by which phrases the account is said to be closed, will be written in the Pipe Roll, until every item in the Summons has been answered. The reason for this will sufficiently appear from what follows.¹

After the account of the *corpus comitatus*, that is of the chief farm, which, as we have said, is left unfinished, a short space is left before the account of the 'old farm' of the county: that is, of whatever may happen to have been left unpaid of that of the last year. But this only applies if there has been a change of Sheriffs. For if the Sheriff is the same as in the last year, he must meet the old farm before he begins to account for the new one; and 'for the old farm' will be plainly and carefully written at the beginning, and 'for the new farm' afterwards. You must know, furthermore, that the superseded Sheriff must be summoned for the old farm like any of the other debtors, not for a part of it, but for the whole; because it is farm, and its payment must not be deferred.² But the debt of the old farm, if due from the present Sheriff, has been sufficiently summoned by being included in the formula 'whatever you owe of the old farm or of the new,' about which we have said enough already [in the chapter on Summonses].³

Next, after a blank space of about six lines, follows x

interuallo quasi vi. linearum, sequitur compotus de excidentibus et occupatis quod nos usitatus dicimus de propresturis et eschaetis. In medio quidem lineae fit prenotatio litteris capitalibus, DE PROPRESTURIS ET ESCAETIS; in capite uero inferioris sic scribitur, 'Idem uicecomes reddit compotum de firma propresturarum et escaetarum, scilicet de x. libris de hoc et xx. libris de illo,' et ita deinceps sicut ex rotulo perlustrantium iudicum ante conceptum est in annali, 'summa c. libre.' Dehinc in fine eiusdem lineae, ubi summa est, scribitur 'In thesauro xx. libras in tot taleis et debet quater xx. libras' uel 'In thesauro liberauit et quietus est.' Horum autem scribendorum ordinem magis oculata fide quam uerborum quantalibet argumentosa descriptione cognosces.

Discipulus. Que sint hec excidentia uel occupata et qua ratione fisco proueniant nisi plenius aperueris non uideo.

Magister. Fit interdum per negligentiam uicecomitis uel eius ministrorum, uel etiam per continuatam in longa tempora bellicam tempestatem, ut habitantes prope fundos qui corone annominantur aliquam eorum portionem sibi usurpent et suis possessionibus ascribant. Cum autem perlustrantes iudices per sacramentum legitimorum uirorum hec deprehenderint, seorsum a firma comitatus appreciantur et uicecomitibus traduntur ut de eisdem seorsum respondeant; et hec dicimus 'propresturas' uel 'occupata.' Que quidem cum deprehenduntur, a possessoribus, sicut predictum est, tolluntur, et abhinc fisco cedunt. Verum si is a quo tollitur occupatum, auctor est facti, simul etiam, nisi rex ei pepercerit, pecuniariter grauissime punietur. Quod si non auctor set heres auctoris fuerit, ad penam sufficit fundi eiusdem sola reuocatio. Ex quo sane, sicut

the account of casualties and encroachments, which we more usually call purprestures and escheats. A heading is written in the middle of the line in capital letters: 'CONCERNING PURPRESTURES AND ESCHEATS.' At the beginning of the line below is written: 'The same Sheriff renders account of the farm of purprestures and escheats, viz. ten pounds from one and twenty from another,' and so on, as it was previously drafted in the Pipe Roll from the Rolls of the Justices in Eyre, ending 'Sum. £100.' Then, at the end of the same line in which the sum is written, 'In the Treasury £20, in so many tallies. And he owes £80,' or 'He has paid it in the Treasury and is quit.' But you will know the order of entering these payments better from seeing them than from ever so elaborate a verbal description.

Scholar. You must explain more fully what these casualties and encroachments are, and how they come into the Treasury, if I am to see what you mean.

Master. It sometimes happens owing to the carelessness of the Sheriff and his staff, or even through the persistence of war conditions, that those who live next to crown lands occupy some portions of them and treat them as their own. Now when the Justices in Eyre, through the verdict of lawful men, have detected these encroachments; they are valued separately from the farm of the county, and made over to the Sheriffs to be answered for by themselves. These are what we call 'purprestures' or 'encroachments.' When these are detected, they are taken away from their possessors, as aforesaid, and thenceforward accrue to the Treasury. But if the possessor, so evicted, is the original squatter, he will be heavily mulcted as well, unless the King is merciful to him. But if he is not the actual wrongdoer but his heir; the forfeiture of the property is considered

ex aliis pluribus, regis misericordia comprobatur, dum patris tam enormis excessus non punitur in filio, qui usque ad factam inquisitionem publice potestatis iactura ditabatur. Porro eschaete uulgo dicuntur que, decedentibus hiis qui de rege tenent in capite, cum non extet ratione sanguinis heres, ad fiscum relabuntur. De hiis autem simul cum propresturis compoti fiunt sub una scripture serie, sic tamen ut singulorum nomina per ordinem exprimantur. At cum paterfamilias miles, uel seruiens, de rege tenens in capite fati debita soluerit, relictis tamen liberis quorum primogenitus minor est annis, redditus quidem eius ad fiscum redeunt; sed huiusmodi non simpliciter 'escaeta' dicitur set 'escaeta cum herede.'¹ Vnde nec heres ab hereditate, nec ab ipso hereditas tollitur, set simul cum hereditate sub regis custodia constitutus, tempore pupillaris etatis de ipsa hereditate per regios officiales tam ipse quam ceteri liberi necessaria percipiunt; cetera uero, que de ipsa proueniunt, regiis usibus cedunt. De hiis autem seorsum compoti fiunt, quia non perpetuo set quodam temporali iure fisco debentur. Cum enim heres, nunc minor, legitime etatis² adeptus beneficia sibi suisque disponere nouerit, quod iure sibi paterno debetur, a regia munificentia suscipiet, quidam gratis, per solam scilicet gratiam principis, quidam promissa summa aliqua, de qua cum compotus fiet, dicetur in annali 'Ille uel ille reddit compotum de c. libris de releuio terre patris sui. In thesauro hoc et debet hoc.' De hoc autem ultra in annali compotus non fiet cum ad fiscum post hoc non

¹ This expression seems peculiar to the *Dialogus*. The usual word is *custodia* (a wardship). In this connection it seems odd that there should be no mention of Marriages, but they are probably classed with the *oblata* on p. 119 below.

² 'Lawful age' for a tenant by knight-service is at the end of his twenty-first year; for a sokeman, of his fifteenth; of a burgess, when he can count money, measure cloth, etc. (Glanvill, vii. ix).

a sufficient penalty. This is just another instance of the King's merciful disposition, since he does not visit the father's serious trespass on his son, who was himself growing rich at the public expense until the taking of the inquisition.

'Escheats' is the popular name for the property which reverts to the Treasury on the death of a tenant-in-chief without an heir of his blood. The accounts of these follow in the same group as the purprestures, but the names of the tenants are set down separately in order. But when the head of a family, a knight or serjeant holding of the King in chief, dies leaving children of whom the eldest is still a minor; his income certainly falls into the Treasury, but this is not called an 'escheat' simply, but an 'escheat with heir.'¹ In this case the heir is not taken away from his inheritance, nor the inheritance from him, but both alike are placed in the King's ward, and the heir and the other children receive their necessary maintenance at the hands of the King's officers during their minority. The rest of the income goes to the King. But separate accounts are kept for these estates, because they are only temporary and not permanent sources of revenue. For when the heir, now a minor, shall have come of age,² and can fend for himself and his family, he will receive from the King's bounty his lawful inheritance from his father, either freely, of the King's mere grace, or on his promising a given sum, the account for which will be entered in the Pipe Roll as follows: 'So-and-so renders account of £100 of the relief of the land of his father. In the Treasury so much. And he owes so much.' After the relief is paid, this account will not reappear on the Pipe Roll, since the estate no longer reverts to the Treasury. But so long as it is in the King's hand, it will be entered on the Pipe

redeat. Verum dum in manu regis est de hoc sic scribetur in annali. 'Ille uicecomes reddit compotum de firma illius honoris,' si scilicet baronia est, 'In thesauro hoc : Et in procuratione liberorum illius hoc per breue regis', quod ibi ad scaccarium per consuetudinem fiet. 'Et debet hoc' uel 'Et quietus est.' Quod si minor est possessio hec, ut sit fundus unus uel duo uel tres, sic dicetur. 'Ille uicecomes,' uel 'ille N.' cui forte rex eiusdem rei custodiam deputauit, 'reddit compotum de firma terre illius N. que fuit illius N. quam rex habet in manu sua' uel 'que est in manu regis cum herede. In thesauro hoc : Et debet hoc' uel 'Et quietus est.' Attende preterea quod honor ille uel fundus,¹ dum in manu regis cum herede fuerit, omnes elemosine et liberationes indigentium a prioribus dominis solo caritatis intuitu constitute, hiis, quibus debentur, cum integritate soluuntur et ad scaccarium custodi computantur. Liberationes uero seruientium, qui dominis suis ad explenda quelibet obsequia necessarii uisi sunt, et ob hoc constituuntur, dum rex possidet, uoluntariam habent solutionem. Cum autem in manu heredis deuoluta fuerit hereditas, oportet eum patris inherere uestigiis, ut scilicet quoadusque uixerint hii quibus hec a patre suo constituta sunt, uita comite percipienda illis satisfaciat ; et post hec, si uoluerit, eorum utatur uel non utatur obsequiis.

Discipulus. Dixisti, si bene memini, quod si quilibet de rege tenens in capite decedens minorem annis heredem reliquerit, tandem idem relictus, post legitime etatis tempora, quidam gratis, quidam promissa pecunia, quod sibi debetur a rege suscipit : quod autem sic soluitur

¹ The *Dialogus* makes no clear distinction between an honour and a group of manors, though it equates honour and barony. But even the

Roll in this form : 'Such a Sheriff renders account of the farm of such an honour' (if it is a barony), 'In the Treasury, so much. And in the maintenance of the children of so-and-so, so much, by the King's Writ' (which will be issued to him there, at the Exchequer, by the custom). 'And he owes so much,' or 'And he is quit.' But if the estate is a smaller one, consisting of one, two or three manors, the form will be : 'So-and-so the Sheriff,' or simply 'So-and-so,' the guardian appointed by the King, 'renders account of the farm of the land of N., which was the land of N., which the King has in his hand,' or 'which is in the King's hand with the heir. In the Treasury so much. And he owes so much,' or 'And he is quit.' Observe also that while a given honour or manor¹ is in the King's hand with the heir, all alms and liveries to poor persons established out of charity by previous lords are paid in full to those to whom they are due, and are allowed to the guardian at the Exchequer. But the liveries of servants whom the lord held necessary for various purposes are at the King's discretion during his term of possession. But when the inheritance descends to the heir, he ought to follow his father's footsteps, and pay such wages as he had appointed for the life of the recipients, making use of their services or not as he chooses.

Scholar. You said, if I remember right, that if a tenant-in-chief dies, leaving his heir a minor, the heir so left, on coming of age, either freely or on promising money, receives what is due to him from the King ; and that what is thus paid is called a 'relief.' Tell me

tenant of a single knight's fee must be regarded as *baro minor*, since the distinction in the rate of relief depends on the immediacy or otherwise of the tenure.

'releuium' dicis. Dic ergo si cuiuslibet fundi, qui de rege est in capite, releuium sub consimili summa debeat exigi, uel si sub dissimili quare sic.

Magister. In propriam te uideor armasse perniciem ; ex predictis enim alia coniciens armatis me uexas questionibus. Noueris autem quod releuiorum que regi debentur, secundum dissimiles possidentium status, dissimilis summa consurgit. Quidam enim de rege tenent in capite que ad coronam pertinent, baronias scilicet maiores seu minores. Si ergo pater possessor huiusmodi mortuus fuerit, relicto herede qui iam adultus sit, non secundum constitutam de hiis summam regi satisfaciet set secundum quod a rege poterit optinere. Quod si minor etate fuerit heres in custodia constitutus legitimum etatem prestolabitur ; tunc autem uel gratis, sicut dictum est, uel secundum beneplacitum regis, sicut adultus hereditatem paternam nanciscetur. Si uero deceserit quis tenens tunc de rege feodum militis, non quidem ratione corone regie, set potius ratione baronie cuiuslibet, que quouis casu in manum regis delapsa est, sicut est episcopatus uacante sede, heres iam defuncti, si adultus est, pro feodo militis c. solidos numerabit, pro duobus x. libras, et ita deinceps, iuxta numerum militum, quos domino debuerat antequam ad fiscum deuoluta foret hereditas. Quod si minor annis heres relictus fuerit, que de hereditate eius proueniunt, ratione custodie tempore pupillaris etatis fisco prouenient, sicut dictum est. Relictus autem a patre iam adultus pro singulis feodis militum c. solidos soluet, uel etiam infra ; hoc est l. solidos si dimidii militis feodum possederit et sic deinceps. Nec te lateat quod eius quem in custodia per aliquot

whether the same relief is payable for every manor held of the King in chief, and if not why not ?

Master. I seem to have supplied you with the weapon for my own destruction ; for you draw conclusions from what I have said and use them to riddle me with questions. You must know, then, that the sums arising from reliefs due to the King vary according to the varying conditions of the possessors. For some of them hold crown lands of the King in chief, to wit, greater and lesser baronies. If the holder of one of these die, a father, leaving an heir of full age, there is no fixed amount which the heir must pay to the King ; he must make his own terms. But if the heir is a minor ; he is held in wardship to await his lawful majority. Then he will obtain his paternal inheritance, either freely, as we have said, or like an heir of full age, at the King's pleasure. But if the tenant at his death held a knight's fee, not part of the crown lands, but of a barony which has accidentally fallen into the King's hands, a bishopric, for instance, on the voidance of the see ; his heir shall pay, if of age, £5 for one knight's fee, £10 for two and so forth, according to the number of knights whom he owed to his lord, before the inheritance escheated to the crown. But if the heir is a minor, the issues of his inheritance during his wardship will accrue to the Treasury, as we said before. The heir of full age shall pay on his father's death a hundred shillings for each knight's fee, or less in proportion, i.e. fifty shillings for half a knight's fee and so on. You must not forget that

annos habueris et possessionis eius fructum, cum ad etatem legitimam peruenerit, releuium repetere non ualebis.

Discipulus. In hac parte pro pupillis lex iudicat¹ et quod piis mentibus bene sedet, decernit.

Magister. Sic est, set de propositis prosequamur. Item est et tertium genus excidentium uel escaetarum² quod fisco prouenit iure perpetuo. Cum aliquis de rege tenens in capite, perpetrati sceleris sibi conscius, siue sit ei obiectum siue non, relictis tamen omnibus per fugam uite consulit, uel si super eodem obiecto conuictus uel confessus, terra simul et uita iudicatur indignus; omnia, que sui iuris fuerant, mox infiscantur et redditus omnes annuo immo et perpetuo iure ad scaccarium a uicecomite persoluuntur, et quod ex mobilibus eorum uenditis prouenit, regi cedit. Similiter si cuiuscunque conditionis uir, uel cuiuscunque domini seruus, aut liber, metu arctioris assise quam rex propter sceleratos constituit, a sede sua fugerit, et per constitutos ac lege diffinitos terminos iuri se non optulerit uel excusauerit, uel etiam si, acclamante in ipsum uicinia, suspectus et postmodum comprehensus per legem assise constitutam reus sceleris conuictus fuerit, omnia eius mobilia fisco cedunt, immobilia uero dominis suis.³ Mobilium uero pretia per manum uicecomitis ad scaccarium deferuntur et in annali sic annotantur, 'Ille uicecomes reddit compotum de catallis fugitiuorum uel mutilatorum per assisam, de loco illo N. scilicet de hoc v. de illo x.' et sic deinceps per singula capita, expressis eorum nominibus et summis que de catallis singulorum exurgunt. Fiet

¹ cf. Isa. 1:17

² The classes are (1) honours or manors held in chief by deceased tenants (including sees or abbeys during voidance); (2) lands held indirectly of the crown, i.e. as of honours, etc. (3) chattels of felons and fugitives; (4) treasure trove, and goods of intestate usurers.

you cannot exact a relief when a ward comes of age, who has been an appreciable time in your wardship, and the issues of whose property you have received.

Scholar. In this matter the law 'judges the fatherless'¹ and decides as a good conscience would approve.

Master. True. But *revenons à nos moutons*. There is also a third class of casualties or escheats² which fall into the Treasury for good. When a tenant-in-chief, conscious of having committed a crime, whether or not he has been charged with it, abandons his property and runs for his life; or is charged and either confesses or is convicted, he is held unworthy both of land and of life. All that he possessed is at once confiscated; his rents are ever after collected annually by the Sheriff and paid into the Treasury; and the proceeds of the sale of his personal property go to the King. Likewise, if a man of any condition, whether serf to any lord or free, leaves his abode for fear of the more severe assize [*of Northampton*] which the King has appointed to repress crime, and fails to surrender himself to justice within the lawful term, or make his excuse; or if being notoriously suspect in his own neighbourhood, he is arrested and convicted by the lawful assize of any crime; all his moveables accrue to the Treasury, while the real property falls to his lords.³ The price of the chattels is brought to the Exchequer by the Sheriff, and entered thus in the Roll: 'Such a Sheriff renders account of the chattels of fugitives or of men mutilated by assize. From such a place, to wit, from one ten and from another five' and so forth, man by man, setting down their names and the sums

³ The *Dialogus* makes no mention of the 'year, day and waste' of the land which fell to the crown, cf. Glanvill, vii. xvii.

autem in fine summa omnium, et circa finem eiusdem lineae, in qua summa est, scribetur 'In thesauro xl. libre in tot uel tot taleis et debet x. libras' uel 'Et quietus est.' Hec sunt, frater, quorum supra meminimus,¹ que ad scaccarium a uicecomite deferenda et soluenda sunt, etiam si summonitio nulla precesserit. Sic et thesaurus, effossa tellure uel aliter inuentus. Item cum quis laicum fundum habens uel ciuis * etiam publicis inseruit usuris, si hic intestatus decesserit, uel etiam hiis quos defraudauit non satisfaciens testamentum de praue adquisitis uisus est condidisse, set eadem non distribuit immo penes se reseruauit, quia sic perquisitis incumbens animum possidendi deseruisse non creditur, pecunia eius et omnia mobilia mox infiscantur et non summonita per officiales ad scaccarium deferuntur. Heres autem iam defuncti fundo paterno et eius immobilibus sibi uix relictis gaudeat.

