

3

RECORD REVELATIONS.

A
LETTER,
TO
THE LORDS COMMISSIONERS
OF
HER MAJESTY'S TREASURY,
ON THE
PUBLIC RECORDS OF IRELAND,
AND ON THE
CALENDARS OF PATENT AND CLOSE ROLLS OF CHANCERY
IN IRELAND,
RECENTLY PUBLISHED,
BY THEIR LORDSHIPS' AUTHORITY, UNDER THE DIRECTION OF
THE MASTER OF THE ROLLS OF IRELAND.
BY
AN IRISH ARCHIVIST.

"LET THERE BE LIGHT!"

LONDON:

J. RUSSELL SMITH, 36, Soho Square; T. RICHARDSON AND SON, 26, Paternoster Row.—EDINBURGH: T. G. STEVENSON, 22, South Frederick St.—PARIS: STASSIN ET XAVIER, 22, Rue de la Banque.—ROME: BIBLIOTECA MONALDINI.—NEW YORK: J. B. KIRKER, 371, Broadway.—BALTIMORE: KELLY, HEDIAN and PIET.—HALIFAX, NOVA SCOTIA: J. GRAHAM.—MELBOURNE, VICTORIA, AUSTRALIA: M. T. GASON.—SYDNEY: W. DOLMAN, 121, Pitt Street.

1863.

Price 3s. 6d.

A DESCRIPTIVE CATALOGUE OF
THE ANTIQUITIES OF GOLD
IN THE MUSEUM OF THE ROYAL IRISH ACADEMY.

BY W. R. WILDE,

Vice-President of the Royal Irish Academy.

Illustrated with Ninety Wood Engravings.

By the same Author, Price 6s.

A DESCRIPTIVE CATALOGUE OF THE
ANTIQUITIES OF
STONE, EARTHEN, AND VEGETABLE
MATERIALS,
IN THE MUSEUM OF THE ROYAL IRISH ACADEMY.

Illustrated with 159 Wood Engravings.

Price 7s. 6d.

A DESCRIPTIVE CATALOGUE OF
THE ANTIQUITIES OF
ANIMAL MATERIALS AND BRONZE,
IN THE SAME MUSEUM.

Illustrated with 377 Wood Engravings.

LONDON:

WILLIAMS AND NORGATE, 14, HENRIETTA STREET, COVENT GARDEN.

RECORD REVELATIONS.

THE PUBLIC RECORDS OF IRELAND.

“MONUMENTA, QUÆ NOS RECORDA VOCAMUS, SUNT
VERITATIS ET VETUSTATIS VESTIGIA.”

Coke.

RECORD REVELATIONS.

A
LETTER,
TO
THE LORDS COMMISSIONERS
OF
HER MAJESTY'S TREASURY,
ON THE
PUBLIC RECORDS OF IRELAND,
AND ON THE
"CALENDARS OF PATENT AND CLOSE ROLLS OF CHANCERY
IN IRELAND,"
RECENTLY PUBLISHED,
BY THEIR LORDSHIPS' AUTHORITY, UNDER THE DIRECTION OF
THE MASTER OF THE ROLLS OF IRELAND.
BY
AN IRISH ARCHIVIST.

"LET THERE BE LIGHT!"

LONDON:

J. RUSSELL SMITH, 36, Soho Square; T. RICHARDSON AND SON, 26, Paternoster Row.—EDINBURGH: T. G. STEVENSON, 22, South Frederick St.—PARIS: STASSIN ET XAVIER, 22, Rue de la Banque.—ROME: BIBLIOTECA MONALDINI.—NEW YORK: J. B. KIRKER, 371, Broadway.—BALTIMORE: KELLY, HEDIAN and PIET.—HALIFAX, NOVA SCOTIA: J. GRAHAM.—MELBOURNE, VICTORIA, AUSTRALIA: M. T. GASON.—SYDNEY: W. DOLMAN, 121, Pitt Street.

1863.

Chancery Offices, Ireland, Commission. Report of the Commissioners appointed to inquire into the duties of the Officers and Clerks of the Court of Chancery in Ireland, with Minutes of Evidence, &c. Presented to both Houses of Parliament, by command of Her Majesty. Dublin: Thom, 1859, folio, pp. 191.

Calendar of the Patent and Close Rolls of Chancery in Ireland, of the reigns of Henry VIII., Edward VI., Mary, and Elizabeth. Vol. I. Edited by James Morrin, Clerk of Enrolments in Chancery. By authority of the Lords Commissioners of Her Majesty's Treasury, under the direction of the Master of the Rolls of Ireland. Dublin: For Her Majesty's Stationery Office, 8vo., 1861, pp. 660.