Discipulus. Ex premissis que de feneratoribus dicta sunt questio grauis animum pulsatur quam uellem, si placet, plenius expediri. Dixisti enim 'cum quis laicum fundum habens uel etiam ciuis publicis inseruit usuris' et cetera. Ex quibus uerbis personarum quedam distinctio inter sic delinquentes fieri posse uidetur, ut alia sit clericorum, alia laicorum, condicio, cum pares sint in delicto. Item ex eo quod additur 'publicis inseruit usuris' credi potest, esse quasdam non publicas quibus si quis adhaerit, an legi publicarum subiaceat prorsus ignoro.

Magister. Frustra credidi breuibus et communibus tibi satisfaciendum, cum ex huiusmodi questionem

* ciuis *Madox* : quis *CNR*

¹ See p. 69 above

arising from each man's chattels. These are all added together, and at the end of the line in which the sum is written the entry is made: 'In the Treasury forty pounds in so many tallies. And he owes ten pounds,' or 'And he is quit.' These are the receipts, brother, which I mentioned above¹ which must be brought and paid into the Treasury though no Summons has been issued for them. The same rule applies to Treasure Trove, whether found by digging or otherwise. Also, when any holder of a lay fee, or even citizen [i.e. *burgess*], is an open usurer and dies intestate, or disposes by his testament of his ill-gotten gains without making restitution to those whom he has wronged, not therefore distributing the mammon, but keeping it in his own hands; because by clinging to his possessions he is considered not to have given up the will to keep them, his money and all his chattels are at once confiscated, and brought into the Exchequer by the proper officers without Summons. The heir of the deceased must content himself with his father's land and other real property, and be thankful not to have lost them.

Scholar. What you said about usurers has raised an important question in my mind, which I should like you to explain more fully. You said 'When any holder of a lay fee, or even citizen is an open usurer,' etc. This seems to imply the drawing of a distinction between such offenders, so that clerks and laymen might be on different footings though equally guilty. Then you added 'is an open usurer'; so that it might be supposed that there was some usury not 'open'; but I do not know whether anyone practising it would come under the same law as the 'open' usurer.

Master. It was useless to try and satisfy you with a brief and commonplace statement; since that only

elicias cuius absolutio peritorum quosdam hucusque latuit. Verum quod dicis, 'ex uerbis tuis clericorum et laicorum sic delinquentium uidetur esse dispar condicio, cum pares sint in delicto,' non approbo. Sicut enim in gradibus, sic et in culpis dissident, iuxta uerbum illud 'quanto gradus altior, tanto casus grauior.'¹ In bonis etiam et meritoriis operibus, ut quibusdam uisum est, dispares sunt. Laici enim, qui uoti necessitate minus tenentur, ampliorem gratiam promereri uidentur, sicut in peruersis actibus hii, qui uoto religionis inseruiunt, grauius offendunt. Set de hiis hactenus. Habes autem ex precedentibus unde tue questionis pars prima ualeat absolui. Ex eo enim quod clericus usuris inseruiens dignitatis sue priuilegium demeretur,² parem laico sic delinquenti penam sibi mercatur, ut, ipso uidelicet de medio sublato, omnia eius mobilia fisco debeantur. Ceterum sicut a prudentibus accepimus, in sic delinquentem clericum uel laicum Christianum, regia potestas actionem non habet, dum uita comes fuerit, superest enim penitentiae tempus; set magis ecclesiastico iudicio reseruatur pro sui status qualitate condemnandus. Cum autem fati munus expleuerit, sua omnia, ecclesia non reclamante, regi cedunt, nisi, sicut dictum est, uita comite digne penituerit et, testamento condito, que legare decreuerit, a se prorsus alienauerit.³ Restat itaque ut quas 'publicas' dicamus 'usuras' et quas 'non publicas' expediamus, deinde, si pari lege teneantur qui in utrisque delinquant. Publicas igitur et usitatas usuras dicimus quando, more Iudeorum,⁴ in eadem

¹ This is also quoted by 'Benedict of Peterborough,' (Rolls Series) II. 214

² cf. Gratian, *Decr.* II causa xiv, qu. 4

³ Glanville (VII. xvi) says that the lands of a deceased usurer reverted to their lords, and the *vis* of the *Dialogus* points in the same direction. Otherwise the two accounts agree. *ecclesia non reclamante* suggests that the bishop had not yet got the right to administer the goods of intestates.

suggests to you a question which has so far puzzled some of the experts. But I do not agree that my 'words imply the drawing of a distinction' so that 'clerks and laymen might be on different footings though equally guilty.' For the degree of guilt corresponds with that of dignity. As the proverb has it: 'The higher standing, the lower fall.'¹ And some people think the same applies in good works and desert. For laymen, not being under vows, are thought to earn fuller grace; just as in evil actions those who are bound by their religious vows are more grievous offenders. But we will not discuss that. What I have said answers the first part of your question. For just because a clerk who practises usury loses the privilege of his cloth,² he becomes liable to the same penalty as a lay offender, namely, that at his death all his chattels are confiscated. But, as we are told by those learned in the law, the crown has no ground of action against a Christian usurer, clerk or layman, so long as he is alive; for he may have time to repent. He is left, rather, to the judgment of an ecclesiastical court, to be sentenced as his condition demands. But when he dies, all he had falls to the King and the Church makes no claim on it; unless, as we have said, he has honestly repented before his death, and in making his testament has completely alienated all his property.³

It remains, then, to explain what is meant by 'open usury' and its reverse, and whether both classes of offenders are in the same legal position. 'Open,' or customary usury is the name we have for receiving, like the Jews,⁴ more than we have lent of the same substance,

⁴ A Jew might take usury from a Christian without breaking any law. *Species* is used technically, in its logical meaning. From its employment in this connection arose the name of 'specie' for coined money.

specie ex conuentione quis amplius percepturus est, quam commodauit, sicut libram pro marca uel pro libra argenti ii. denarios in septimanam de lucro preter sortem. Non publicas autem set tamen dampnabiles cum quis fundum aliquem uel ecclesiam pro commodato suscipit, et, manente sortis integritate, fructus eius, donec sors ipsa soluta fuerit, sibi percipit. Hoc genus, propter laborem et sumptum qui in agriculturis solent impendi, licentius uisum est; set proculdubio sordidum est et inter usuras merito computandum. Quod si creditor auarus et in ruinam anime sue pronus in scripto sic exprimi dignum duxerit ut dicatur 'Notum sit omnibus quod ego N. debeo N. c. marcas argenti et pro hiis c. marcis inuadiaui ei terram illam pro x. libris quousque ego, uel heres meus, soluam ipsi, uel heredi suo, predictas c. marcas'; cum post mortem creditoris ad regis uel principalis iustitiarii notitiam huius famose carte tenor peruenerit, in primis fedus feneratoris questus condempnabitur, et creditor, scripto suo deprehensus fenerator, mobilibus suis indignus iudicabitur. Quod si is cuius fundus est a rege quomodolibet optinuerit ut sic distractus sibi restituatur, in sorte tota domino regi tenebitur etiam si creditor per biennium uel amplius possederit.¹ Regis tamen munificentia de summa sortis illius taxare consuevit, maxime propter singularis gratie munus, in quo fidelibus suis debito prelationis tenetur; et item quia creditoris, set feneratoris, qui sui fidelis enormi iactura ditatus fuerat, ratione publice potestatis bona omnia percepturus est. Sunt et pleraque alia, que singulariter

¹ The more venial kind of mortgage was condemned by the council of Tours in 1163. In the example quoted, it is not clear whether the £10 represents the annual interest, though the mortgage to Jews of 1183 in *Ancient Charters* (*P. R. Soc.* 10), No. 51, at a rate of £9 per hundred marks, suggests that it does, in which case it is clearly usurious and therefore results in forfeiture. See Glanvill x. viii.

by virtue of a contract, for instance, a pound for a mark, or twopence a week for a silver pound in addition to the principal. 'Concealed usury,' though equally blameworthy, is when a man takes a manor or church in exchange for what he has lent, and without abating the principal, takes the issues of it until the principal is repaid. This kind, on account of the labour and expense involved in cultivation, has been regarded as more permissible; but it is undoubtedly an unclean thing, and deserves to be reckoned as usury. But if the greedy creditor, rushing to his soul's destruction, has put his contract into writing, in this form: 'Be it known unto all men that I N owe to N a hundred marks of silver, and for those hundred marks have pledged that land to him for £10, until I or my heir pay him or his heir the aforesaid hundred marks;' when, after the creditor's death, the tenor of this disgraceful charter comes to the knowledge of the King or his chief justiciar, the first result will be the condemnation of the foul practice of usury, and the creditor, convicted of usury by his own writing, will be judged to have forfeited his chattels. But if the proprietor shall have in some way obtained from the King the restitution of the land thus alienated, he will be in debt to the King for the whole of the principal, notwithstanding that the creditor may have had possession for two years or more.¹ But the King, with his usual liberality, is accustomed to abate the amount of the principal, in the first place of his special grace, which he is bound to show to his faithful subjects in virtue of his exalted station, and secondly, because as head of the executive he is to receive all the goods of the creditor, or rather usurer, who has enriched himself by ruining one of them.

There are many other items which severally accrue

ad fiscum pertinent, que non facile sub una scripture serie redigi possunt, quia non constituta set casualia sunt. De hiis tamen excidentibus huius tertii generis non supra post firmas, set infra post omnia placita, compoti fiunt ante catalla fugitiuorum, ut ipsa quoque locorum positione uideantur pro enormibus culpis delinquentium ad fiscum pertinentia.¹

Discipulus. Miror super hiis que dixisti. Nec enim cum prioribus stare posse uidentur. Cum enim ascripti-tiorum dominis liberum sit, non solum illos transferre uerum etiam quibuscunque modis distrahere, sicut supra dictum est,² et non tantum catallorum set et corporum merito domini reputentur, mirandum est cum dominus rerum et hominis rei nil delinquat in legem quare possessione sua priuetur. Videri enim iustum posset ut regis constitutio in personam delinquentis puniret excessum, mobilia uero cum ipsis fundis in usus dominorum cederent.

Magister. Mouet te quod me mouit. Verum in hiis longam fieri moram superfluum credo, cum ab inceptis negotiis aliena sint. Vt tamen tibi satisfiat propter solam regis assisam sic esse cognoscas. Nec enim est qui regie constitutioni, que pro bono pacis fit, obuiare presumat. Quod si dominis catalla suorum per assisam condempnatorum prouenirent, forte (quia cupiditatis humane feruida sitis in medio posita est) propter modicum questum quidam in necem suorum etiam innocentium grassarentur. Eapropter rex ipse cui generalis est et a deo credita cura subditorum, hec ita decreuit ut sic rei legi satisfacientes corpore puniantur et retentis sibi ipsi mobilibus, domesticis hostibus, hoc est dominis suis, non exponantur.

¹ The fact that these casualties are not accounted for as 'escheats' shows that their classification is arbitrary and not official.

² Above, p. 56

to the Treasury, which cannot conveniently be brought under one head, because they are not fixed but casual. But casualties of this third class are not accounted for in the upper part of the Roll after the farm, but below, after all the pleas, and before the chattels of fugitives, so that their place on the Roll may show that they come into the Treasury by the serious faults of offenders.¹

Scholar. I am surprised by what you tell me. It does not seem consistent with what went before. For since the lords of villeins are free not only to move them, but as was said above,² 'to dispose of them in any other way,' and are considered, deservedly, to be lords not only of their chattels but of their bodies; it is a wonder why the lord of body and goods, who has committed no crime against the law, should be deprived of his possessions. It might appear just that the King's ordinance should punish the person of the delinquent, but the chattels like the land should accrue to his lord.

Master. You feel just as I did about this. But I don't think we ought to waste time over it, since it is not any part of our task. But the answer to your question is that it is entirely owing to the Assize [of Clarendon]. And nobody must venture to oppose the King's ordinance, made as it is in the interest of peace. But if the chattels of villeins condemned by the Assize fell to their lords; perhaps—such, notoriously, is the feverish thirst of human avarice—some of the lords, for the sake of a paltry profit might contrive the murder of their own innocent villeins. The King, therefore, to whom God has committed the care of all his subjects alike, has thus decreed, so that criminals may pay the penalty of the law in their persons, and, since their chattels are kept by the King, may not be the prey of their natural enemies, their lords. But,

Verum, sicut iam diximus, sola regis constitutio, urgente necessitate, pro bono pacis facta huius questionis principalis solutio est.

Discipulus. Video quod non sine causa fit : nunc si placet proseguere. Verum restat in precedentibus quidam quod uellem altius, si placet, expediri. Dixisti enim quod fugitiuorum et mutilatorum per assisam mobilia non summonita ad scaccarium deferuntur et in annali suo loco scribuntur. Quid autem de predonum uel furum catallis fieri debeat non dixisti, si scilicet ad regem pertineant uel cui de iure cedere debeant.

Magister. Predonum, qui et fures manifesti¹ dicuntur, et latenter furantium, condicio dissimilis est. Porro tam horum quam illorum duo sunt genera ex quorum singulis catalla diuersis diuerso modo proueniunt. Predonum quidem, sicut et furum, quidam exleges sunt quos usitatus uthlagatos dicimus, quidam non. Vthlagati uero uel exleges fiunt quando legitime citati non comparent et per legitimos et constitutos terminos expectantur, et etiam requiruntur, nec iuri se offerunt.² Horum itaque catalla, sicut et uita, in manibus comprehendunt ipsos esse noscuntur, nec ad regem pertinere qualibet ratione possunt. Predonum autem bona qui nondum in hanc miserie summam delapsi sunt, si comprehenduntur, ad fiscum proueniunt ; furum autem ad uicecomitem sub quo deprehensi et puniti sunt. Quod si uicecomes furis causam ad curiam deduci dignam duxerit, ut ibi iudicetur, nil ipsi set totum regi debetur quod fur ille possederit. Si uero furem proprium quis insecutus fuerit et in prima curia domini regis uel etiam

¹ cf. p. 87 above. The author seems to confuse robbery with violence with *furtum manifestum*.

² The accused party who had failed to appear in court and stand his trial in answer to process was 'exacted' (called upon by name to appear) at five successive County Courts. If he had not appeared he was outlawed,

as I have said, the main answer to your question is simply the King's ordinance made in the interests of peace.

Scholar. I see that there is indeed a good reason. Now pray proceed. But there is still something into which I should like you to go more deeply. For you said that the chattels of fugitives and persons mutilated by the Assize are brought into the Exchequer without Summons and written in their proper place in the Pipe Roll. You did not say what happens to the chattels of robbers and thieves, whether they belong to the King, or to whom they ought lawfully to go.

Master. Robbers or 'open thieves'¹ and pilferers are on different footings. Besides, in both classes there are two varieties whose chattels go by different processes to different persons. Robbers, and thieves too, are either without the law, or 'outlawed' as we commonly say, or not. They become outlaws, or without the law, when after being lawfully cited, they fail to appear, are awaited for the terms which the law appoints, 'put in exigent' and do not offer themselves to stand their trial.² The chattels of these, like their lives, belong to those who capture them, and can nowise belong to the King. But the goods of robbers who have not yet descended so low, if they are caught, go to the Treasury ; those of thieves to the Sheriff under whom they have been caught and punished. But if the Sheriff considers that the case of a thief should be sent up to the King's court for trial, nothing belonging to the thief comes to him, all goes to the King. But if anybody chases the thief who has stolen his goods and secures his conviction for theft after ordeal awarded, in the first possible court of the King, or even in the County Court, will have his loss made

a penalty which could only be inflicted in the County Court. (G. H. Fowler, *Rolls from the Office of the Sheriff of Beds. and Bucks.*, 1332-34, s. 39).

in comitatu ipsum comprehenderit et reum furti, ad iudicata lege, probauerit, de catallis furis, si ad id sufferint, ablata uero primum leso restituentur, precedente, si placet domini regis iustitiario, de summa ablatorum fide eius qui petit, uel sacramento; postmodum autem, ex prouida studiosorum pacis institutione, idem de bonis furis tantundem accepturus est in laboris et sumptus sui solatium quantum prius dolo furis amiserat.¹ Hec autem duplex et prudenter procurata solutio ab antiquis 'solta et persolta,' uel 'prosolta,' non inmerito dicta est. Primo enim, quod ablatum fuerat, ei soluitur et ob hoc 'solta' dicitur. Deinceps pro laboris et sumptus impendio quod addicitur, 'pro-' uel 'persolta' nuncupatur. Hiis in hunc modum expletis, quod fuerit * in bonis rei residuum, fisco proueniet.

Discipulus. Et hec necessaria uisa sunt. Set nunc iuxta promissum de censu nemorum si placet proseguere.²

Magister. Gratulor quod te tam dictorum uirtutem quam dicendorum ordinem memoriter tenuisse conspicio. Superest igitur ut uotis tuis satisfacere pro uiribus non omittam.

xi Post compotum proresturarum et escaetarum sequitur compotus de censu nemorum, breuis satis et expeditus, sub hoc tenore uerborum 'Idem uicecomes' uel 'ille alius N. reddit compotum de xx. libris de censu illius nemoris uel foreste de Norhantescira. In thesauro liberauit et quietus est.' Sunt tamen quedam foreste de quibus decime constitutorum censuum ecclesiis maioribus soluuntur, sicut de Wiltescira et de Hantescira ecclesie Saresberiensis,³ de Norhantescira uero

* fuerit *scripsimus* : fiunt *CNR*

¹ This appears to be an account of the appeal of theft, for which see Pollock and Maitland *Hist. of English Law*, ii, p. 158 sqq.

good from the thief's chattels, if sufficient, on making *affidavit* or oath, if the Justiciar so require, as to the amount of the robbery; and after this, by the wise regulation of the lovers of peace, shall receive as much again from the goods of the thief in compensation for his trouble and expense as he had originally lost by the theft.¹ This twofold restitution, wisely ordained, was called by the ancients not without reason *solta et persolta*, or *prosolta* [*paid and doubly paid*]. For in the first place what was taken is paid him, and therefore called *solta*. Then what is added for his trouble and expense is called *pro-* or *persolta*. When these payments have been made, the rest of the criminal's property falls to the Treasury.

Scholar. This explanation appeared necessary. But now, as you promised, please go on to the 'cess' of woods.²

Master. I congratulate you on your memory, which, I see, retains both the gist of what has been said and the plan of what remains to be said. All I have to do is to meet your wishes to the best of my ability.

After the account of purprestures and escheats follows xi the account of the 'cess' of woods, which is short and simple in this form: 'The same Sheriff,' or 'Some other person N. renders account of the cess of such a wood,' or 'of the forest of Northamptonshire. He has paid it into the Treasury. And he is quit.' There are, however, forests, from which tithes of the cesses are paid to cathedral churches; as from those of Wiltshire and Hampshire to Salisbury, and of Northampton to Lincoln.³ The reason, I was told, is as follows. Almost all, or at any

² The author has forgotten the farms of manors not included in the *corpus comitatus*, and of cities and boroughs. See p. 30 above.

³ Note that the tithes of the New Forest did not go to Winchester.

Lincolniensi, cuius solutionis causam sic accepi; quod enim de forestis soluitur pene totum, uel eius maxima pars, ex placitis et exactionibus prouenit; sic igitur per datas decimas illiciti questus utcunque redimi posse uisi sunt.¹ De hiis autem sic compoti fiunt. 'Ille uel ille reddit compotum de xx. libris de censu foreste illius. In thesauro xviii libras' et in capite proxime linee inferioris sic 'Et in decimis constitutis illi ecclesie xl. solidos.' Deinde in fine eiusdem linee paulo seorsum ab alia scriptura sic 'Et quietus est.' Intellige etiam semel tibi dictum quod omnia debita, et item ea, que in thesauro soluta fuerint, seorsum ab alia scriptura collocanda sunt ut uianti animo et discurrenti oculo facilius occurrant; quoniam ex soluendis summonitiones, et ex iam solutis absolutiones fiunt.

Post diligentem firme principalis ueteris siue noue compotum et item post compotum prepresturarum et escaetarum et census nemorum, que omnia, sicut dictum est, annuo iure soluuntur, sequitur compotus de placitis et conuentionibus, in quo primum post modicum interuallum in medio linee prenotatio fit, quorum scilicet iudicium hec sint.

xii Placita autem dicimus penas pecuniarias in quas incidunt delinquentes, conuentiones uero oblata spontanea.² Cum ergo de hiis instat exactio, tunc primum clerico cancellarii traditur summonitio, qui seriatim de singulis urget uicecomitem, dicens 'Redde de illo x. pro hac causa'; quod si in thesauro soluerit quod requiritur, sic scribetur in annali 'N. reddit compotum

¹ cf. p. 60 above and note.

² Technically an amercement is imposed by the court and is therefore *placitum*; while a fine, being the sum offered for the leave to compromise, or in a criminal case, to avoid a penalty, is a *conuentio*. Queen's Gold was payable on 'covenants' but not on 'pleas.'

rate the greater part of, the revenue from forests arises from judicial proceedings and imposts, and it was considered that such unlawful gains¹ might be compounded for by the payment of tithe. But the accounts are in this form. 'So-and-so renders account of £20 from the cess of such a forest. In the Treasury £18,' and at the beginning of the next line, 'And in the appointed tithes to this or that church, forty shillings.' Then, at the end of the same line, at a distance from the other writing, 'And he is quit.' You may take it as true, once for all, that all debts, including those which have been paid into the Treasury, must be separated from any other writing, so that they may more easily strike the wandering mind and the straying eye [i.e. *That he who runs may read*]. For the Summonses are compiled from what remains to be paid, and the acquittances [*or quietuses*] from what has been paid.

After the careful account of the principal farm, old and new, and after the accounts of preprestures and escheats and of the cess of woods—all which, as has been said, are paid annually—follows the account of profits of justice and covenants; for which, after leaving a space, a title is written in the middle of the line, showing from what judges they issue. Profits of justice [*or 'pleas'*] is xii the name for the pecuniary penalties into which delinquents fall: 'covenants' for what is voluntarily offered.² When the demand for these comes on, the Summons is for the first time handed to the Chancellor's Clerk, who charges the Sheriff with each of the debts in order, saying, 'Render ten (pounds) from such a man for such a cause.' If he has paid it into the Treasury, there will be written on the Pipe Roll, 'N. renders account of £10 for such a cause.' All this will be included in one entry: 'He has paid it into the Treasury. And he is quit.'

de x. libris pro hac causa' et ex ordine tota redigatur in scriptum 'In thesauro liberauit et quietus est.' Si uero per breue regis quietus est, ut, sicut diximus,¹ numerus exprimatur in breui, dicetur 'N. reddit compotum de x. libris' et addat causam: deinde paulo inferius in ipsa linea 'In perdonis per breue regis ipsi N. x. libre. Et quietus est.' Quod si de c. summonitus sit, cum tamen summa debiti sit in annali x. libre, et c. soluerit in denariis, uel de c. breue regis impetrauerit, dicetur 'N. reddit compotum de x. libris. In thesauro c. solidos et debet c. solidos' uel 'In perdonis per breue regis ipsi N. c. solidos et debet c. solidos.' Et nota quod in omnibus compotis de placitis et conuentionibus singuli pro se respondebunt, ut scilicet onus debiti, si non satisfecerit, uel absolutionem, si uniuersum soluerit, suo nomine suscipiant, exceptis communibus assisis et danegeldis et murdris. De hiis enim uicecomes compotum reddit et super hiis ipse uel quietus in annali scribitur uel in debito. Quod si mutatus fuerit uicecomes, nichilominus is, qui succedit ei, de eisdem respondebit et de illis summonebitur, et, nisi satisfecerit, per firmam, quam soluturus est, coercendus est.² Quisquis enim in onus eiusdem officii mutato succedit uicecomiti, ab ipso suscipit rescripta³ debitorum regis in ipso comitatu, ut per hec nosse ualeat a quibus que debeant requiri, cum summonitionem ad se delatam susceperit. Ad uicecomitem ergo spectat compotus communium ad quem solum pertinet cohercio singulorum; et, qui uicecomes fuerit dum compotus fit, uel quietus uel in debito hac ratione scribetur.

Discipulus. Teneo memoriter quid fieri debeat cum quis super aliquo debito summonitus breue regis detulerit quod numerum qui requiritur exprimat. Quod si regis

¹ See pp. 91-2 above

But if he is quit by the King's Writ, provided, as has been said,¹ that the figure is stated in the Writ, the entry will be: 'Pardoned to N. by the King's Writ £10. And he is quit.' But if he is summoned for 100 shillings, although the sum of the debt in the Pipe Roll is £10, and he has paid 100 shillings, or obtained the King's Writ for that amount, the entry will run: 'N. renders account of £10. In the Treasury 100 shillings. And he owes 100 shillings,' or 'Pardoned to N. by the King's Writ 100 shillings. And he owes 100 shillings.' And note that in all accounts of pleas and covenants each debtor shall answer for himself, so that he receives in his own name the charge, if he has not paid, or the quittance, if he has paid in full, except in the case of Common Assizes, Danegelds and Murder-Fines. For of these the Sheriff renders account, and is either acquitted or written down in debt in the Pipe Roll. But if the Sheriff is changed, his successor shall answer for the same debts and be summoned for them, and if he fails to meet them is to be compelled by means of the farm which he is due to pay.² For whoever succeeds to the charge of Sheriff, receives from the previous Sheriff the schedules³ of the King's debts in the county, so that he can tell what ought to be demanded and from whom, when he receives the Summons brought to him. It is the Sheriff, then, who must account for the public debts, since he alone has the power to distrain on individuals; and for that reason the Sheriff in office at the time of the account will be written down as quit or in debt, as the case may be.

Scholar. I have clearly in my mind what is the proper course when anyone summoned for a debt brings up the

² cf. p. 70 above

³ *rescripta* suggests a royal writ, and *may* refer to the old summons

cartam de quietantia rerum eiusdem generis ad scaccarium deferat, ut sic dicatur 'Volo igitur ut hec omnia teneat libere et quiete de placitis et murdris et hiis et hiis,' et huiusmodi, numquid in perdonis erit?

Magister. Erit re uera; sed non dicetur 'In perdonis per cartam regis' uel 'per libertatem carte hoc uel illud,' immo 'per breue regis.'¹ Quod si carta quidem non specificans sic contineat 'libere et quiete ab omni exactione et seculari seruitio predicta possideat,' non tamen ab hiis, que requiruntur, per hoc quietus erit, uel in perdonis scribetur; nolunt enim qui assident, speciali debito per generalem absolutionem derogari.

Discipulus. Perniciosa satis est ista subtilitas; qui enim a generibus singulorum liber est, etiam a singulis generum meretur absolui.

Magister. Verum est quod dicis neque nos dissentimus. Set tamen quid fiat dicimus, non quid forte fieri debeat. Igitur cum de omnibus hiis que in summonitione continentur uel per numeratam pecuniam, uel per breuia regis, satisfactum fuerit, hac lege scripture que supra dicta est semper utendum est. Verum cum non soluerit aliquis uniuersum, quod ab ipso requiritur, set partem eius uel forte nihil, causa statim a uicecomite requirenda est, cur is soluendo non fuerit. Quod si responderit uicecomes quesisse se diligenter eius de quo agitur nec catalla inuenire potuisse, inferet thesaurarius,² 'Caue tibi, nam huius rei fidem, scilicet quesisse te nec inuenire potuisse per quod satisfieri posset, fide corporaliter prestita confirmabis' quo respondente 'Presto

¹ cf. p. 49 sqq. above, though the circumstances are different here from either of the cases cited above. The allowance is not covered either by the general privilege of Exchequer officials or by the exemption to certain classes of privileged persons from the need to produce their charters. On the other hand *breue* may be taken as covering *carta*. It would obviously be unreasonable to compel a religious house to get a separate writ specifying

King's Writ with express statement of the amount. But what if he brings up a charter of general acquittance of things of the same kind, such as 'I will, therefore, that he hold all the premises free and quit of pleas, murder-fines, etc., etc.'? Will he be pardoned?

Master. He will, undoubtedly. But the entry will not read 'Pardoned by the King's Charter,' or 'by the liberty of the charter this or that,' but 'by the King's Writ.'¹ But if the charter is not specific, but reads: 'to hold free and quit of all imposts and secular service,' the holder will not therefore be quit or be written as pardoned. For the court does not permit a special debt to be cancelled by a general acquittance.

Scholar. That is a most unfair quibble; for whoever is free from a class of individual debts ought to be acquitted of the individual debts composing the class.

Master. That is true, and I entirely agree. But I am telling you what the practice is, not what it ought perhaps to be.

Well, when all the items contained in the Summons have been answered, either in cash or in the King's Writs, the form previously stated is to be used. But when any person has not paid the whole of what was demanded from him, but part or perhaps nothing, the Sheriff must at once be asked the reason, why he did not pay. But if the Sheriff answers that he has made diligent search for chattels belonging to the person in question and has not found any; the Treasurer will put in²: 'Be careful, for you will have to confirm your affirmation that you have made search and found nothing by your corporal faith.' If the Sheriff replies, 'I am prepared to do so,'

the amount of each payment for which exemption was claimed, but the principle is the same. Only specific exemptions are valid.

² Note that the examination by the Chancellor's Clerk is interrupted.

sum' in consummatum compotum fidei susceptio differetur ut super multis consimilibus semel data sufficiat. De hac tamen fide iam circa initia plura dicta sunt et restant aliqua suo loco dicenda.¹

xiii Porro hic primum distinguendum est circa debitores et debita ut in quibus fides oblata locum habeat, et in quibus non, tibi constet; si enim miles uel liber alius aut ascriptitius uel quelibet huiusmodi cuiuscunque condicionis aut sexus persona, regi tenetur in quouis debito, quod quidem pena sit pro excessu non oblatum spontaneum, fide illa uicecomitis oblata et in fine suscipienda contentus erit thesaurarius, et iterato scribetur debitor in hoc annali sicut in preterito uir uel mulier, cuius actio per inopiam inanis facta est. Verum secus est, si debitor ille, de quo queritur, ciuis est uel burgensis, si scilicet genere ciuis sit uel, facta sibi necessitate, commorantium ciuium legibus sponte se subiecerit. Non enim sufficit uicecomiti quod horum, si qui de requisita summa non satisfaciunt, mobilia tantum soluat uel quesisse se nec inuenisse fidem offerat, ut sic ad scaccarium liberetur, nisi eorum et domos et fundos et quoslibet urbium redditus infiscet et penes alios collocet, ut uel sic debita regi pecunia proueniat; quod si non inueniantur qui suscipiant, parcentibus sibi inuicem eiusdem condicionis hominibus, domos eorum seris obstruat et fundos diligenter excoli faciat. Si uero interrim hii soluerint que requiruntur, ad proprietarios ipsos per manum uicecomitis sine molestia, que sui iuris sunt, reddentur.

Discipulus. Mirari satis non possum ubi culpa dispar non est

'cur genus hoc hominum grauius lex nostra coercet.'

¹ cf. pp. 21, 126.

the taking of the *affidavit* will be deferred till the end of his account so that one *affidavit* may suffice for a number of similar cases. I have said something about this *affidavit* in the earlier part of this work, and shall have more to say later in its proper place.¹

But we must first draw a distinction in the matter of xiii debts and debtors, that you may know in which cases an *affidavit* lies and in which not. For if a knight or freeman, or a villein, or any person of whatever condition or sex, is indebted to the King as penalty for a trespass, and not as a voluntary offering, the Treasurer will be contented if the Sheriff offers his faith, to be formally pledged at the end of his account; and the man or woman against whom process has failed through his or her poverty will once more be written down in the Pipe Roll as a debtor. But the case is altered if the debtor in question is a citizen or burgess, either by birth, or because under pressure of circumstances he has voluntarily submitted himself to the laws of the citizens among whom he dwells. In this case it is not enough for the Sheriff to pay in such men's chattels, if they fail to meet the demand, or to offer his faith that he has sought them and found none, and so clear himself at the Exchequer. He must confiscate their houses and lands and town rents and let them out to others, so as to raise the money due to the King. And if no-one will take them (for 'dog don't eat dog'), he must lock up their houses and get their land into cultivation. But if in the meantime they pay what is demanded, their lawful property will be handed back to them by the Sheriff, without causing any further annoyance.

Scholar. I cannot wonder enough why (the offence being the same in both cases)

The townsman's penalty's the heavier one.

Magister. Maxima pars possessionis eorum qui fundos habent et per agriculturam sustentantur in pecudibus, in animalibus et in frugibus est et item in hiis que non facile cohabitantium notitiam possunt effugere. At hiis, qui mercimoniis inseruiunt, et qui parcentes sumptibus, multiplicandis possessionibus totis uiribus et modis omnibus insistunt, in numeratam pecuniam sollicitior cura consistit. Per hec enim commercia facilius exercentur et possunt hec in locis tutis et ignotis facile reponi; unde fit ut sepe qui diues est, non patentibus hiis que latent, pauper reputetur. Propter hoc igitur in hos grauius lex ista decernit quia superhabundans pecuniarum puteus non de facili uidetur exhaustus.¹

Discipulus. Quid assisa communis et quis, uel quo ordine, de ipsa respondeat ex predictis magna pro parte iam constat;² nunc, si placet, de auxiliis uel donis ciuitatum seu burgorum, qualiter ex hiis compoti fiant et qui principaliter conueniendi uel coercendi super hiis fuerint, edissere; modus enim coercionis ex predictis iam patet.

Magister. Gaudeo te memorem predictorum et hinc, fateor, me magis animasti. Noueris itaque quod plurimum interest si donum, uel auxilium, ciuitatis per singula capita commorantium in ea a iustitiis constituitur, uel si ciues summam aliquam, que principe digna uideatur, iustitiariis offerant et ab eis suscipiatur.³ Dispar enim in hiis duobus modus est coercionis. Si enim per singulos a iudicibus constitutum est donum et quilibet eorum soluendo non fuerit, lex predicta de ciuibz non

¹ Material wealth, unlike money, is hard to hide. The link between 'cattle' and 'chattels' may have dictated the use of *pecuniarum*.

² cf. pp. 47-8 above

³ The instances given by Madox (*Hist. of the Exchequer*, chap. 17, s. 3 [p. 485] notes *a* and *b*) suggest that when either an assize was levied on

Master. The bulk of the possessions of those who have land and live by husbandry consists in sheep, cattle and grain, and in such things as can hardly escape the notice of their neighbours. But those who condescend to trade, and who save and scrape with all their might to augment their wealth, are more concerned with coined money. For money is the tool of the trader, and can easily be hidden safely away; which is the reason why rich men, whose wealth is concealed, are often thought to be poor. The law is more severe upon them, because it is difficult for an overflowing well of riches to appear dried up.¹

Scholar. What a Common Assize is, and who answers for it, and at what point in the account, is mainly clear from what has been said.² Tell me next about Aids or Gifts of cities or boroughs, how they are accounted for, and who are in the first instance to be summoned or distrained upon for them. For the process of distraint is apparent from what you have just said.