Calendar of the Patent and Close Rolls of Chancery in Ireland, from the 18th to the 45th of Queen Elizabeth. Vol. II. By James Morrin, Clerk of Enrolments in Chancery. By authority of the Lords Commissioners of Her Majesty's Treasury, under the direction of the Master of the Rolls of Ireland. Dublin, Printed for Her Majesty's Stationery Office; London: Longman, Green, Longman and Roberts, 1862, 8vo., pp. 767.

Selection from Letters received in reference to the Calendar of Patent Rolls. Dublin: Printed for Her Majesty's Stationery Office, 1862.

CONTENTS.

	PAGE
Objects of the present publication,	1
Origin, character and treatment of the Public Records of Ireland,	2
Irish Record Commission, established in 1810,	3
State of the Public Records of Ireland since the termination of the Commission,	4
Records in the Rolls' Office, Dublin,	5
Condition of Records in the Dublin Law Offices;—admitted ignorance of their <i>paid</i> Keepers,	6
Official intimation that Record inquiries cannot be answered in the Rolls' Office, Dublin,	6
Historical and Legal Importance of the Public Records of Ireland,	6
Claim for the Consolidation and Calendaring of the Public Records of Ireland,	7
Chancery Commissioners' Errors on Records,	7
The Royal Irish Academy and the Irish Archæological Society, ...	8
Record Proceedings in the Pays Bas,	9
In France under M. Guizot,	10
In England under Sir John Romilly,	10
Different course pursued officially in Ireland—Irish Archivists entirely ignored—the results,	10
ANALYSIS OF THE RECENTLY PUBLISHED "CALENDARS OF PATENT AND CLOSE ROLLS OF CHANCERY IN IRELAND,"	
Prefaces to these Volumes mainly composed of unacknowledged appropriations verbatim from printed books,	12
Examples of Plagiarisms from works of the following writers:—	
H. J. Mason,	12
William Lynch,	14
Sir W. Betham,	17
Mr. Lascelles,	20
J. Hardiman,	23
Mr. Gilbert,	26
Sir John Davies,	29
G. Hatchell,	30
Catalogue of Patent Rolls <i>reprinted</i> verbatim from Lascelles, without acknowledgment,	33
Important Rolls unnoticed in the Calendars,	36

	PAGE.
Plagiarisms from Harris,	37
Description of Patent Rolls <i>reprinted</i> from Erck,	37
Portions of the Prefaces composed of Reprints of Prospectuses and Advertisements,	39
Plagiarisms from O'Curry, Tresham, and "Liber Munerum,"	40, 41
Plagiaristic compliment to the Patrons of the Calendars by ex- punging the name of the present Viceroy of Ireland,	41
ANALYSIS OF ORIGINAL PORTIONS OF THE PREFACES:	
Complication of Errors and Mis-statements on the following subjects:—	
The "Down Survey" of Ireland,	42
Vallancey's "Irish Historical Library,"	43
"Baga Hiberniæ,"	43
Dr. Boate represented to have written a book three years after his death,	44
Number of Persons burned for Witchcraft, at Kilkenny, multiplied by three,	44
Sir Roland Fitz Eustace divided into two persons,	44
Statement that the Judges used to sit "in the wall" of Dublin Castle!	44
Unfounded allegations relative to the Libraries of Armagh, and of Trinity College, Dublin,	44
Errors relative to Statutes and Fiants—Statement that the latter, in the Rolls' Office, are uncalendared—disproved,	46
Examination of Mis-statements relative to the Declaratory Act, 10, Henry VII,	47
The Commission on Defective Titles in Ireland, A.D. 1635,	49
ANALYSIS OF THE ANNOTATIONS TO THE CALENDARS:	
Errors relative to important MSS,	50
Inaccurate Decipherments of Names,	51
Incorrect Interpretations of obsolete English Law Terms,	51
Statements on Greek Numerals,	52
Incomprehensible Explanation of "Coshery,"	52
The Law of Tanistry stated to be in existence at present!	52
A Flock of Sheep translated into a Wax-candle!	53
A Bullock-pen in Irish declared to mean in English a "City of the Dead!"	54
Observations on the Gaelic word <i>Mart</i> ,	55
ANALYSIS OF THE CALENDAR OR BODY OF THE WORK:—	
Statements relative to the sources whence the Calendar has been taken,	56

CONTENTS.

vii

	PAGE.
Plagiarism from R. Lemon ludicrously adapted ...	57
Coloured Fac-similes from undescribed Originals, ...	58
Totally incorrect description given in the Prefaces of Patent and Close Rolls,	58
Explanation of the real nature of these Documents ...	59
Calendar compiled on a plan disapproved of by highest Archivistic authorities—Opinion of Mr. T. D. Hardy on this point,	60
Official difficulties opposed to testing these Calendars by the original Rolls,	61
EXAMINATION OF THE CALENDARS :	
Grants of Lands so Calendared as to be unserviceable for legal purposes,	61
List of portion of important Grants omitted	62
Omissions of Privileges and Services	64
Important Appointments and Documents of State omitted, ...	65
Grants of Offices and of Pardons so Calendared as to be valueless,	66
<i>Number of pages of Calendars composed of unacknowledged verbatim reprints</i> from Parliamentary Reports and other Books,	67
Error in titles of Calendars—which do not include <i>any</i> Close Roll,	68
Large number of Documents in the Calendars alleged to have been analysed and translated in an incredibly short time,	69
Official details of preparation of the Calendar of 1830, ...	70
<i>299 pages of first volume of Calendar of 1861 reprinted, without acknowledgment, from the Calendar of 1830,</i> ...	71
Parallel Specimens of the Calendars of 1830 and of 1861, ...	71
Serious question on this point in connection with Public Funds,	73
Patrons of the Calendars of 1861-2,	74
Extracts from the Letters, (published by Her Majesty's Stationery Office) approving of these Calendars, written by the Master of the Rolls of Ireland; the Lord Chancellor of Ireland, the "Ulster King of Arms;" and G. Fitzgibbon, Master in Chancery,	74
The Rt. Hon. James Whiteside, Q. C. LL.D, M.P., publicly eulogises these Calendars,	75

	PAGE.
Consideration of Mr. Whiteside's qualifications to adjudicate on subjects connected with the Legal History of Ireland,...	75
The Study of Records no portion of Modern Legal Education,	76
Requisite qualifications of Archivists,	76
The Master of the Rolls of Ireland represented in these Calendars as patronising violations of the Law of Literary Property of which he is the Administrator,	78
English authorities also misled in this affair,	79
Sir John Romilly alleged to be a promoter of these Calendars,	79
Injury inflicted on the Public by the misdirection of the intentions of the Treasury,	80
Protest of Irish Archivists against being identified with such a work,	80
Present state of the Public Records of Ireland compared with that of those of England,	81
Establishment of Public Record Office at Dublin, proposed by Sir R. Peel in 1812;—legalised in 1817-1822, ...	82
Dublin Tower Records	82
Improper committal of Public Records to a Professional Pedigree Agent,	82
Office and Antecedents of Ulster Kings of Arms,	83
Concentration of Records of Ireland, commenced in 1831, with much advantage to the Public,	86
Admitted importance of Public Records of Ireland,	87
Sir Thomas Larcom's remarks on this subject,	87
Obscurity of Public Muniments in Dublin,	88
Balance due to Ireland out of recent Parliamentary Grants for "Chronicles and Memorials of Great Britain and Ireland,"	88
Labours of Irish Archivists,	88
Necessity for a Public Record Repository in Dublin,	89
Conclusion,	90

ERRATA.

Page 40 line 17 for 1826 read 1828.

Page 54 line 8 for le croy read le croy.

A
LETTER
TO THE
LORDS OF HER MAJESTY'S TREASURY,
IN LONDON.

Dublin, March, 1863.

My Lords,

In addressing your Lordships, I desire primarily to express my belief in your anxiety to act with justice and enlightenment in matters connected with the Public Records of Ireland.

Of the two grounds upon which my belief in this matter rests, the first is the substantial aid with which, after long apathy on the part of your official predecessors, you came forward to remove that which had become a general disgrace to Great Britain—the neglect of her national archives, and the want of solid appreciation for scholars, who, by laborious application, had specially qualified themselves to undertake the arrangement and publication of these documents.

The second ground of my confidence in your interest in this matter is, that in compliance with the representations of the Master of the Rolls in Ireland, you decided upon allocating a portion of the Imperial funds, under your charge, to the production of Calendars of the Patent and Close Rolls, and other public muniments of Ireland.

As the public benefit is presumed to have been the motive which influenced your Lordships in making this

latter allocation, it cannot be supposed that you contemplated that the execution of the work for which it was designed should be entrusted to any but competent hands; or that the learned in Ireland, specially conversant with this particular subject, should be ignored, and not even consulted, on so serious an undertaking:

I have therefore considered it right to lay before the world a statement of the mode in which your Lordships' laudable intentions have hitherto been carried out, and, while demonstrating that the real archivists of Ireland are not responsible for the unfortunate results, I shall essay to give a correct view of the present condition of the Irish Public Records, relative to which but little accurate information has been hitherto accessible.

The Anglo-Normans, from their first settlement in Ireland at the close of the twelfth century, steadily pursued the policy of imposing the legal, juridical and fiscal institutions of their nation upon every portion of the island which came directly under the dominion of the English crown.