Master. I am glad that you keep in mind what has gone before; I must admit that it encourages me all the more. You must know, then, that it makes all the difference whether the 'gift' or 'aid' of a city is assessed on the individual citizens by the Justices at so much a head, or the citizens themselves offer the Justices a sum worthy of a prince, and the Justices accept it.³ For the method of distraint is not the same in each case. For if the 'gift' is assessed on the individual citizens by the Justices, and anyone of them fails to pay it; the rule already laid down as to insolvent citizens will apply, i.e. that he will be deprived of his houses and

the county or a tallage on the royal demesnes, the towns were allowed to compound.

soluentibus seruatur, ut scilicet domibus et redditibus usque ad solutionem priuetur. At si dictum est a ciuibus 'Dabimus regi mille' et hec summa digna suscipi iudicetur, ut statutis terminis eadem exurgat, ipsi prouideant. Quod si forte excusare ceperint, allegantes quorundam inopiam, qui in aliqua parte summe huius tenebantur, tunc diligenter, hoc est per fidem uicecomitis, inquirendum est, si a tempore constituti per eosdem ciues doni uel auxilii hii tales extiterint ut soluere non ualerent. Quod si inuentum fuerit, prouideant alios ex quibus summa prior exurgat, uel per commune distribuatur quod restat; uerum, si tempore constitutionis abundabant set lege fortune natura mobilis nunc egeant, sustinendum est de hiiis quousque per dei gratiam ditentur.

Discipulus. Cerno quod in omnibus modum seruantes semper regiis commodis inheretis.

Magister. Memoriter tenes quid de ciuibus uel burgensibus non soluentibus sit agendum. Quod si forte miles aliquis uel liber alius a sui status dignitate, quod absit, degenerans multiplicandis denariis per publica mercimonia, uel per turpissimum genus questus, quod est per fenus, institerit et exacta sponte non soluerit, non per fidem tantum de non inuentis uicecomes absoluetur, uerum, cum hec presidenti suggesserit, districtum ab ipso mandatum suscipiet ut de summa, que ab illo requiritur, statutis terminis soluenda fideiussores inueniat; quod si noluerit, omnes eius redditus infiscentur, ut in hac parte merito fiat

'hiiis similis qui multiplicant quocunque modo rem.'¹

Discipulus. Dignum re uera est ut a statu suo pro turpi questu recedens, degener miles uel liber alius

¹ Hor. *Epp.* 1. i. 66

rents until he pays. But if the citizens have said 'We will give the King a thousand (pounds or marks),' and the sum be adjudged worthy of acceptance, they must see that it is forthcoming at the appointed terms. But if they make excuses, alleging the poverty of some of those who were liable for part of the sum; diligent inquiry must be made, that is the Sheriff must pledge his faith, whether these persons were insolvent at the date when the citizens made the 'gift' or 'aid.' If they are found to have been so, the citizens must either find new contributors to make up the amount, or assess the balance on the citizens in general. But if these persons were affluent, but through the fickleness of fortune are now in want, they must be borne with until by God's grace they are rich again.

Scholar. I observe that with all your moderation you never lose sight of the King's interests.

Master. You remember the course to be pursued with insolvent citizens or burgesses. But if a knight or other freeman should so far demean himself (which God forbid) as to acquire money by engaging in trade, or what is worse, practising usury, and does not pay on demand; the Sheriff will not be cleared by pledging his word that no effects were found, but, if he make this excuse to the President, will be given strict orders that the debtor find securities for the payment of the sum in question at the appointed terms, and that if he refuses, all his rents shall be confiscated; so that he shall, as he deserves, share the fate of those who 'make money . . . which way they can.'¹

Scholar. It is certainly proper that a knight or freeman who derogates from his rank for filthy lucre's sake should be punished more severely than other freemen. But now pray tell me what are to be reckoned 'chattels'

preter communem liberorum legem puniatur. Set iam nunc, si placet, edissere que sunt, que pro catallis eius, qui regi tenetur, debeant imputari; et utrum ab omnibus omnia tollenda sunt a uicecomite, quousque summa, que requiritur, exurgat, quando scilicet principalis debitor exacta sponte non soluit.

xiv *Magister.* In pelagus me questionum impellis, nescio, deus scit, qua emersurum. Noueris itaque quod hic iterum personarum distinctio necessaria est, sicut ex consequentibus liquebit. Vellem tamen in hac parte mihi parceres ne pluribus displicitura proferre compellas.

Discipulus. Dum a legis constitute tramite non exorbitaueris, iustam prudentis offensam non mereberis; quod si cui graue uidebitur, quod lex statuit, ei qui condidit irascatur non tibi.

Magister. Ab initio debitor tibi factus sum ex promisso

‘Hinc est quod nolens teneor parere petenti.’

Debitorum igitur, qui exacta sponte non soluunt, catalla que licite uenduntur sunt eorum mobilia ac sese mouentia. Qualia sunt aurum, argentum et ex hiis uasa composita, lapides quoque pretiosi et mutatoria uestimentorum et hiis similia. Item equorum utrumque genus, usuales scilicet et indomiti, armenta quoque bouum ac greges ouium et cetera huiusmodi; frugum etiam et quorundam uictualium mobilis est natura, ut scilicet libere uendi possint, deductis necessariis sumptibus debitoris ad sola uictualia, hoc est ut necessitati non superfluitati, et item ut nature satisfiat non crapule; nec soli debitori sed uxori eius et filiis ac familie, quam prius exhibuerat dum sibi uiueret, hinc necessaria ministrantur.

Discipulus. Quare dicis quorundam?

of a crown debtor, and whether the Sheriff must take away everything from everybody without distinction until the amount of the demand is met; when the original debtor, that is, does not pay of his own mere motion.

Master. You thrust me into ‘a sea’ of questions, xiv and Heaven knows how I shall get ashore. Here again there is a distinction of persons, as will appear from what follows. But I would rather you did not press the question, because the answer will make me very unpopular.

Scholar. So long as you keep the track of what is by law appointed, you cannot reasonably give offence to any sensible man. If anyone thinks the law’s provisions unfair, he must be angry with the legislator and not with you.

Master. The promise I made to you at the beginning holds me in your debt. So :

Willy-nilly, ’tis my task
To solve the questions you may ask

The chattels, then, of insolvent debtors which may lawfully be sold are his moveable or locomotive possessions. Such are gold, silver and plate of either metal, precious stones, changes of raiment and the like; also horses of both kinds, broken and unbroken, herds of oxen, flocks of sheep and other animals. Grain, too, and certain other victuals are moveables, and therefore saleable, except the necessary food of the debtor, excluding luxuries, and limiting it to what is needed for life but not for dissipation. Necessaries are also provided from the same stock for his wife, children and household whom he maintained when he was his own master.

Scholar. Why ‘certain’ other victuals?

Magister. Victualia, que ab eis cotidianis usibus preparantur et que sine sui mutatione esibus accomodantur, qualia sunt panis et potus, nulla ratione uendi possunt. Victualium igitur ea dumtaxat, que preter usus necessarios ab ipsis dominis reseruanda fuerant, ut uenalia fierent, licite uenduntur, qualia sunt carnes sale condite, casei, mella, uina et hiis similia. Et nota quod, si debitor ille qui soluendo non est, militie cingulum semel optinuerit, uenditis ceteris, equus tamen ei, non quilibet set unus usualium, reseruabitur, ne, qui dignitate factus est eques, pedes cogatur incedere. Quod si miles eiusmodi fuerit

‘quem iuuat armorum decor et iuuat usus eorum,’
et qui, meritis exigentibus, debeat inter strenuos computari,¹ tota sui corporis armatura cum equis ad id necessariis a uenditoribus erit liberrima, ut, cum oportuerit, ad regis et regni negotia armis et equis instructus possit assumi.

‘Si tamen hic idem cui lex in parte pepercit’
audita necessitate regis uel regni, delitescens se absentauerit, uel ad hoc uocatus non uenerit, sic tamen ut non propriis sed regiis stipendiis militet, et euidenter absentiam suam non excusauerit, nec ab hiis uenditores temperabunt set solo contentus equo propter militie dignitatem sibi relicto, iuri communi uiuat obnoxius. Caueat autem uicecomes ut uenditores suos premonuerit in uendendis hunc ordinem obseruare; mobilia cuiusque primo uendantur; bobus autem arantibus, per quos agricultura solet exerceri, quantum poterunt parcant, ne, ipsa deficiente, debitor amplius in futurum egere cogatur. Quod si nec sic quidem summa que requiritur

¹ The distinction is between the dignitary and the professional soldier. The latter's arms are exempt from distraint on the same principle as the farmer's plough or the carpenter's tools. The dignitary's ‘contentment’ is saved if he is left a horse to ride.

Master. Victuals prepared for everyday use, and requiring no more alteration to be eaten, such as bread and drink, may on no account be sold. Only those victuals may be sold which had been set aside for sale beyond what was needed for use by their masters; such as salt meat, cheese, honey, wine and the like. And note that if the insolvent debtor has ever been knighted, when the other chattels are sold, a horse shall be kept for him, and it must be a made horse, lest a man who is entitled by his rank to ride, should be compelled to go on foot. But if he is the kind of knight who

keeps his armour bright and loves to use it

and who has earned the right to be considered a ‘mighty man of valour,’¹ the whole of his personal armour and the necessary horses shall be exempt from distraint, so that when need arises he can be employed on the business of the King and the realm, fully equipped with arms and horses.

But if, the soldier's privilege enjoying

when he knows that ‘his King and his country need him’ he deserts and hides, or if he fails to attend when summoned (always supposing he is not to serve at his own cost, but the King's), and can give no good excuse for his absence; the broker's men will not refrain from selling his equipment, but he must share the common lot and be thankful to keep the single horse due to his station.

But the Sheriff must take care to instruct the brokers to observe the following order of sale. First, the man's own moveables must be sold; but they must except, so far as possible, the plough-oxen used for tillage, lest the debtor being unable to farm, be reduced to penury. But if the sum required cannot be raised otherwise, even the

exurgit, nec arantibus parcendum est. Cum igitur omnia, que ad ipsum specialiter pertinent uenalia, uenundata sint, si nondum satisfactum est, adscriptitiorum eius fundos adeant, et eorum catalla licite uendant, ordinem simul et legem predictam obseruantes. Hec enim ad dominum pertinere noscuntur, sicut supradictum est. Quo facto, siue sic de requisita summa satisfactum sit, siue non, uenditores iubet lex nostra requiescere, nisi forte scutagium sit, quod a domino requiritur. Pro scutagio namque, si non soluerit, qui regi tenetur dominus principalis, non tantum propria sed et militum suorum et ascriptitiorum catalla passim uenduntur; ratio namque scutagiorum milites suos magna pro parte respicit, quia non nisi de militibus et ratione militie regi debentur.¹ Vidi tamen ego ipse, cui nondum cana memoria est, pro singulis debitis eorum qui non satisfaciebant non solum propria sed et militum suorum et ascriptitiorum catalla licite uendi. Sed illustris regis constitutio in scutagiis tantum hoc obseruari decreuit, ordine seruato ut prius propria, dehinc aliena, uendantur. Quod si milites ea, que de feodis suis proueniunt, domino soluerint et hoc, oblata cautione, probare uoluerint, pro hiis, que a dominis requiruntur, catalla sua uenundari lex prohibet.

xv Item admonendus est uicecomes ut diligenter ac sollicite, quantum poterit, inuestiget, si quis in comitatu suo debitori illi in solutionem sibi preste, uel penes eum deposite, pecunie teneatur. Quod si inuentum fuerit, a debitore illo summa illa, que ab eius creditore qui regi tenetur requiritur, exigatur, et ne ei super eodem respondeat auctoritate publice potestatis inhi-beatur.

¹ Here the same principle is applied as in the case of the professional soldier. This is the earliest statement of the law of distress. The principles

plough-oxen are not to be spared. So when all the saleable personal property has been sold; if the amount has not yet been raised, they must enter on the lands of his villeins, and lawfully sell their chattels, observing the same order and rules as before. For these chattels are notoriously the lord's property, as has been said. After this, whether the sum required has been raised or not, our law requires the brokers to stop selling, unless the demand on the lord is for scutage. For if the chief lord, who is responsible to the King, fails to pay, not only his chattels but those of his knights and villeins are sold indiscriminately. For the principle on which scutages are raised mainly affects the knights; since they are only due to the King from knights and by reason of their service.¹ Yet I myself, though not yet hoary-headed, have seen not only the lord's chattels lawfully sold for his personal debts, but also those of his knights and villeins. But the King's ordinance has restricted this practice to scutage alone, retaining the same order, so that the debtor's chattels are sold first, then those of others. But if the knights have paid to their lord the scutage due from their fees, and can produce pledges that they will prove it, the law forbids the sale of their chattels for their lord's debts.

The Sheriff must also be admonished to inquire as xv carefully and anxiously as he can if anyone in the county owes the debtor money which the debtor has lent to or deposited with him. If this be found to be so, the sum due to his creditor (and the King's debtor) must be exacted from him and he must be prohibited by the crown from answering his creditor for it.

are the same as those laid down by Bracton nearly a century later in dealing with distress in private cases. The villeins, however, come before their lord in the order of sale; which seems to imply a fall in legal status.

- xvi Item si debitor a tempore, quo regi teneri cepit, fundum suum uel redditum alii locauerit, uel pignus pro pecunia dederit, uel etiam, quod absurdum tibi forte uidebitur, dominium eius per uenditionem a se transtulerit, si alias inuenta non sunt per que regi satisfiat, quecunque persona fuerit, quocunque titulo possessionem nactus fuerit, nichilominus ex eadem quod ad regem pertinet accipietur, salua domino proprietate, qui iusto eam titulo ceperit possidere, nisi forte debitor ille fundi uenditi pretium ab initio sponte regi soluerit. Tunc enim tuta erit penes emptorem possessio. Huius autem rei causam, licet distorta modicum et regie tantum utilitati seruiens uideatur, euidentem tamen et satis iustam secundum patrias leges comprobabis. Quisquis enim in regiam maiestatem deliquisse deprehenditur, uno trium modorum iuxta qualitatem delicti sui regi condempnatur, aut enim in uniuerso mobili suo reus iudicatur pro minoribus culpis, aut in omnibus immobilibus, fundis scilicet et redditibus, ut eis exheredetur, quod fit pro maioribus culpis, aut pro maximis quibuscunque uel enormibus delictis, in uitam suam uel membra. Cum igitur aliquis de mobilibus in beneplacito regis iudicatur, lata in eum a iudicibus sententia per hec uerba, 'Iste est in misericordia regis de pecunia sua,' idem est ac si 'de tota' dixissent; laicorum enim indefinite non his, pro quibus tutius est eas accipi, hoc est particularibus, sed semper uniuersalibus equipollent. Cum igitur fundi illius catalla, quem debitor post distraxit, in beneplacito principis adiudicata fuissent et ipse de requisita summa non satisfecerit, uideri potest iniustum ut rem non suam in fisci iacturam alienauerit.
- xvii Item admonendus est uicecomes propter fidei religionem, que ab ipso de non soluentibus exigitur, immo quam ipse sponte uisus est optulisse ut sic a summoni-

Again, if a debtor, after incurring his debt to the King, xvi has let his land or rent to another, or has pledged it as security for a loan, or even, absurd as you may think it, has sold it and parted with the ownership; if the King's debt is not satisfied from other sources, whoever the actual possessor is, and however good his title, the debt to the King will be recovered from his possession, saving the rights of the proprietor who has entered on it with a good title, unless the debtor has already paid over the price received to the King. In that case the purchaser's possession is secure. The reason for this, though it may seem somewhat far fetched and strained in the King's favour, you will find to be clear and just by English law. For whosoever is convicted of an offence against the King, is condemned according to the degree of his crime in one of three ways. For minor offences, he is condemned in all his moveable goods; for major offences he can be mulcted of all his immoveable property, his lands and rents; and for the greatest and most heinous crimes he may be condemned in life and limb. When, therefore, anyone is adjudged to be at the King's mercy as to his moveables, and judgment is given against him in the words, 'This man is at the King's mercy as to his money'; that is equivalent to saying 'all his money,' for laymen take indefinite judgments, not like logicians as particular, but as universal. So whereas the chattels on the land which the debtor afterwards alienated had been adjudged to be at the King's pleasure, and he has not paid up the required sum; it may be regarded as injustice on his part to have parted with what was not his own to the prejudice of the Treasury.

The Sheriff must also be warned, on account of the xvii *affidavit* as to insolvent debtors which is required of him. or rather which he is deemed to have offered in order to

tione sibi facta liberari ualeat, ne a debitore quolibet, qui regi non soluit, interim aliqua, que sibi iuste debebantur, suscipiat. Non enim uerisimile est non posse uicecomitem de catallis eius inuenisse, per que regi debita summa soluatur, qui ipsi uicecomiti, sponte uel inuitus, quod requirebatur, exsoluit.¹ Si tamen ante datam fidem per se uel per alium recordatus fuerit uicecomes de his aliqua se suscepisse, uel etiam post datam, nondum tamen soluto scaccario diei illius, hoc est, dum compotus eius recens est, et ueniens in publicum querula uoce se suscepti tunc inmemorem exstitisse, fide de his oblata, confirmare uoluerit, susceptam summam nomine debitoris persoluens liberabitur. Si uero, quod absit, post fidem datam, post solutum scaccarium, per alium hoc innotuerit, non iam suscepta tantum soluens absoluetur set pro excessu suo in regis beneplacito iudicandus pecuniariter punietur.

Postremo uicecomitem commonuisse sufficiat ut post susceptam summonitionem diligenter inquirat per uiciniam, si uir qui soluendo non est uxorem ducens, uel mulier ditiori nubens, uel quouis alio modo ditescat, quatenus de requisitis satisfacere ualeat; quod si inuentum fuerit, propter fidem uicecomitis soluere compellatur. Quod si nichil horum inuentum fuerit, poterit tunc purgata conscientia de his rebus fidem dare et imminuentem rerum suarum iacturam declinare.

xviii *Discipulus.* Numquid uir pro uxore, que regi tenebatur et fati debita iam soluit uel pro uiro suo mulier ei superstes conueniri debet?

Magister. Satis audisti quod 'qui adheret' mulieri, 'unum corpus efficitur,'² sic tamen ut caput eius sit.³

¹ The King subsequently acquired priority over all creditors. See Madox, *Hist. of the Exchequer*, chap. 23, s. 7 (p. 662 sq.).

² 1 Cor. 6:16

³ See Eph. 5:23

be acquitted of the Summons, that he do not accept any sum lawfully due to himself from any debtor who has not paid the King. For it is improbable that the Sheriff should have failed to find chattels sufficient to pay the debt to the King in possession of a man who, willingly or not, has paid the Sheriff his personal demands.¹ But if, before making his oath, the Sheriff recollects that he has received in person or by his agent any such payment (or even after his *affidavit*, if the Exchequer of that day is still sitting, i.e. while his account is still fresh in their memory), and comes forward and apologizes for having forgotten, confirming his statement by *affidavit*; on paying in the sum received in the name of the debtor, he will be acquitted. But if (which Heaven forbid) after he has made his *affidavit* and the Exchequer has risen, the omission is revealed by somebody else, he will not get off by paying in what he has received, but will be adjudged at the King's pleasure for an amercement in money.

Finally let the Sheriff be warned to inquire diligently throughout the neighbourhood whether any insolvent debtor has married a wife or husband, or otherwise grown rich enough to be able to pay. If that is found to be the case, for the sake of the Sheriff's oath, he must be made to pay. But if nothing of the kind is found, the Sheriff can make his *affidavit* with a clear conscience, and avoid the threatened loss of his property.

Scholar. If a man's wife dies in debt to the King, is he to be summoned for her debt or vice versa?

Master. I need not tell you 'that he which is joined to' a woman 'is one body,'² so however that he is its head.³ He is therefore deservedly to be summoned for her, because 'The wife hath not power of her own

Merito ergo pro ea conueniendus est, quia 'mulier sui potestatem non habet set uir.'¹ Quod si uir ex ea prolem susceperit, cui ratione uxoris debeatur hereditas, et, mortua iam uxore, nondum soluta regi debita pecunia fuerit, uir ille nomine heredis conueniendus et cohercendus est, alias autem non. Porro mulier uiro suo superstes, prolem habens et in uiduitate cum ipsa permanens, ratione prolis cui debetur hereditas, conuenienda et cohercenda est, sic tamen ut doti eius parcatur, quia premium pudoris est.² Quod si, relictis liberis, alii uiro mulier adhererit, legitimus heres pro debito patris conueniendus est. Verum si mulier que deliquit et regi tenetur, priore uiro sine liberis mortuo, ad alium se cum sua hereditate transtulerit debitum eius a uiro requirendum est. Hoc est igitur quod petisti et sic uir causa uxoris et uxor causa uiri conuenienda est. Certum autem habeas quod semper legitimus heres, qui debitori succedit, pro illo conueniendus est ut, sicut in emolumentum, sic in onus subeat.³ Solus autem ascriptitius et is, qui sine hereditate decedit, uenditis catallis suis, per extremam mortis aleam a debito liberantur. Non tamen ab annali in quo debita hec annotantur, nisi per breue regis, auferentur, cum scilicet de hiis a thesaurario regi suggestum fuerit quod inutiliter in rotulo scribantur⁴ cum nullo pacto fieri possit ut ab his debita pecunia proueniat.*

xix Ad hec nosse te conuenit quod in debitis regiis requirendis et debitoribus cohercendis baronum regis et cete-

* *C. ulterius non contulimus*

¹ 1 Cor. 7:4

² cf. Exod. 21:10. The widow is not the natural guardian of the heir or his property, but only the first person the Exchequer can easily reach.

³ cf. Inst. 1:17 'quia plerumque ubi successionis est emolumentum, ibi et tutelae onus esse debet.'

body, but the husband.'¹ But if the husband has had children by her, who inherit her property, and the money due to the King has not been paid at the wife's death, the husband must be summoned and distrained upon as representing the heir, but not otherwise. Again, a wife who survives her husband, if she has children and stays with them during her widowhood, is to be summoned and distrained upon as representing her children who inherit, saving her dower, because it is the price of her modesty.² But if she leaves her children and takes another husband, the lawful heir must be summoned for his father's debt. But if a woman in debt to the King for a penalty incurred, on the death of her first husband without children marries again and takes her fortune to her new husband, he is to be summoned for her debt. This answers your question, and these are the cases in which the husband is to be summoned on his wife's account and vice versa. But you may take it for granted that the lawful heir, who stands in the debtor's shoes, is to be summoned for him, and must accept the liabilities as well as the assets.³ It is only the villein and the man who leaves no inheritance behind him, who, after the sale of their chattels, are freed from debt by death, 'the last hazard.' But the debts will not be removed from the Pipe Roll where they are set down without authority from the King's Writ, that is, when the Treasurer submits to the King that it is useless to write them in the Roll⁴ since there is no possibility of the money being recovered.

You must also know that in the matter of exacting xix the King's debts and distraining on debtors the King's

⁴ See p. 74 above. Some debts were cleared in this way in the Roll of 22 Hen. II, e.g. that of Richard de Rue in Yorkshire. For the means taken in later reigns to meet this difficulty, see Madox *Hist. of the Exchequer*, chap. 23, s. 2 (p. 654 sqq.).

rorum, qui passim pro suis excessibus pecuniariter regi puniuntur, par condicio non est. Porro de his, qui de rege nichil habent in capite, lex predicta seruatur ; at si de rege tenens baroniam, audita summonitione, fidem in propria persona uel per manum generalis economi, quem uulgo 'senescallum' dicunt, in manum uicecomitis dederit sub hoc tenore uerborum, quod de hac summa et de hac summonitione garantum baronum scaccarii die compoti sui fiet, sic uicecomes contentus sit.

xx Si uero die compoti uoce preconia requisitus non uenerit nec per se nec per alium satisfecerit, uicecomes quod ad ipsum pertinuit, fecisse iudicabitur. Causa uero hec seorsum in memorandis scaccarii precepto thesaurarii diligenter annotata in finem scaccarii reserua-bitur, ut tunc, communicato consilio, grauius, qui sic deliquit, puniatur.¹ Quod si post consummatum com-potum uicecomitis sui uenerit et satisfecerit, de assi-dentium gratia et de legis indulgentia poterit absolui. Verum necesse est ut uicecomes fidem eius in comitatu sub omnium oculis suscipiat, quia, si forte qui dederit, uolens malignari, datam infitiari uoluerit, aduersus eum ad omnem probationis summam recordatio comitatus sufficiet. Quod si alias sibi datam uicecomes confessus fuerit, nil egisse iudicabitur, unde mox de firma sua requisita summa capietur, ut summonitioni satisfiat in hac parte dicenti 'uel capientur de firma tua.'

xxi Si uero qui fidem se dedisse non diffitetur, die nomi-nata uenerit nec satisfecerit, si dominus est, ad scac-carium quamdiu sederit detinebitur, fide data in manu marescalli, sicut supra diximus,² quod a leugata uille,

¹ Several cases of neglect to appear will be found on the *Memoranda Roll*, 1 John [*P. R. Soc.*, N.S. 21]. Mr H. G. Richardson refers to this passage in his Introduction (p. xvi).

² p. 21 above

Barons are treated differently from other offenders who pay money penalties for their misdemeanours. The rules we have laid down apply to those who hold nothing in chief from the King. But if the holder of a barony from the King, after hearing the Summons pledges his faith to the Sheriff, either in person or by the hand of his general agent or 'steward' as he is commonly called, to the effect that he shall have the warrant of the Barons of the Exchequer for the Sum and the Summons on the day of account ; that shall satisfy the Sheriff.

But if the lord does not appear on the day of account xx when summoned by the crier of the court, or satisfy the debt either in person or by his agent ; the Sheriff will be held to have done his part. But the case will be noted carefully by order of the Treasurer among the *Memoranda*, and kept back till the close of the session, in order that then, after due consultation, the offender may be severely punished.¹ But if he comes after the conclusion of the Sheriff's account and meets the debt ; he may be acquitted by the favour of the court and the indulgence of the law. However it is necessary that the Sheriff receive his faith in full County Court, before the eyes of all ; because, if the giver of the pledge should be mean enough to deny it, the record of the County Court will be sufficient proof. But if the Sheriff admit that the pledge was given on some other occasion, he will be held to have no case, and the sum required will be taken from his farm, to make good the threat of the Summons 'or it will be taken from your farm.'

But if the person who admits that he has given the xxi pledge comes on the appointed day and does not meet the debt, he will, if he be a lord, be detained during the session of the Exchequer, having given his *parole* to the Marshal, as explained already,² that he will not quit

nisi baronum licentia, non recedet. Solutio uero scaccario illius termini, si nondum satisfecerit, in loco tuto sub libera custodia collocabitur, quousque rex ipse, si presens fuerit, uel presidens cum aliis assidentibus, quid de ipso agendum fuerit, decernat, qui, fidem se dedisse de satisfaciendo confessus, nullo modo satisfecit. Quod si miles uel alius eius economus uenerit, nec satisfecerit, pro fide lesa comprehendetur et marescallo custodiendus tradetur, post solutum scaccarium licite uinculandus et in carcerem mittendus siue miles fuerit siue non. Miles uero super debito proprio non satisfaciens, cum tamen de satisfaciendo fidem dederit, post solutum scaccarium non in carcere set infra septa domus carceralis libere custodietur, fide corporaliter prestita, quod inde nisi regis uel presidentis licentia non recedet. Decreuit enim memorande nobilitatis rex illustris ut quisquis militie dignitate prefulget pro debito proprio, cum pauper a uicecomite simul et a uicinia reputetur, in carcerem non mittatur; set seorsum infra septa domus carceralis libere custodiatur. Verum quisquis mandato domini fidem dederit, sicut predictum est, uicecomiti et ueniens non soluit, hunc comprehendi et in carcerem, soluto scaccario, mitti, siue miles sit siue non, lex statuit.¹ Et quoniam liberum est cuilibet baroni pro debito, quod ab ipso requiritur, fidem officialis opponere, ut sic interim uicecomitis importunitate careat et de rebus suis oportunius ipse disponat, ne sic in immensum regii mandati uideatur auctoritas eludi, decretum est ut,

¹ This privilege of knighthood is reflected in the 'Knights' Ward' of Newgate (see *Peveril of the Peak*). It is not clear what would happen to the tenant-in-chief who was not a knight, but from p. 21 it seems that he would be imprisoned, but not chained or put in a dungeon, and so would be better off than the defaulting steward. Madox (*Hist. of the Exchequer*, chap. 23, s. 22 [p. 699]) quotes one case of a debtor who had pledged his faith and could not pay being imprisoned and let out on bail; and another

the precincts of the town without the leave of the Barons. But when the Exchequer rises, if he still has not sufficiently answered, he will be kept in 'free custody' in a safe place until the King himself, if present, or the President and court determine what shall be done with a man who admits having pledged his faith to meet the debt, but has failed to do so. But if his steward, (whether a knight or not), comes and fails to meet the debt; he will be arrested for breach of faith and placed in the custody of the Marshal, and when the Exchequer rises, may lawfully be chained and imprisoned, though he be a knight. But a knight who fails to answer for his own debt after having pledged his faith to do so, will not be imprisoned when the Exchequer has risen, but will be kept in 'free custody' in the prison-house, after making his corporal oath that he will not leave it without the leave of the King, or the President. For our glorious King, with memorable nobility, has decreed that a man who has the honour of knighthood, and is held by the Sheriff and by his neighbours to be poor, shall not be thrust into prison for his own debt, but kept in free custody within the prison-house, apart from the others. But it is the law that whoever pledges his faith, as aforesaid, by his master's orders to the Sheriff, and fails to pay when he comes, shall be arrested, and imprisoned when the Exchequer rises, whether he be a knight or not.¹ And since any Baron has the right to pledge the faith of one of his servants for a debt which is demanded of him, so that he may in the meantime escape the Sheriff's attentions and arrange his affairs himself; it has been decreed, to avoid the wholesale

of a steward imprisoned and released on his promise to pay when the Exchequer re-opened or return to prison.

comprehenso illo qui lese fidei reum se non satisfaciens iudicauit, statim a uicecomite seruientes dirigantur, qui fundos principalis domini perlustrantes, uenditis quocumque modo catallis, summam requisitam ad scaccarium eiusdem termini deferant, et tandem ille comprehensus pro fide lesa iuxta possibilitatem suam pecuniariam penam luat et amplius super eodem debito, etiamsi dominus preceperit, ad fidem dandam non admittatur.

xxii Principalis etiam dominus ne hec impune presumptis uideatur, non per fidem supposite persone, sed solum per propriam, dilationis beneficium promerebitur, si forte super eodem ipsum iterato summoneri contigerit. Sunt tamen qui credant ut de cetero super eodem debito nec etiam per fidem propriam usque ad scaccarium a uicecomite dilationem obtineat. Quod quidem beneficium dilationis magnum dicunt, qui fisco tenentur; possunt enim interim de rebus suis mitius disponere et dilate per aliquod tempus solutioni necessaria preparare. Quin potius dicunt quod, suscepta summonitione, liceat uicecomiti iuxta communem aliorum legem statim in catalla ipsius manum mittere. His, fateor, ego prorsus non dissentio, si tamen multis indiciis et testimoniis uerisimile uideatur procurasse dominum ut miles suus his casibus exponeretur, quatinus posset ipse uel sic interim liberari. Huius autem rei ualidissimum est contra dominum argumentum, si copiosus, si rebus habundans, si solutioni sufficiens a uicecomite simul et a uicinia iudicetur.

Discipulus. Dignum reuera est ut is indultam sibi gratiam demereatur, qui in datoris eius perniciem eadem abusus est.

Magister. Habes ex precedentibus utcumque distinctum, que catalla uendi debeant et que non; et

evasion of the King's authority, that on the arrest of the person who has proved himself guilty of breach of faith by failing to pay, the Sheriff shall at once send his officers to enter on the lands of the principal lord, sell his chattels as best they can, and bring the sum required to the Exchequer of that term. The person guilty of breach of faith will then pay such a money penalty as he can afford, and shall not be admitted to pledge his faith again, even though his lord order it.

And lest the chief lord should seem to go unpunished xxii for his presumption, he shall not get the benefit of a delay on the faith of his deputy, but only on his own, if he chance to be summoned again for the same debt. Indeed some hold that he cannot obtain a respite for the same debt till the next Exchequer from the Sheriff even by his own personal pledge. [This respite is highly appreciated by those indebted to the Treasury; for they can arrange their affairs more comfortably, and prepare to meet the demand if the payment is delayed.] They say, on the contrary, that the Sheriff on receipt of the Summons may at once seize his chattels just as he may those of any debtor. I must say I agree; if, that is, it appears probable from the evidence that the lord wilfully placed his knight in this predicament, in order, even in this way, to be free himself. The most convincing proof against the lord is if the Sheriff and his neighbours consider him well off and well able to pay.

Scholar. It is only fair that a man who abuses the indulgence given him, and injures the giver, should have it taken from him.

Master. The last few paragraphs have more or less defined what chattels ought to be sold and what not; and in what cases respect of persons is obligatory and

item in quibus personarum discretio tenenda est et in quibus non ; tunc scilicet cum debitores, qui in pecuniariis penis regi tenentur, soluendo non fuerint. Restat ut quid de oblatis spontaneis fieri debeat, cum item non soluerint, ostendamus.

xxiii Noueris igitur quod oblаторum regi, quedam in rem, quedam in spem, offeruntur.* In rem quidem offerri dicimus, cum oblatum a rege suscipitur, et offerens consequenter, pro quo obtulit, a rege suscipit, ut si quis pro libertate aliqua, pro fundo uel pro firma, uel pro custodia cuiusque, qui minor est annis, usque ad annos legitimos habenda, uel pro quouis alio quod ad suam utilitatem uel honorem accedere uideatur, sponte regi c. libras uel c. marcas offerat, et, assentiente rege, statim post oblatum suscipiat optatum. De his igitur, qui sponte se obligant, et qui, conuentione cum principe facta, possidere iam ceperint, lex nostra decernit ut, quamdiu soluendo fuerint, indultis sibi beneficiis gaudeant et utantur. Quod si de regis debito summoniti soluere desierint, statim careant impetratis, sic tamen ut si, manente scaccario, super eodem satisfecerint, ablata omnia sine molestia sibi restituantur. Et nota quod qualiscunque persona, cuiuscunque etiam conditionis aut sexus fuerit, huic observantie de sponte oblatis semper erit obnoxia, ut scilicet summonitioni satisfaciat uel impetrato careat, nisi rex ipse obsequii prestiti uel paupertatis intuitu aliquid sibi preter communem legem indulgeat, uelut si de oblаторum † grandi summa ad quodlibet scaccarium modicum quid ab ipso solui constituat et hoc per breue suum baronibus innotescat.¹

* offeruntur *Madox* : offerentur *N* : om. *R*
 † oblаторum *scripsimus* : oblаторе *NR*

in what not, that is when debtors who are in debt to the King for pecuniary penalties cannot pay. We must now explain the course to be pursued when money voluntarily offered cannot be paid.