The receipts and disbursements of the king's Irish government, its legislative enactments, appointments of high officers of state, grants of privileges, titles, territories, and the multitudinous details coming within the cognizance of the law courts and offices found their appointed places of record on the respective vellum rolls, which thus embodied vouched and unimpeachable public accounts, and became also official registries of the property of the Crown and its subjects in Ireland.

Although many Rolls and Records perished during the wars previous to the final reduction of Ireland, large numbers of them survived these commotions, and in the seventeenth and eighteenth centuries various personages of eminence endeavoured to provide public repositories for their secure

preservation. Notwithstanding such laudable individual exertions, the Rolls, Records and chief public muniments of Ireland were allowed to remain in the irresponsible custody of ignorant and unprincipled clerks of the law courts, by whom numbers of them were purloined; while others were cast into filthy receptacles, where vermin and damp destroyed parchments of priceless value, which might have elucidated obscure points in British history, or established claims, the assertion of which, in the absence of such evidences, has involved the nugatory expenditure of thousands and the ruin of many.

At length, in compliance with an address of the House of Commons in 1810, George III. issued a Commission, directing steps to be taken for the preservation, arrangement and more convenient use of the Public Records of Ireland, great numbers of which at that time were admitted to be unarranged and undescribed, some exposed to erasure, alteration and embezzlement, others suffering from damp or incurring continual risk of destruction by fire. On the Continent, such a task would have been confided to competent archivists and archæologists, presided over by a Minister of State; but, according to the then usual governmental system for Ireland, this commission was entrusted to judges and officials, engrossed with other public business, and unacquainted with ancient Records or historical documents. Fortunately for the Public, these Commissioners obtained the assistance of James Hardiman, and other good Irish archivists, who efficiently collected scattered documents, made various excellent arrangements, prepared transcripts and calendars, some of which were printed and others passing through the press when these labours were abruptly terminated by the unexpected revocation of the commission in 1830. Since that period the subject was repeatedly brought under the notice of Gov-

ernment, and in 1847 Commissioners were appointed to investigate the state of the Irish Public Records, in consequence of whose report a bill to provide for the safe custody of these documents, was prepared and taken into consideration by the Treasury, but subsequently forgotten.

The position of these Records was brought before the public prominently in 1854 by Mr. Gilbert, Secretary of the Irish Archæological Society, who in the preface to the first volume of his "History of the City of Dublin," published in that year, after commenting upon the difficulties and obstacles which he, as a critically accurate historic investigator, was obliged to encounter in researches among unpublished original documents in Ireland, added the following observations :

"It is however, to be hoped that Government will ere long, adopt measures for the publication of the ancient unpublished Anglo-Irish Public Records, numbers of which, containing important historic materials, are now mouldering to decay ; while the unindexed and unclassified condition of those in better preservation renders their contents almost unavailable to literary investigators. These observations apply more especially to the statutes and enactments of the early Anglo-Irish Parliaments, *upwards of twelve hundred of which still remain unpublished*, although the ancient legal institutes of England, Scotland, and Wales have been long since printed at the public expense. The most valuable illustrations of the history of the English government in Ireland are derivable from these Anglo-Irish Statutes."—*History of Dublin, Vol. I. p. 14.*

Although these statements attracted some attention in England and abroad, a great portion of the public muniments of Ireland still remain under the control of clerks of the Dublin Four Courts, where, practically inaccessible, they lie covered with filth, becoming obliterated from damp, and so little known even to their paid keepers, that at a recent inquiry into the Irish Court of Chancery, conclusive evidence was given that the Editor of the Cal-

enders hereafter noticed was the only individual connected with these offices who even *professed* to be capable of deciphering any writing anterior to the reign of Queen Anne.

The Archivists of Ireland should, under these circumstances, have long since published a special Memoir on the state of the Anglo-Irish Legal Records, by circulating which among the learned of the world, they might have exculpated themselves from apparent supineness, and have brought public opinion at home to demand the removal of such a blot on the civilization of the Empire.

In 1858 the condition of the records in the Rolls' Office, Dublin, came under the notice of the Commissioners appointed in that year to inquire into the "Chancery Offices" of Ireland, and in their Report to Parliament the documents still under the control of the Master of the Rolls in Ireland are noticed as follows:

"The Public Records deposited in the Rolls office [Dublin] are of great antiquity and are extremely valuable; they contain the root of the title of a great portion of the property of the country, and to the antiquarian they are most interesting as developing much of its earlier history. They are so numerous that it would be impossible to enumerate them [*sic*] here. The earliest records commence with the reign of King John, and, with some interruptions, are brought down to the present time; suffice it to say, that they contain, amongst many other valuable records, the public and private statutes passed in the Irish Parliament, commencing in the reign of Henry VI, as also the grants of lands under the Acts of Settlement and Explanation, and under the Commission of Grace, in the reigns of Charles II. and James II; and the grants from the Commissioners of Forfeited Estates, in the reigns of William III. and Queen Anne. The earlier records, viz., those from the reign of King John (1199) to the reign of Queen Anne, (1702) are written, some in Latin and some in Norman-French; the *Statutes of the Irish Parliament, up to the reign of Queen Anne are written exclusively in Norman French*;* from that period the Records are written in the English language. Those written in Latin