You must know that some of the offerings made to the King are for immediate, others for future benefits. We say that they are made *in rem*, when what is offered is accepted by the King, and the person offering receives in due course from the King the object desired. For instance, if a man offers the King £100 or 100 marks for some liberty, for a manor or a farm, or the wardship of a minor until he come of age, or for anything else which may seem to him to augment his convenience or dignity ; and on the King's accepting the offer, at once receives the benefit. These, then, who offer voluntarily, and when the bargain has been made at once enter on possession, may lawfully enjoy and use the benefits granted them so long as they continue to pay. But if they are summoned to pay and cease to do so, they must, *ipso facto*, resign their purchases, provided, however, that if they pay up before the Exchequer closes, all that has been taken away will be restored them ungrudgingly. And mark that all persons, of whatever condition or sex, are bound by this rule as to voluntary offerings : they must satisfy the Summons or lose their grants ; unless the King out of regard for their services or their poverty, makes them some allowance beyond what the law permits, such as appointing them to pay at each Exchequer a small instalment of the large sum offered and give the Barons notice of this by writ.¹

¹ On this rule and on 'attermination' see *Madox, Hist. of the Exch.*, chap. 11, s. 2 ; and chap. 23, s. 18 (p. 273 and 678 sq.).

In spem uero dicuntur offerri cum quis, exhibende sibi iustitie causa, super fundo uel reddito aliquo, regi summam aliquam offert ; non tamen ut fiat, ne in nos excandescas et uenalem penes eum iustitiam dicas¹ immo ut sine dilatione fiat. Noueris tamen non quecumque sic offeruntur, a principe suscipi, etiamsi modum uideatur excedere. Gratis enim quibusdam iustitie plenitudinem exhibet obsequii prestiti uel solo caritatis intuitu ; quibusdam autem, lege condicionis humane, nec prece nec pretio uult adquiescere, obstantibus interdum eorum meritis, qui possidere noscuntur, uel forte propriis postulantium meritis nequaquam hoc exigentibus, quia uel in regnum, uel in regem ipsum, aliquid deliquisse culpantur. De his autem sic constituit rex insignis ut antequam rectum habuerint, hoc est, antequam per sententiam obtinuerint, uel re sibi penitus abiudicata, ab omni spe ceciderint, de oblatiis nil soluant, set sufficiat de huiusmodi uicecomitem respondere, 'rectum nondum habuerunt.' Prouideat tamen uicecomes ne per ipsum debitorem stet quominus causa eius executioni mandetur si scilicet iuri se nolit offerre, ut hac arte promissa sibi pecunia rex fraudetur. Cum enim hoc compertum fuerit dolus ei non subueniet, set per omnia sic coercebitur ac si per sententiam obtinuisset ; huius autem spontanee dilationis est signum cum breue regis penes se detinens eo non utitur. Solet tamen cum his, miserente principe, mitius agi qui post promissam pecuniam a causa cadunt, ne spe sua frustrati, rebus etiam sine emolumento spoliati, duplici contritione conterantur.²

xxiii Sunt item tertii generis obuentiones, que non uidentur

¹ cf. Cic. *Verr.* II, 119

² This defence may well appear sophistical, and at its best justifies Magna Carta cap. 49. But it must be remembered that the *Curia Regis* was not the only source of justice, and that the literal interpretation of Magna Carta would exclude the imposition of any court fees.

But offerings are said to be made *in spem*, or for future advantage, when a man offers a sum to the King to obtain justice about some farm or rent ; not, of course, to ensure justice being done—so you must not lose your temper with us and say the King sells justice¹—but to have it done without delay. Note also that the King does not accept all such offers, even though you may think him to overstep his limit. To some he does full justice for nothing, in consideration of their past services or out of mere goodness of heart ; but to others (and it is only human nature) he will not give way either for love or for money ; sometimes owing to the deserts of the actual tenants ; sometimes because the demandants have done nothing to deserve it, being charged with offences against the realm or the King in person. But in cases of this kind the King has ordained that the applicants shall not pay any portion of what they have offered until they have had justice ; that is to say, have either had sentence in their favour or definite judgment against them ; and that a sufficient answer is the Sheriff's assertion that 'They have not yet had right.' But the Sheriff must see that it is not the debtor's fault that his case does not come to execution ; if he neglect to appear, for instance, in order to cheat the King of the sum offered him. If that be proved, the trick will not serve him, but he will be distrained upon just as if he had won his case. A mark of this wilful delay is neglect to serve the writ. But owing to the King's kindness, those who lose their cases after promising money are usually more gently treated, lest they should suffer twice over, both by disappointment of their hope, and by spending their wealth to no advantage.²

There are also receipts of a third kind which do not seem rightly to be reckoned as 'offerings,' but are

prorsus inter oblata computande, set magis 'Fines' ad scaccarium dicuntur. Cum scilicet de rege tenens in capite baroniam, relicto herede, decesserit, et idem heres cum rege in quam potest summam componit, ut paterni iuris mereatur ingressum, quem finem 'releuium' uulgo dicimus; quod si baronia est, in regis est beneplacito que debeat esse summa releuii. Si uero de eschaeta fuerit, que in manu regis, deficiente herede, uel aliter, inciderit, pro feodo militis unius hoc tantum regi, nomine releuii, soluet, quod esset suo domino soluturus, hoc est centum solidos. Sunt autem qui credant eos, qui in releuiis regi tenentur nec summoniti soluunt, spontaneorum oblatores legibus obnoxios ut, cum soluendo non fuerint, careant impetratis. At uerius dici potest ut, sicut de pecuniariis penis fit, sic fiat de releuiis. Debita namque filiis ratione successionis hereditas eos a lege sponte oblatores uidetur excludere.¹

xxv Item fit interdum ut aues regie regi qualibet ex causa promittantur; accipitres scilicet uel falcones. Quod si promittens determinans dixerit, 'accipitrem instantis anni' uel 'mutatum,' uel locum etiam exprimat dicens, 'Hibernensem, Hispanensem, Norrensem dabo,' sic satisfaciat. Si uero nec qui promittit, nec cui promittitur, determinauerit, in arbitrio promittentis erit si mutatum, uel non, sit soluturus. Set si integer et sanus a regiis austurcariis iudicetur, quacunque exclusus fuerit, suscipietur. Porro si summonitus dignum suscipi ad scaccarium detulerit nec sit tum qui suscipiat, etiam si post hoc in annum uel biennium uel amplius differatur summonitio, nisi quem maluerit, mutatum scilicet uel

¹ The point is that the lord is bound to accept the homage of the heir and can exact his relief by distress. On the other hand, 'Queen's Gold' was payable on reliefs, as well as on Fines.

rather called Fines at the Exchequer. When, that is, the tenant in chief of a barony dies leaving an heir, and the heir makes the best bargain he can with the King for leave to enter upon his father's rights, and this fine we call a Relief. If the holding is a barony, the amount of the relief is at the King's pleasure. But if it is part of an escheat, which has fallen into the King's hands for want of an heir or otherwise, the inheritor will only pay the King as relief what he would have had to pay to his own lord, namely, a hundred shillings for each knight's fee. Some people think that those who owe reliefs to the King and fail to pay on Summons come under the rule applying to voluntary offerings, namely, that unless they pay they shall not receive their grants. But the truth of the matter is that reliefs are treated as though they were pecuniary penalties. For the right of the children to succeed by inheritance seems to take reliefs out of the class of voluntary offerings.¹

Sometimes royal birds are promised to the King for xxv various reasons; that is, hawks or falcons. But if the person promising specifies 'a hawk of this year' [*a 'sore' hawk*] or 'mewed,' or names the place of origin, 'I will give an Irish, Spanish or Norway' hawk, he must make his promise good. But if neither the giver nor the receiver of the promise has settled the point, the giver may please himself whether he is to pay a mewed hawk or not. But if it is passed by the King's ostringers as perfect and sound, it will be accepted, wherever hatched. Again, if the debtor, being summoned, brings an acceptable hawk to the Exchequer, and there is nobody there to receive it, even though the Summons be put off for a year or two, he need only pay which he prefers, a mewed hawk or a 'sore' one. But if the payment is deferred at the request of the person summoned, he must pay according to the

ornum, soluere non cogetur. Quod si summonitus solutionem differri quomodolibet procurauerit, iuxta numerum annorum quibus indulta sibi est dilatio, bimum scilicet uel trimum uel deinceps mutatum soluet. De his autem contra terminum Pasche summonitio non fit quia earum aestiuo tempore rarus est usus. Tunc enim cauearum antris incluse diligenter custodiuntur ut redeat deposita uetustate pennarum decor et earum ut aquile iuuentus renouetur.¹ Verum contra terminum sancti Michaelis, que regi debentur, summonentur, ut instante tunc hieme regiis aptentur obsequiis. In coercendis autem his, qui sic se sponte obligant, nec soluunt, lex predicta de sponte oblatis seruatur.

xxvi Ad hec nouerint hii, qui in pecunia numerata regi sponte se obligant, quod regine similiter tenentur, licet expressum non fuerit. Quamuis enim non sit expressum, est tamen promisso compromissum, ut cum regi centum uel ducentas marcas promiserit, regine pariter teneatur pro centum marcis argenti regi promissis in una marca auri, pro ducentis, in duabus marcis auri, et sic deinceps. In hiis autem perquirendis eadem lege uicecomes per omnia utetur, qua in regiis usus est, non tamen ante set post. Cum ergo de regiis debitis summonitiones fiunt, adest clericus regine ad hec constitutus et addit in summonitione, 'de illo habeas centum marcas pro causa illa,' 'et ad opus regine unam marcā auri.' Summonita autem ad scaccarium ab eius officialibus ad hec constitutis seorsum suscipiuntur. Noueris etiam quod, licet rex de promissa sibi summa mediam partem dimiserit uel uniuersum uel etiam summonere distulerit, de his tamen, que ad reginam pertinent, secundum quod sibi uisum fuerit, per omnia fiet, ut, ea nolente, neque dimittantur neque differantur que sibi debentur, set

¹ Ps. 102:5

number of years during which it is put off, a mewed hawk two years or three years old, and so on. But hawks are never summoned for the Easter term, because there is so little use for them in summer. For they are then carefully shut up in mews, that they may moult their old feathers and recover their beauty, and their 'youth' may be 'renewed like the eagle's.'¹ But the hawks owing to the King are summoned for Michaelmas term, to be fit for the King's service in the coming winter. And in compelling those who promise but do not pay, the same rule is to be followed as for voluntary offerings.

Furthermore, those who voluntarily engage to pay xxvi coined money to the King, must know that they are likewise bound to the Queen, although that was not stated. For although not expressed it is nevertheless implied in the promise, that whoever promises a hundred or two hundred marks to the King is thereby indebted to the Queen in one mark of gold for one hundred marks of silver, two for two hundred, and so on. But in exacting these the Sheriff must apply the same rules throughout as with the debts to the King, but after them, and not before. So when the Summonses are drawn up for the King's debts, the Queen's clerk appointed for the purpose is present, and adds to 'have from such a one 100 marks for such a cause' in the summons 'and for the Queen's use one mark of gold.' But the sums summoned are received at the Exchequer separately by the Queen's specially appointed officers. Observe too that though the King may remit the half or the whole of the sum promised him, or even respite the Summons; it will be for the Queen to decide about her share, and without her consent nothing owing to her can be remitted or respited; but the debts in the Summons must be paid, and those not paying forced to do so.

summonita soluantur et non soluentes predicto modo coerceantur.

Discipulus. Numquid de promissis regi citra centum marcas aliquid regine debetur?

Magister. Quibusdam sic uidetur, ut usque ad decem marcas teneatur, ut scilicet is, qui decem regi promiserit, in una uncia auri regine teneatur: aliis, non, nisi de centum et supra ab initio promissis. De his igitur ad presens cum modestia sustine, quia, re nondum terminata, suspensa solutio est. Litigat sane de his pars regine cum debitoribus et 'adhuc sub iudice lis est.'¹ De misericordia autem Iudeorum et de redemptione monetariorum, sicut de sponte oblati dictum est, sua portio secundum formam predictam regine debetur.²

Discipulus. Numquid in (penis)* pecuniariis et sponte oblati clericos et laicos sine differentia lex una coercet?

Magister. In sponte oblati apud omnes lex una seruatur ut, siue clericus sit siue laicus, qui soluendo non fuerit, donec satisfecerit careat impetrato. Obseruatur etiam idem in omnibus aliis que quouis pacto regi debentur a clericis, cum scilicet sue dignitatis et libere possessionis priuilegium allegare neglexerint.³ De allegantibus autem quid fieri debeat, a discretis et deum timentibus laicis, si placet, rescito. His enim ad presens ex industria supersedeo ne dicar mee conditionis hominibus ultroneas leges et mitiora iura dictasse.

Discipulus. Dixisti, si bene memini, frequenter in manum regis baronias uel fundos incidere. Vellem igitur, si placet, explicares, quo ordine redditus escaetarum ad fiscum proueniant, si uno modo uel dissimiliter.

xxvii *Magister.* Cum in manum regis baronia uel magnum

* penis addidimus

¹ Hor. A.P. 78

² *Dona*, or aids, were raised from both Jews and moneyers in 1159, and

Scholar. Is anything due to the Queen on sums lower than 100 marks promised to the King?

Master. Some think that it is, as low as ten marks; that is, that whoever has promised ten marks to the King, owes an ounce of gold to the Queen. Others say No, but only on 100 marks or more originally promised. You must be content to wait humbly because the question is still in debate, and the answer in suspense. The Queens party is at law with the debtors and the case 'is still in doubt.'¹ But of the amercements of the Jews and the ransom of the moneyers the Queen has her share on the same scale as of voluntary offerings.²

Scholar. Is the law exactly the same for clergy and for laymen as to money penalties and voluntary offerings?

Master. As to voluntary offerings the same law is observed. A clerk or a layman who fails to pay loses his grant until he pays. The same rule applies to all other debts owed to the King by clerks on any account, so long as they refrain from claiming the privilege of their order and freedom of possession.³ But if they do, you must ask wise and God-fearing laymen what ought to be done. I purposely abstain from giving an opinion, lest I should be accused of making unauthorized rules and favouring those of my own cloth.

Scholar. You said, if I remember right, that baronies and manors often escheat to the King. I should be glad if you would explain just how the rents of escheats come into the Treasury, whether all in the same way or not?

Master. When a barony or any large property falls xxvii

might be regarded technically as voluntary payments. That from the moneyers was occasioned by the reform of the coinage and consequent change of dies. The *Redemptio* of the moneyer was presumably the sum he had to pay on succeeding to his father or on a change in the coinage, either of which involved new dies.

³ See Madox, *Hist. of the Exchequer*, chap. 14, s. 3 (p. 375) n. c. But cf. p. 106 above.

aliquid excidit, mandato eius uel presidentis ad hec discreti utriusque ordinis uiri diriguntur; qui singula perlustrantes redditus earundem in summam redigunt et de hac ad scaccarium teneri uicecomitem uel quemlibet alium constituunt. Satisfaciens igitur de hac summa is, qui ad hec constitutus est, in denariis uel breuibis uel taleis, subsequente fide de legitimo compoto, meretur absolui; et de ea sic scribetur in annali, 'Ille uel ille reddit compotum de firma honoris illius. In thesauro hoc, Et quietus est' uel 'Et debet.' Verum cum rex escaete sue custodiam fidei alicuius commiserit, ut uidelicet quod inde prouenerit ad scaccarium soluat, post factum compotum fides illa sub predicto uerborum tenore non dabitur, immo quod quantum inde uel in denariis uel aliis quibuscunque rebus suscepit, tantum, secundum suam conscientiam, ad scaccarium soluit; exceptis his dumtaxat uictualibus que ipso nomine exeniorum non procurante sibi collata sunt.¹

Discipulus. Numquid custos ille de his redditibus uictui necessaria percipit?

Magister. Licet scriptum sit 'non alligabis os boui trituranti,'² tamen nisi expresso regis mandato de his nil percipiet. Propriis enim stipendiis, quisquis ille fuerit, in his regi militabit. De huiusmodi autem sic in annali scribetur 'Ille uel ille reddit compotum de exitu illius honoris per uerum dictum suum.'³

¹ 'Procurations' are the expenses of entertainment of a visiting official (e.g. an Archdeacon) and his *suite*, or a pecuniary commutation for them. 'Exennia' is here, I think, merely a classical equivalent for the same thing; though the word is used by Walter Map for the allowances to resident courtiers described in the *Constitutio Domus Regis*. It was also the name of the customary entertainment given by the prior and convent of Rochester to the Bishop (as Abbot) on St. Andrew's day.

² 1 Cor. 9:9; Deut. 25:4

³ On the meaning of *uerum dictum*, see Madox, *H.E.* 23, s. 6 (p. 662). He considers it to be 'rather a *Voire dire*, or a declaration on their faith and allegiance, than an oath.' I have usually equated the 'pledging of faith' with the modern 'affidavit,' which is, of course, upon oath, though in a

into the King's hands; by his order or that of the President experienced men, clerks and laymen, are sent out to it. They visit each part of it, add up the rents, and make the Sheriff or some other person responsible for it at the Exchequer. If that person accounts satisfactorily for the appointed sum, in cash, writs or tallies, and pledges his faith that he has made his lawful account, he earns his acquittance; and the entry on the Roll is 'So-and-so renders account of the farm of such an honour. In the Treasury so much. And he is quit,' or 'And he owes.' But when the King has entrusted the keeping of an escheat to anyone on the terms that he shall pay into the Exchequer all that arises from it; his *affidavit* after making his account will not be in the same form, but will run that whatever he has received, from the estate in money or other profits, he has to the best of his knowledge and belief paid into the Exchequer, those victuals excepted which have been allowed him, and not claimed by him as procurations.¹

Scholar. Does such a keeper receive his necessary victuals out of the rents?

Master. Although it is written, 'Thou shalt not muzzle the mouth of the ox that treadeth out the corn,'² he will not receive anything from them but by the King's express command. For, whoever he may be, he shall serve the King in these matters at his own expense. But of him and those like him it will be written in the Roll, 'So-and-so renders account of the issues of such an honour as by him solemnly declared.'³

less impressive form than that of a witness in open court. The correspondence between the phrases *sacramento corporaliter prestito* (p. 122) and *fide corporaliter prestita* (p. 143) suggests that an oath was taken in both cases; but *corporaliter* is equally applicable to the clasp of the hand in pledging faith and the touching of the object sworn upon in an oath. The instances of *affidavits* given by Madox (*H.E.* 23, s. 22 [p. 699]) are not conclusive as to the form used.

Cum igitur de omnibus predictis, constitutis uel casualibus, satisfactum fuerit, et fuerint singula per ordinem autentice rotuli scripture deputata, conuocatis omnibus assidentibus, ad principalis firme compotum consummandum, qui in summo rotuli annotatus est, redditur et hoc ordine perficitur.¹ Soluta hoc termino a uicecomite firma, de qua examen factum est, in primis a calculatore per numerales acruos in distantium uirgarum spatiis distribuitur. Deinde, facta detractio per combustionem, sicut supradictum est,² eadem dealbatur et, appensa sibi taleola combustionis, que tamen uicecomiti non computatur, summa que relinquatur in taleam redigitur; similiter et quod solutum fuerat in termino Pasche et dealbatum, in eadem talea, sic et combustio de eodem termino cum combustionem finalis termini, mittitur; ut una sit utriusque solutionis talea et, similiter, una combustionis. Quo facto thesaurarius rotulum exactorium, cuius supra meminimus,³ proferens, summam, que de comitatu illo (debetur) * per acruos supra et seriatim disponi facit. Ab hac igitur in primis, quod solutum est in thesauro et dealbatum, detrahitur, deinde quod rex de firma comitatus contulit aliquibus blancum, post hec iterum que alias soluta sunt per breuia regis, uel aliter, per acruos disponuntur, et hec per subtractionem duodecim denariorum e singulis libris dealbantur, sicut que in thesauro soluuntur dealbata per combustionem. Tunc ergo fit inferioris expense a superiore summa detractio et, si penitus absolui meruerit, in fine compoti eiusdem litteris patentibus scribitur 'Et quietus est' uel infra in capite linee inferioris 'Et debet.' Et tunc demum, consummato compoto, numerus solu-

* debetur uel simile quid supplendum duximus

¹ The author here resumes the account which he left unfinished on p. 92.

² pp. 23 and 38

³ p. 65 above

When, therefore, all the aforesaid revenues, fixed or casual, have been duly accounted for, and enrolled authoritatively in due order on the Pipe Roll; all the members of the court are assembled, and the account of the main farm entered at the head of the Roll is resumed and completed as follows.¹ First of all the farm for the current term, of which the assay has been made, is set out in heaps of counters in the spaces between the vertical lines of the chequer-board. This is 'blanched' as explained above² by deducting the loss on combustion, and the remainder is cut on a new tally, to which is attached the combustion-tally with which the Sheriff is not credited. Likewise what was paid in at Easter is recorded on the same tally, and the Easter combustion on the combustion-tally. So that there is one tally for the two payments and one likewise for the two combustions. After this the Treasurer produces the Roll of Farms already mentioned,³ and has the sum due from the county set out in groups of counters above the sum paid in. From it is deducted, first, the sum paid in the Treasury and blanched, then the rents granted 'blanch' to sundry persons. After this, the other payments made by the King's Writ or otherwise are set out in heaps and blanched by a deduction of a shilling in the pound, just as what was paid into the Treasury was blanched by the combustion. Then the expenses set out below are deducted from the sum in the top line, and if the Sheriff is absolutely clear, there is written at the end of the account in an engrossing hand, 'And he is quit'; or else on the line below, 'And he owes.' Then, last of all, on the completion of the account, the

torum in thesauro apponitur ei, quod iamdudum diximus scriptum, 'In thesauro,' et quod fuerat hucusque sic ex industria relictum,* ne forte cogatur abradere qui scribit, quod maxime circa numeros et nomina et causas iamdudum uitandum diximus.¹

xxviii Consummato † uero, sicut dictum est, de corpore comitatus compoto, a marescallo fides uicecomitis sub forma predicta² semel suscipitur et sic absolutus dimittitur. Fuerunt tamen, qui crederent de singulis per fidem firmandis singillatim fidem a uicecomite dandam ut, quotiens diceret sic esse aliquid, quod sola posset fide confirmari, totiens fidem daret. Set a prudentibus et legis diuine peritis perniciosa satis uisa est subtilitas, cum semel fidem dederit se legitimum per omnia compotum, salua conscientia, fecisse. Ea propter hec sententia post modicum meruit cum suo auctore contempni et una fide, hoc est semel data, contenti sunt, quia in unius fidei confessione unum sunt.³

Discipulus. Sentio iam languente stilo quod dicendorum finis adesse festinat. Verum, licet instantis noctis crepusculum et productionis operis labor prolixior ad alia nos euocet et paullulum respirare compellant, uellem tamen, si fieri posset, ut suspensam, et hactenus fluctuantem in uerbo tuo, discipuli tui mentem confirmares, ostendens quid sit, quod ab initio dixisse te recolo,⁴ totam scilicet scaccarii descriptionem quedam esse sacramentorum latibula que reuelanda sunt cum omnium libri aperti erunt et ianua clausa.

Magister. Magnum est quod queris et alterius egens inquisitionis, nec his exponendis ex promisso debitor tibi factus sum. His igitur ad presens supersedeo in alterius

* relictum *Madox* : relactum *codd*

† Consummata *NR* : corr. *Madox*

¹ p. 31 above

³ Eph. 4:5

² pp. 106-7 above

⁴ p. 26 above

amount of the payments into the Treasury is added to the 'In the Treasury' already written, for which the space was purposely left blank lest the scribe should be forced to make an erasure; a thing, as we said,¹ to be especially avoided in numbers, names and accounts.

Now, when the account is concluded, the Sheriff's *xxviii affidavit* is taken once for all by the Marshal, in the form already described,² and he is dismissed quit. Some people used to think that each point on which the Sheriff pledged his faith should be sworn to separately, so that for each unsupported statement he would have to make a separate affirmation. But this straining of a point was judged unfair by discreet persons familiar with God's law, seeing that the Sheriff once for all gave his word that he had to the best of his knowledge and belief made his lawful account. So it was not long before this opinion and its author were scouted, and one faith (or one pledging of it) satisfied those who are one in its confession.³

Scholar. I can tell by the flagging of your pen that we are approaching the end of our discourse. But, though the evening twilight and the fatigue of what has proved rather a long piece of work summon us to a little diversion and refreshment; I should like you, if you could, to set my mind at rest, swayed from side to side as it has been in the tide of your words, and show me, as I remember you said at the outset,⁴ that the whole anatomy of the Exchequer concealed mysteries which shall be revealed when all men's 'books are open' and 'the door shut.'

Master. That is a large question and demands a separate discussion; nor did I actually promise to explain these matters. So I will leave them to be discussed some other day. I fear you might faint under the

diei disputationem eadem reseruans. Vereor quidem ne, si pluribus onerato nouam sarcinam imponerem, sub pondere deficerem. Item si iam dictis et memorie commendandis nouarum rerum studia consuerem, utraque te fastidire compellerem. Contentus ergo iam dictis esto ad que me coegisti. Habes enim in his, quantum madide se potuit offerre memorie,¹ quecumque * circa scaccarii scientiam potiora tibi uisa sunt, initialiter utcunque distincta. Ceterum ad singula, que tractu temporis uideri poterunt necessaria, ungue tenus explananda nec uirtus hominis, nec uita forte, sufficeret. Ex uariis enim et insolitis casibus uel nulla fiet uel adhuc incognita disciplina ; unde fit ut detractoriis linguis hinc potius exponar dum, succedente tempore, pleraque dubia necdum audita proponi continget. De quibus aut consimilibus cum hic nil inuenerint, incipiant illudere, dicentes, 'hic homo cepit edificare et non potuit, uel non nouit, consummare.'² His ego non dissentio, pessimum namque magistrum, me ipsum, secutus sum. Feci tamen, te cogente, quod potui duce carens et exemplari : de intacta namque rudique silua regiis edificiis missa securi ligna secui prudentioris architecti dolabro complananda. Cum, igitur, ex his regie domus structura surrexerit, is, qui dedit initia, primam, licet non precipuam, gratiam mereatur. Valeat rex illustris.

[Explicit liber secundus.]

* quicumque *codd*

¹ cf. Caecilius *cited by* Priscian : cf. *Grammatici Latini*, ii (ed. H. Keil), p. 235.

² Luke 14:30

burden of a fresh load on top of all you have taken up already. Besides, if I were to tack on fresh matter to what I have already said, and you have to remember ; I should disgust you with old and new alike. So you must rest content with what you have extracted from me. For in it you have all the more important points of the learning of the Exchequer, in sketch at all events, so far as my weak memory¹ serves. But to explain completely everything which may in course of time seem needful, neither one man's strength, nor perhaps even his lifetime would suffice. For no teaching can be extracted from strange and unusual cases, or at least none as yet known. So that I am liable to be abused in times to come, when questions will arise which have never been put before. And when my readers find nothing about them or about anything like them, they will begin to mock me, saying 'This man began to build, and was not able' or did not know how 'to finish.'² Nor do I disagree with them, for I have followed the worst of masters, myself. Still, impelled by you, I have done my best without teacher or model. I have laid my axe to the virgin and rough forest and cut for the King's buildings timber that a more skilled architect may smooth with his adze. So when the palace building has risen let the first workman earn the first, though not the greatest thanks.

GOD SAVE THE KING

[End of Book II]

*CONSTITUTIO
DOMUS REGIS*

THE ROYAL HOUSEHOLD

HEC EST CONSTITUTIO DOMUS REGIS

DE PROCURATIONIBUS ¹

CANCELLARIUS, vs. in die ²; et j ³ siminellum ³ dominicum et ij sal[atos]; ⁴ et j sextarium ⁵ de uino claro; et j sextarium de uino expensabili; et unum grossum ⁶ cereum et xl frustra candelarum.

MAGISTER SCRIPTORII. Primo xd. in die; et j siminellum sal[atun]; et dimidium sextarium de uino expensabili; et j grossam candelam; et xij frustra candelarum. Sed rex Henricus crevit Robertum de Sigillo⁷ in tantum quod die mortis regis habebat ijs., et j sextarium uini expensabilis, et j siminellum sal[atun], et j cereolum, et xxiiij frustra candelarum.

CAPELLANUS CUSTOS CAPELLE ET RELIQUIARUM. Conridium ⁸ duorum hominum; et iiij serientes capelle, unusquisque duplicem cibum; et duo summarii capelle, unusquisque j ⁹ denarium in die; et jd. ad ferrandum in mense. Ad servitium capelle, duos cereos die Mercurii et ij die Sabbati; et unaquaque nocte j cereum coram reliquiis; et xxx frustra candelarum; et j galonem de uino claro ad missam; et unum sextarium de uino expensabili, die Absolutionis, ad lavandum altare. In die Pasche, ad communionem, j sextarium de uino claro et j de uino ¹⁰ expensabili.

¹ Om. R

² in R.

³ simenellum, P passim

⁴ salu[m], P

⁵ A 'sextary' has been given several values, here probably means 4 gals.

⁶ Om. R

⁷ Keeper of the seal, 1131-35; bp. of London 1141

⁸ Corridium, P

⁹ Om. R ¹⁰ Om. R

ESTABLISHMENT OF THE ROYAL HOUSEHOLD

[C.A.D. 1136]

This is the establishment of the King's Household

Pay and Allowances

CHANCERY AND CHAPEL

Chancellor: 5s. a day, and one superior and two salt simnells, one sextary ⁵ of dessert wine, and one of *vin ordinaire*, one large wax candle and forty candle-ends.

Master of the Writing-Chamber: Originally 10d. a day, and one salt simnel, and half a sextary of *vin ordinaire*, and one large candle and twelve candle-ends. But King Henry so increased Robert de Sigillo,⁷ that on the day of the King's death he had 2s., and one sextary of *vin ordinaire*, and one salt simnel, and one small wax candle and twenty-four candle-ends.

Chaplain—in charge of the chapel and relics: Corrody for two men. And four serjeants of the chapel, each double diet. And two sumpter-horses of the chapel, each 1d. a day, and a penny a month for shoeing them. For the chapel service, two wax candles on Wednesday and two on Saturday, and every night one wax candle before the relics, and thirty candle-ends, and one gallon of dessert wine for mass, and one sextary of *vin ordinaire* on Holy Thursday to wash the altar. On Easter day at communion, one sextary of dessert wine and one of *vin ordinaire*.

DE DAPIFERIS. Dapiferi sicut cancellarius, si extra domum commederint. Si intra, ijs. et vjd., et ij siminell[os] sal[at[os]], et j sextarium de uino expensabili, et plenarie candelam.¹

Clericus expense panis et uini, ijs. in die, et siminellum² sal[at[um]], et j sextarium uini expensabilis, et j cereolum, et xxiiij frustra candelarum.

DE DISPENSATORIBUS PANIS³. Magister dispensator panis assiduus, si extra domum regis commederit, ijs. et xd. in die, et j siminellum salat[um],⁴ et j sextarium de uino expensabili, et j cereolum, et xxiiij frustra candelarum. Si autem intra, ijs. et dimidium sextarium de uino expensabili, et plenarie candelam.

DE DISPENSATORIBUS PER VICEM SERVIENTIBUS. Si extra domum, xixd. in die, et j siminellum sal[at[um]],⁵ et j sextarium de uino expensabili, et j grossam candelam, et xx frustra candelarum. Si intra, xd., et dimidium sextarium de uino expensabili, et candelam plenarie.

DE NAPARIIS.⁶ Napparius⁷ cibum consuetudinarium. Homini suo iijob. in die; et jd. ad sum[m]arium; et jd. in mense ad ferrandum.

Hostiarius expense, tantundem, excepto sum[m]ario. Computator panis, consuetudinarium cibum.

DE QUATUOR PISTORIBUS SIMUL UNA⁸ VICE SERVIENTIBUS. Duo qui in domo serviunt, in domo commedent; et duo preeuntes xld. habebunt ad procurandum modium⁹ Rothomag[ensem], de quo debent reddere xl siminellos dominicos, et cl¹⁰ sal[at[os]], et cclx panes de pistrino. Dominicus siminellus iij hominibus; sal[at[us]] duobus; panis j homini.¹¹

¹ This paragraph (which in MSS follows that on the Dispensers of bread) is transposed to the head of the section by G. H. White.

² j siminellum, P ³ Panis, Om. R ⁴ sallat[um] R ⁵ salu[m], P

⁶ The persons in charge of the linen—tablecloths, napkins, etc.

⁷ Naparius, P ⁸ sua, P ⁹ modum, R. Approximately equal to a quarter

¹⁰ cxl P

¹¹ panis j homini, om. R.

STEWARD'S DEPARTMENT

Sewers: Sewers as the Chancellor, if they eat out. If indoors, 3s. 6d., two salt simnels, one sextary of *vin ordinaire* and an ample supply of candles.

Clerk of the Spence of bread and wine: 2s. a day, and a salt simnel, and one sextary of *vin ordinaire*, and one small wax candle and twenty-four candle-ends.

PANTRY

Dispensers of bread: The master-dispenser of bread, a permanent officer, if he eats out-of-doors, 2s. 10d. a day, and one salt simnel, one sextary of *vin ordinaire*, one small wax candle and twenty-four candle-ends. But if indoors, 2s. a day, half a sextary of *vin ordinaire* and an ample supply of candles.

Dispensers serving in turn: If out-of-doors, 19d. a day, one salt simnel, one sextary of *vin ordinaire*, one large candle and twenty candle-ends. If indoors, 10d., half a sextary of *vin ordinaire* and an ample supply of candles.

*Napiers*⁶: The Napier has the customary diet. His man three halfpence a day, 1d. for the sumpter-horse and 1d. a month for shoeing.

Usher of the Spence: The same except for the sumpter-horse.

Accountant of the Pantry: The customary diet.

Four Bakers serving together: The two who serve indoors shall eat there. The two who go in advance shall have 40d. to buy a Rouen *muid*⁹ [of corn], from which they are to produce forty superior simnels and 150 [140 P.] salt, and 260 baker's loaves. A superior simnel for four men, a salt simnel for two, a loaf for one man.

DE NEBULARIO.¹ Nebularius² consuetudinarium cibum, et *ijob.* homini suo in die.

Bordarius tantundem. Et preter hoc j³ sum[m]arium cum sua liberatione.⁴

Portator scutelle elemosine⁵ in domo commedet.

DE DISPENSATORIBUS LARDARII. Magister dispensator assiduus lardarii, sicut magister dispensator panis et uini, et eodem modo.⁶ Similiter dispensatores lardarii per uicem servientes, sicut et dispensatores panis et uini qui⁷ serviunt per uicem.⁸ Lardenarii⁹ qui per uicem serviunt, consuetudinarium cibum; et homini suo *ijob.* in die.

Hostiarius lardarii similiter. Carnifices consuetudinarium cibum, tantum.

DE COQUIS. Cocus¹⁰ dominice coquine in domo commedet; *ijob.* homini suo. Hostiarius coquine ejusdem, consuetudinarium cibum; *iiijob.* homini suo. Vasarius in domo commedet; et *ijob.* homini suo; et sum[m]arium cum liberatione sua. Sumularius¹¹ coquine ejusdem similiter. Serviens coquine consuetudinarium cibum tantum. Cocus¹² privatorum regis et dispensatorum similiter. (Radulfus¹³ de Marchia qui cocus [fuit]¹⁴ mortuus est ante mortem regis.)¹⁵ In domo commedet; et *ijob.* homini suo.