* See page 7 for observations on the italicised passages.

and Norman French are written with abbreviations, *single letters constantly representing words of two or three syllables*, so that reading and translating them requires knowledge of a peculiar character, which is only to be acquired by a study of the Records themselves; and although a knowledge of the Latin and French languages is necessary as a groundwork for this study, yet a scholar of the present day cannot read or translate them.”—“*There is not any officer connected with the Enrolment Department who has acquired this knowledge; so far as they are concerned the ancient Records are sealed books.*”—Report, p. 15.

The same Report (p. 16) states that “a large number of extremely valuable Records, formerly deposited in the Chief Remembrancer’s Office of the Court of Exchequer were, on the abolition of that office, transferred to a temporary building, and *that no sufficient provision has been made for their safe keeping.*” With reference to these invaluable Exchequer Records, the Report, p. 138, avers that the officers of that court “could not read the Rolls in their charge,” and at p. 139 the “Chief Clerk of the Court of Chancery” deposed that :

“The business connected with ancient records is comparatively neglected in this country [Ireland]. *Parties come to the [Rolls’] Office [Dublin] frequently in relation to historical inquiries, but we have not time to attend to them.*”

Such, according to an authenticated official statement, is the condition of a large portion of the Public Records of Ireland, upon which constantly turn questions of high importance as to peerages, advowsons, royalties, admiralty rights, fisheries, lands, and many other hereditaments. The historic value of documents of this class was indicated as follows by a learned English archivist, the late Joseph Hunter :

“I regard the early Records as so many historical writings. Many of them are actually of the nature of annals and some of them may aspire to the character of historical treatises. The question, therefore, of the

printing of them, is but the question whether certain ancient historical writings now existing in but a single copy, shall be given to the world. Call them chronicles, and I imagine few persons would be found to think that a nation's treasure was not well expended in diffusing and perpetuating the information they contained ; and yet, how much superior in the points of information and authenticity are the Close and Patent Rolls to many of the chronicles ! How necessary is the information which they contain, to support or to correct the information given in the chronicles !”

The adoption in England of the plan for consolidating and printing, at the cost of the United Kingdom, documents entirely historical and literary, furnished Ireland with an unanswerable claim for the aggregation, arrangement and calendaring of her Public Muniments, which, as already observed, in addition to their historic value, are of high importance in legal questions of certain classes.

The lawyers to whom the Chancery inquiry in Ireland was entrusted appear, from their published “ Report,” to have derived all their information upon the Rolls and Records from clerks in the Dublin law courts, and this accounts for their having presented to Parliament, under their hands, a series of disgraceful blunders, from which they might have been saved had competent Irish scholars been consulted. Of their errors it may suffice here to notice the two, which are italicised in the quotation at p. 5, namely, that all the Statutes in Ireland were written in Norman French to the reign of Queen Anne ;* and the more astounding assertion

* The “ Commissioners” are here in error by more than two centuries ! The practice of enrolling Statutes in French was disused in Ireland from A.D. 1495, as may be seen by Sir James Ware's Annals of Ireland, 10, Henry VII. The entire absurdity of the above statement of the “ Commissioners” can only be appreciated by those who have consulted the elaborate Irish Statutes, including the Acts of Settlement and Explanation, passed long previous to the reign of Anne,—the mere idea that such were written in any

that in old legal Records *one letter* constantly represents a word of *three syllables*,—a fact novel to students of mediæval brachygraphy, and which, if developed, would soon raise a plentiful crop of mushroom claimants to lands and titles.

On all questions connected with the ancient Public Records of Ireland, there are two bodies pre-eminently qualified to pronounce authoritatively—the Royal Irish Academy and the Irish Archæological Society. The

language but English is ludicrous in the extreme. Of the second statement so authoritatively put forward by the “Commissioners” above quoted, it may be observed, that a single letter was not used to represent an uncommon word of even one syllable, without an indicative mark of the contraction. On this point an eminent English palæographer, T. D. Hardy, accurately says: “The most usual mode of abbreviating words is to retain some of the letters of which such words consist, and to substitute certain marks or symbols in place of those left out....Several symbols have positive and fixed significations.” The profoundly learned Benedictines also wrote that “dans les manuscrits la plupart des abbreviations anciennes sont marquées d’une ligne horizontale ou un peu courbé sur le mot abrégé; celles des diplomes sont indiquées par d’autres figures.” The modes of abbreviating used by the scribes from the eleventh to the fifteenth century have been systematized and classed as follow, with great care and labour, by the “Archivistes Paléographes” of France: par sigles; par contraction; par suspension; par signes abrégatifs; par petites lettres supérieures; et par lettres abréviatives.

Instead of presuming to enlighten the public on ancient documents of which they were totally ignorant, the “Chancery Commissioners” might, with advantage to their own reputation on the subject of records, have followed the advice given by an Irish Master of the Rolls to the foreman of a not very intelligent jury, who inquired how a bill was to be ignored: “If you wish to find a *true bill*,” said Curran, “you will just write on the back of it—*Ignoramus for self and fellows!*” Such a bill will certainly be found against these “Commissioners,” in the many parts, both of the Old and New World, where, thanks to the press, these lines shall meet the eyes of readers interested in new “Curiosities of Literature.”

former the recognized and chartered Governmental guardian of Irish history and antiquities;—the latter comprising in its governing body Irish Peers of the highest rank and known erudition, together with those eminent scholars whose profound and disinterested labours, during the past twenty years, have gained for the historic literature of Ireland a high position in the world of learning.

It was presumed that before commencing to print calendars of the Public Records of Ireland precautions would have been taken to ensure the creditable execution of so important a work; and we may here glance at the courses adopted under like circumstances in other countries. When William, King of the Netherlands, decided on the publication of the national muniments of the “Pays Bas,” he issued a special ordinance inviting all the learned men conversant with the subject to repair to his Court, to consult there upon the plans most desirable to be adopted for effectively carrying out the project. This ordinance, dated Brussels, 23rd December, 1826, gave the following gratifying and substantial assurance to “tous les Savans nationaux des Pays Bas:”

“Ils seront non seulement indemnisés de leurs travaux, mais ils recevront encore de Nous [Le Roy] des distinctions honorifiques ou toute autre récompense. Celui dont les vues après avoir été soumises à un examen spécial seront reconnues par Nous les meilleures, qui ayant d’ailleurs les capacités nécessaires, voudra se charger de la partie principale du travail, sera nommé par Nous, sur le pied à établir ultérieurement, Historiographe du Royaume.”—“Signé Guillaume.”

The course taken by M. Guizot, when a similar task in connection with the archives of France was entrusted to him, as Minister of Public Instruction, is exhibited by the following passages from the circular which he issued in 1834:

“Un comité central, a été institué près le Ministre de l'instruction publique, et chargé spécialement de diriger et de surveiller, sous ma présidence les détails d'une si vaste entreprise. *J'ai sollicité la co-opération de toutes les Académies et Sociétés savantes organisées dans les Départments; j'ai choisi enfin, parmi les personnes les plus capables de me seconder dans ces travaux sur tous les points du Royaume.*

“J'ai la ferme confiance,” added Guizot, appealing to the archivists of France, “que vous ne me refuserez point l'appui que je réclame de vous, et que bientôt, *grace au concours de tous les hommes qui s'intéressent au progrès des études historiques, nous parviendrons à élever un monument digne de la France et des lumières de l'époque actuelle.*”

In England, Sir John Romilly, following, to some extent, the course successfully pursued on the Continent, confided the carrying out of the details of his plans, for the most part, to scholars of known character, of whom it may suffice to mention here Sir Francis Palgrave, Thomas Duffus Hardy, and Robert Lemon, whose names afforded a guarantee to the public for the proper execution of the work, so far as English history was concerned.

Without, however, any previous communication with competent scholars, incredible as it may appear, the serious task of editing and giving to the world calendars of an important class of the ancient Public Records of Ireland has been entrusted to a clerk in one of the Dublin Law Courts, totally unknown in the world of letters, and who, as he himself avers, has so far performed the work at “intervals snatched from the labours of official duties !”*

* Preface to Calendar of Patent and Close Rolls, Vol. i. p. xlv.

The learned Gerard protested in the following terms against the employment of any but archæologists of acknowledged competence upon the historic documents of Belgium:

“Si le Gouvernement chargeait d'autres personnes que les membres de la classe d'histoire, de la rédaction de cet important ouvrage, il ne resterait à ceux-ci, déclarés incapables par ce seul fait, d'autre

The result may be readily conjectured. At great expense to the nation, two large volumes have already been printed, the character of which leaves no alternative but to lay before the public an analysis of their contents; and, by emphatically protesting against their being received as the work of a recognised Irish archivist, I hope to save the historic literature of Ireland from being seriously prejudiced in the eyes of the learned world.