DE MAGNA COQUINA. Oinus Polcheardus¹⁶ con-

¹ This heading is omitted in *P*

² *Nebularius* is a baker of obleys, i.e. thin biscuits or wafers, such as those used at Mass. ³ *Om. R* ⁴ *Ligacione, R*

⁵ *Elemosine, om. R*

⁶ i.e. under the same conditions as to residence

⁷ *Om. R.* ⁸ *qui per vicem serviunt, P* ⁹ *Lardarii, R*

¹⁰ *P* has new paragraphs for the subsequent entries

¹¹ *Sumelarius P*

¹² *Socus, P*

¹³ *Cadulfus P*

¹⁴ *fuit*, inserted: MSS omit

¹⁵ Johnson apparently regarded this sentence as an interpolation and we would agree that this is a likely explanation of an obscure passage which occurs in both *R* and *P* (edd.)

*Waferer*²: The waferer has the customary diet, and three halfpence a day for his man.

Keeper of the tables: The same; and besides a sumpter-horse with its livery.

Bearer of the alms-bowl: Shall eat in the house.

LARDER AND KITCHEN

Dispensers of the Larder: The Master-Dispenser of the Larder, permanent, as the Master-Dispenser of bread and wine, and in the same manner.⁶ Likewise the dispensers of the larder serving in turn as the dispensers of bread and wine serving in turn. The Larderers who serve in turn have the customary diet, and three halfpence a day for a man.

Usher of the Larder: The same.

Slaughtermen: The customary diet only.

Cooks: The Cook of the upper kitchen shall eat in the house, and have three halfpence for his man. The *Usher* of the same kitchen, the customary diet and three halfpence for his man. The *Scullion* shall eat in the house and have three halfpence for his man, and have a sumpter-horse with its livery. The *Sumpterman* of the same kitchen, the like. The *Serjeant of the Kitchen*, the customary diet only. The *Cook of the King's personal servants and of the Dispensers*, the like. (Ralf de Marchia, who [was] cook, died before the King's death.)¹⁵ He shall eat in the house and have three halfpence a day for his man.

Great Kitchen: Owen Polcheard¹⁶ has the customary

¹⁶ *Polchehart P* Oinus Polcheart is mentioned in the Pipe Roll of 1130 (p. 126) as exempt from Danegeld in Berkshire. Turgar, serjeant of the Kitchen, is in the same list, which includes Osmund, the cupbearer, Tetson, the usher, Ranulf, the scribe (all of whom were probably officials) as well as the usual Barons of the Exchequer.

suetudinarium cibum et *ijjob*. homini suo. Duo coqui, uterque consuetudinarium cibum; *ijjob*. homini suo. Servientes ejusdem coquine consuetudinarium cibum tantum. Hostiarius¹ hastalarie, consuetudinarium cibum; homini suo, *ijjob*. Hastelarius similiter. Similiter scutellarius,² et praeter hoc j sum[m]arium cum liberatione sua. Caretarius³ magne coquine duplicem cibum; et equo suo justam liberationem. Caretarius³ lardarii similiter. Serviens qui recipit uenationem intus commedet; et *ijjob*. homini suo.

DE BUTELERIA.⁴ Magister pincerna, sicut dapifer; et j habent liberationem et eodem modo. Magister⁵ dispensator butleriae sicut magister dispensator panis et uini. Dispensatores butlarie qui per uicem serviunt, sicut dispensatores expense, qui per uicem serviunt; sed plus habent candeles,⁶ quia habent cereolum et *xxiiij* frustra candelarum. Hostiarius butellerie consuetudinarium cibum, et *ij ob*. homini suo. Hosarii⁷ in domo commedent; et hominibus suis, unicuique,⁸ *ij d*. Buttarius consuetudinarium cibum, et *ij d*. hominibus suis, et dimidium sextarium uini expensabilis, et *xij* frustra candelarum. Operarii buttarie consuetudinarium cibum tantum; sed serviens,⁹ preter hoc, *ijjob*. homini suo, et *ij* summarios cum liberationibus suis.

DE ESCANCIONIBUS. Quatuor tantum debent servire simul, uice sua; de quibus duo commedent in domo, et uterque homini suo, *ijjob*. Alii duo consuetudinarium

¹ Hast[elarius] R

² Scutellarius similiter P

³ Carectarius, P

⁴ Om. R

⁵ R Magistri and omits dispensator . . . vini.

⁶ candelam, P

⁷ Round's derivation from *osa*, a [leather] bottle (*The King's Serjeants*, pp. 177-83) is obviously right. Observe the connection between 'butt' and 'boot,' parallel with *osa* and 'hose.'

⁸ unusquisque, P

⁹ MSS *sereius*. I have conjectured *serviens* for the *sereius* of the MSS, whom I can not confidently identify with the *Saretus serviens* who was excused from the aid given by the borough of Cambridge in 1130 (*Pipe Roll*, 31 Hen. I, p. 47).

diet and three halfpence a day for his man. Two *Cooks*, each the customary diet and three halfpence a day for his man. *Serjeants* of the same Kitchen: The customary diet only. *Usher of the Roasting House*: The customary diet and three halfpence for his man. *Roaster*: The like. *Scullion*: The like, and a sumpter-horse besides with its livery. *Carter of the Great Kitchen*: Double diet, and the due livery for his horse.

Carter of the Larder: The like.

The *Serjeant who receives the Venison*: Shall eat indoors, and have three halfpence for his man.

BUTTERY

Master-Butler: As a sewer; the same livery and in like manner.

Master-Dispenser of the Buttery: As the Master-Dispenser of bread and wine. *Dispensers of the Buttery* serving in turn. As the dispensers of the Spence serving in turn; but they have more candles, because they have a small wax candle and twenty-four candle-ends. *Usher of the Buttery*: The customary diet, and three-halfpence for his man. The *Cellarmen*⁷ shall eat in the house, and have three pence each for their men.

The *Cooper*: The customary diet, and 3d. for his men, and half a sextary of *vin ordinaire*, and twelve candle-ends. *Labourers in the Buttery*: The customary diet only; but its *Serjeant*⁹ has besides, three halfpence for his man, and two sumpter-horses with their liveries.

Cupbearers: Only four should serve together in turn; of whom two shall eat in the house, and each have three halfpence for his man. The other two shall have the

cibum habebunt, et similiter *iiijob.* hominibus suis. Mazenarius¹ dupplicem cibum tantum.

DE FRUCTUARIIS. Fructuarius in domo commedet, et *iiijd.*² hominibus suis.

Caretarius consuetudinarium cibum ; et equis suis³ liberationem.

Magister camerarius par est dapifero in liberatione. Thesaurarius, ut magister camerarius, si in curia fuerit et servierit in thesauro.⁴ Willelmus Maudut,⁵ *xiiijd.* in die ; et assidue in domo commedet ; et *j* grossam candelam ; et *xij*⁶ frustra ; et *ij*⁷ summarios cum liberationibus suis. Portator lecti regis in domo commedet ; et homini suo *iiijob.* ; et *j* summarium cum liberatione sua. Camera-rius qui uice sua servit, *ijs.* in die ; et *j* siminellum sala-t[um] ;⁸ et *j* sextarium uini expensabilis ; et *j* cereolum, et *xxiiij*⁹ frustra candel[arum]. Camerarius cande-le, *viiijd.* in die , et dimidium sextarium uini expensabilis. Tallator regis in domo sua commedet ; et ¹⁰ homini suo *iiijob.* Camerarius ¹¹ sine liberatione in domo com-medet, si uoluerit. Aquarius dupplicem cibum ; et quando rex iter agit, *jd.* ad pannos regis exsiccandos, et quando rex balneat, *iiijd.* exceptis tribus festis annuis. De lavatrice, in dubio est.

DE CONSTABULARIIS¹²

Constabularii liberationes habent sicut dapiferi et eodem modo. Willelmus filius Odonis,¹³ *j* siminellum

¹ R omits the entry ² *iiij, R* ³ *equo suam, P* ⁴ *ut Thesaurarius, P*

⁵ William Mauduit was Treasurer of the Chamber, and afterwards hereditary Chamberlain of the Exchequer.

⁶ *xiiij R* ⁷ *iiij, P* ⁸ *sallat[um] R* ⁹ *xiiij R* ¹⁰ *Om. P*

¹¹ camerarii . . . comedent . . . voluerint, P

¹² *Om. P*
¹³ He attests as Constable in Normandy in 1131 (*Regesta* ii nos. 1693, 1698).

customary diet, and likewise three halfpence for their men. The *Mazerkeeper* has double diet only.

Fruiterers : The fruiterer shall eat in the house, and have *3d.* for his men.

The *Carter* has the customary diet, and livery for his horses.

CHAMBER

The *Master-Chamberlain's* livery is the same as that of a sewer. The *Treasurer* as the Master-Chamberlain, if he is at Court and serves in the Treasury. William Mauduit⁵ *14d.* a day ; and shall eat permanently in the house, and have one large candle and twelve ends, and two sumpter-horses with their liveries.

The *Bearer of the King's Bed* shall eat in the house, and have three halfpence a day for his man, and one sumpter-horse with its livery. A *Chamberlain* serving in his turn, *2s.* a day, one salt simnel, and one sextary of *vin ordinaire*, one small wax candle and twenty-four candle-ends. The *Chamberlain of the Chandlery* : *8d.* a day, and half a sextary of *vin ordinaire*. The *King's Tailor* shall eat in his own house, and have three halfpence a day for his man. A *Chamberlain* without livery [i.e. not on duty] shall eat in the house, if he wishes. The *Ewer* has double diet ; and when the King goes on a journey, *1d.* for drying the King's clothes ; and when the King bathes, *4d.* except on the three great feasts of the year. The wages of the *Laundress* are in doubt.

CONSTABULARY AND MARSHALSEA

The *Constables* have liveries as the Sewers, and in like manner. William fitz Otes,¹³ one superior simnel,

dominicum, et j sextarium de uino claro, et j cereolum, et xxiiij frustra candelarum. Henricus de la Pomerai, si extra domum commederit, ijs. in die, et j siminellum sal[at]um et j sextarium uini expensabilis, et j cereolum, et xxiiij frustra candelarum. Si autem intra, xiiij*d.* et dimidium sextarium uini expensabilis, et candelam plenarie. Rogerus de Oyli similiter.

DE MARESCHAUCIA.¹ Magister marscallus, similiter, scilicet Johannes. Et preter hoc debet habere dicas de donis et liberationibus que fiunt² de Thesauro regis et de sua camera; et debet habere dicas contra omnes officiales regis³ ut testis per omnia. Quatuor marscalli qui serviunt familie regis, tam clericis quam militibus, quam etiam⁴ ministris, die qua faciunt herbergeriam, uel extra curiam morantur in negotio regis, viij*d.* in die, et j galonem⁵ uini expensabilis, et xij frustra candelarum. Si intra⁶ iij*d.* in die homini suo,⁷ et candelam plenarie. Quod si aliquis marscallorum missus fuerit in negotio regis, viij*d.* tantum. Servientes marscallorum si fuerint missi in negotio regis, unusquisque in die, iij*d.*⁸; sin autem in domo regis commedent. Hostiarii, milites ipsi⁹ in domo commedent, unicuique hominum suorum, iij*ob.* in die, et viij frustra candelarum. Gilbertus Bonus Homo et Radulfus¹⁰ in domo commedent¹¹ et iij*ob.* hominibus suis. Alii hostiarii, non milites, in domo comedent sine alia liberatione. Vigiles duplicem cibum et hominibus suis iij*ob.* in die et iij candles; et preter hoc, in mane, unusquisque duos panes, et j ferculum, et j galonem seruicie. Focarius in domo semper commedet, et a festo Sancti Michaelis usque ad Pascha, cotidie,

¹ This heading does not occur in *P*

² fuerint *R*

⁵ galun, *P*

⁸ iij*d.* in die, *P*

³ officiales et Reges, *R*

⁶ extra, *R*

⁹ ep'i *R*

⁴ etiam om. *R*

⁷ hominibus suis in die, *P*

¹⁰ Ranulfus, *P*

one sextary of dessert wine, one small wax candle and twenty-four candle-ends. Henry de la Pomerai, if he eats outdoors, 2*s.* a day, one salt simnel, one sextary of *vin ordinaire*, one small wax candle and twenty-four candle-ends. If indoors, 14*d.*, half a sextary of *vin ordinaire*, and an ample supply of candles. Roger d'Oilli the like.

Marshalsea: The *Master-Marshal*, viz. John, the like. And besides this he ought to have tallies of the gifts and liveries from the King's Treasury and Chamber; and also against all the King's officers as a universal witness. Four *Marshals* who serve the King's Household, i.e. clerks, knights, and servants as well, on a day when they are finding lodgings or [otherwise] out of court on the King's business, 8*d.* a day, one gallon of *vin ordinaire* and twelve candle-ends. If indoors, 3*d.* a day for their men, and an ample supply of candles. But if any of the Marshals is sent on the King's business, 8*d.* only. The *Marshals' serjeants*, if sent on the King's business, 3*d.* a day each; if not, they shall eat in the King's house. The *Ushers*, knights, shall eat in the house themselves, and have three halfpence a day for their men and eight candle-ends. Gilbert Bonhomme and Ralf shall eat in the house and have three halfpence for their men. The other ushers, not being knights, shall eat in the house without any livery. *Watchmen*: Double diet, three halfpence a day for their men, and four candles. And besides, in the morning, two loaves each, one mess of meat and one gallon of ale. *Stoker*: Shall always eat in the house, and have 4*d.* a day for the fire, from Michaelmas to Easter.

¹¹ et iii ob. . . . comedent, om. *R*

iiij*d.* ad ignem. Hostiarius camere, unaquaque die quo ¹ rex iter agit, iiij*d.* ad lectum regis. Cortinarius in domo commedet, et quando faciebat cortinas portare, habebat liberationem ad j hominem et ad j summarium.²

Vnusquisque de iiij^{or} cornariis, iij*d.* in die. xx ser-vientes, unusquisque j*d.* in die. Veltrarii,³ unusquisque iij*d.* in die ; et iij*d.* hominibus suis ; et unicuique leporario, obolum in die. Mueta regis, viij*d.* in die. Milites uenatores, viij*d.* in die, unusquisque. Catatores,⁴ unusquisque, vd. Ductor liemarii,⁵ j*d.*, et liemarius, obolum. Bernarius,⁶ iij*d.* in die. Venatores del harred,⁷ unusquisque iij*d.* in die ; et magni harred,⁷ iij debent habere j*d.* et de paruis harede,⁷ vj ⁸ debent habere j*d.* Ad magnos harrede,⁹ ij homines, et unusquisque, j*d.* in die et ad paruos ij homines et unusquisque j*d.* in die.¹⁰ Braconarii,¹¹ unusquisque iij*d.* in die. Luparii, xxd. in die ad equos et ad¹² homines et canes ; et debent habere xxiiij canes currentes et viij leporarios ; et vj libras per annum ad equos emendos ; sed ipsi dicunt viij. De archeariis qui portabant arcum regis, unusquisque vd. in die ; et alii archearii tantundem. Bernardus, Radulfus le Robeur ¹³ et socii eorum, unusquisque iij*d.* in die.

¹ sic in MSS.

² These two officers should more properly be ranked with the Chamber staff. It is perhaps their need for transport which has brought them into the Marshalsea, or it may be mere displacement in the MSS.

³ Keepers of greyhounds

⁴ So MSS perhaps for *caciatores*. I have assumed *catator* to be a back-formation from *chasseur* (like the hypothetical *captiator* of the dictionaries).

⁵ The Lime-Hound (Fr. *limier*) was so called because he was led on a leash, and only let loose to finish a stag at bay.

⁶ Feeder of hounds

⁷ *Haired*, P. *Meute* (Fr.) is defined as a trained pack of hounds ; *harde* is a cord to keep several hounds in leash at a time, and consequently the hounds so kept in leash.

⁸ *vij*, R ⁹ *Hared*, P ¹⁰ *et ad paruos . . . die*, om. R

¹¹ A brach was a small hound hunting by scent.

¹² *ad*, om. P

¹³ Originally written *Bobeur* and the R written over in P

Usher of the Chamber : Every day when the King is on a journey, 4*d.* for the King's bed. *Tent-Keeper* : Shall eat in the house ; when he had the tents moved, he had livery for one man and one sumpter-horse.²

[HUNTING STAFF]

Each of four *Hornblowers* 3*d.* a day. Twenty *Serjeants* : Each 1*d.* a day. *Fewterers*³ : Each 3*d.* a day, and 2*d.* for their men ; and for each greyhound a halfpenny a day. The *King's Pack of Hounds* : 8*d.* a day. *Knight-Huntsmen* : Each 8*d.* a day. *Huntsmen* : Each 5*d.* *Leader of the Lime-Hound* ⁵ : 1*d.* and the lime-hound a halfpenny. *Berner* ⁶ : 3*d.* a day. *Huntsmen of the Hounds on the Leash* ⁷ : Each 3*d.* a day. Of the great leash four [hounds] 1*d.* And of the small leashes six should have 1*d.* For the great leashes two men, each 1*d.* a day ; and for the small, two men, each 1*d.* a day. *Brach-Keepers* ¹¹ : Each 3*d.* a day. *Wolf-Hunters* : 20*d.* a day for horses, men and hounds ; and they should have twenty-four running hounds and eight greyhounds, and £6 a year to buy horses ; but they say ' eight.' Each of the *Archers* who carried the King's bow 5*d.* a day ; and the other archers as much. Bernard, Ralf the Rober, and their fellows 3*d.* a day.

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