With this object I shall proceed to demonstrate that the Prefaces to these two volumes, although purporting to be the result of lengthened original documentary researches, are, in the main, abstracted verbatim, without acknowledgment, from previously published works: that the portions of the Prefaces not so abstracted are replete with errors: that the annotations are of the same character with the Prefaces; that the Prefaces evince ignorance even of the nature of Patent and Close Rolls; that the Calendar, or body of the work, as here edited, is, in general, unsatisfactory, and defective for either historical or legal purposes; that the title-pages are incorrect, as the volumes do not include a single *Close Roll*; that, although now given to the world as an *original* work, portions of these Calendars were *before printed*, and the *entire* prepared for the press by the Irish Record Commission, more than thirty years ago.

I fully anticipate the incredulity with which the reader may at first receive the assertion, that, of the prefaces, occupying 129 pages of these two volumes, seven-eighths there given as the result of original labour and research,

ressource que de renoncer au titre d'Académicien, devenu ignominieux pour eux, et de regretter le temps qu'ils auraient jusqu'ici employé gratuitement et inutilement à l'étude de l'histoire Belgique." *Memoire par M. le Baron de Reiffenberg sur la publication des monumens inédits de l'histoire Belgique.*

have been abstracted verbatim, without the slightest acknowledgment, from previously printed books; and that the remainder is composed of partly admitted quotations and inaccurate original observations.

The chief writers whose labours have been thus appropriated, without any acknowledgment, are Henry J. Mason; William Lynch; Sir W. Betham; Mr. Lascelles; James Hardiman; J. C. Erck; and Mr. Gilbert, author of the History of the City of Dublin, all well known in connection with Anglo-Irish archivistic research.

To exhibit fully the almost incredible freedom with which these appropriations have been made, I shall place a few specimens in parallel columns, carefully selecting for this object only such portions as are now published in these prefaces as the original composition of the editor of the Calendars. The first illustration shall be from the "Essay on the Antiquity and Constitution of Parliaments in Ireland," by Henry Joseph Monck Mason, LL.D., Dublin: 1820.

H. J. MASON, A.D. 1820.

"The extent of territory, under the influence of English dominations, materially varied at different times, and of consequence, the extent of country represented in the Irish Parliaments holden by the respective English Viceroys, was not always the same; I will however venture to assert, and it is sufficient for the purpose to demonstrate, that representation in Irish Parliaments was at all times co-extensive, not merely with the English Pale, but with whatever portion of the Irish territory acknow-

CALENDAR, A.D. 1862.

"The extent of territory under the influence of English domination materially varied at different times; and, in consequence, the extent of country represented in the Irish parliaments, holden by the English Viceroys was not always the same. I may venture to presume, that representation in Irish parliaments was at all times co-extensive, not merely with the Pale, but with whatever portion of the Irish territory acknowledged a subjection to English dominion, and acquiesced in its

ledged a subjection to English dominion, and acquiesced in its legislation.... This however has been perversely denied, and Sir John Davies is tempted to assert, that the Parliament of 1613, was the first general representation of the people 'which was not, confined to the Pale.' The reasons which induced Sir John Davies to give this turn to his speech, was his inexcusable anxiety to flatter the vanity of James I, a prince exceedingly proud, and particularly vain of his government of Ireland. It afforded to him the greatest degree of gratification to be told that he was the father of a constitution in this country."—*Essay on Parliaments*, 1820, p. 22.

legislation. This, however, has been denied, and Sir John Davies is tempted to assert, that the Parliament of 1613 was the first general representation of the people, which was not 'confined to the Pale.' The reasons which induced Sir John Davies to rush at this conclusion was his anxiety to flatter the vanity of James I., a prince proud and vain of his government in Ireland. It afforded him the greatest degree of satisfaction to be told that he was the founder of a constitution in this country."—*Calendar*, Vol. ii. p. xxx.

To the foregoing may be added the following specimens of the uses made of other portions of Mr. Mason's work :

H. J. MASON, A.D. 1820.

"The Pale, which was in its commencement very indistinctly, if at all, defined, became in the 15th century to be at once better known as the English part of the Island, and more accurately marked; until at length, an act of Parliament was passed, (the 10, Hen. VII. c. 34), for making a ditch to enclose the four shires, to which the English dominion was, at this time, nearly confined."—*Ib. Appendix xi.*

"In the 18th of this prince, we find two viceroys of the King

CALENDAR, A.D. 1862.

"The Pale, which was in its commencement very indistinctly, if at all, defined, became in the fifteenth century better known as the English part of the island, and more accurately marked, until at length an Act of Parliament was passed (10° Henry VII., c. 34), for making a ditch to enclose the four shires to which the English dominion was at this time nearly confined."—*Vol. ii., p. xxxi-ii.*

"In the 18th of Edward IV., two viceroys of the king

actually contending for authority, the one holding a Parliament at Naas, the other at Drogheda, and the king giving his assent to some of the enactments of each. This appears from the Close Roll, 19, Edw. IV."—*Ib.* p. 25.

actually contended for authority: the one holding a parliament at Naas, the other at Drogheda, and the king giving his assent to some of the enactments of each. This appears from the Close Roll of the 19^o, Edward IV."—*Ibid* xlvi.

Among the writers who during the present century applied to the study of Anglo-Irish Records, the late William Lynch stood pre-eminent, for having combined profound erudition in this branch with refined and elegant philosophic criticism. Many of the best pages of the Prefaces to these Calendars have been, as may be seen from the following example, abstracted, without the slightest reference to Lynch, from his "View of the Legal Institutions, Hereditary Offices, and Feudal Baronies, established in Ireland during the reign of Henry II," London: 1830.

W. LYNCH, A.D. 1830.

"By letters patent under the great seal, and dated in 'full Parliament at Kilkenny,' the 11th of July, in the 19th year of his reign, King Edward certified (amongst other things) that at Easter 'in the 13th year of his reign, there were certain ordinances and statutes made in a Parliament held at Dublin.....to the honour of God and of Holy Church, the profit of his people, and the maintenance of his peace,' ...and that the statutes and ordinances so made and enacted..... were afterwards confirmed by a Parliament assembled at Kilkenny, all which ordinances and statutes

CALENDAR, A.D. 1862.

"By *letters patent* under the great seal, and dated in 'full Parliament at Kilkenny,' the 11th July, in the nineteenth year of his reign, King Edward certified that, at Easter, in the thirteenth year of his reign, there were certain ordinances made in a parliament held at Dublin, 'to the honour of God and of Holy Church, the profit of his people, and the maintenance of his peace;' and that the statutes and ordinances so made and enacted were afterwards confirmed by a parliament held at Kilkenny; all which ordinances, therefore, so made and ordained,

therefore so made and ordained, the king hereby now accepts and ratifies for himself and his heirs, and for ever confirms.

“At that period there existed no statute rolls; and whatever copies of ancient statutes still remain, are principally to be found amongst the records of the King’s courts, where such statutes were immediately sent for the guidance of the Judges and their officers; as also amongst the archives of the ecclesiastical and lay corporations; namely, to the former that they might be promulgated in the cathedral and parochial churches by the archbishops, &c., as is expressly commanded by the statutes 2d, Edw. II.; and to the latter that they should be read and published by mayors and other officers within their corporate liberties, as was directed in the instance of those very statutes now under consideration. For this latter purpose a record was made of the statutes of the 13th Edw. II, by exemplification under the great seal, dated the 15th of May in that year, whereby the King recited and exemplified those statutes, and sent them to the Mayor and Bailiffs of Dublin, commanding them to cause the same to be read, published, and firmly maintained throughout their bailiwick. This exemplification was first

the King now accepts and for ever confirms.”—*Vol. i, p. xlv.*

“At that period there existed no Statute Rolls, and whatever copies of ancient statutes still remain are principally to be found amongst the records of the law courts, where such statutes were immediately sent for guidance of the judges and their officers, as also amongst the archives of the ecclesiastical and lay corporations; to the former, that they might be promulgated in the cathedral and parochial churches, by the archbishops, as is commanded by the statute of 2° Edward II., and to the latter, that they should be read and published, by mayors and other officers within their corporate liberties, as was directed in the instance of those very statutes now under consideration. For this latter purpose a record was made of the statutes of the 13° Edward II., by exemplification under the great seal, whereby the king recited and exemplified those statutes, and sent them to the mayor and bailiffs of Dublin, commanding them to cause the same to be read, published and firmly maintained throughout their bailiwick.

“This exemplification was first, however, recorded in the

however entered in the Chief Remembrancer's office, amongst the other ancient statutes there preserved, and the record then made is still extant in that department."—*View of Legal Institutions*, 1830, p. 54.

Exchequer amongst the other ancient statutes there preserved."

—*Calendar*, Vol. ii., p. xlvi.

Numerous passages verbatim from the same work, as in the following instances, are given as original compositions in these "Prefaces," without any mention whatever of the source from which they have been derived:—

W. LYNCH, A.D. 1830.

"Chief Rememb. Roll, Dub. 9, E. 3. To this Parliament also, was summoned the Bishop of Emly, and he absenting himself was amerced in the same sum [of 100 marks]; but on his petition the cause of absence was enquired into by inquisition, and it was found that on the Vigil of the Nativity of our Lord next before the day of that Parliament, as the Bishop was riding towards the Church of Emly, his palfrey stumbled and threw him to the earth, whereby he was grievously wounded, and had three of the ribs on his right side fractured; in consequence, during the whole time of that Parliament, he lay so sick that his life was despaired of, and without peril of his body he could not approach the said Parliament; whereupon the King, having consideration of the Bishop's misfortune, and wishing to show him special grace, orders

CALENDAR, A.D. 1862.

"We find on the Memoranda Roll of the 9^o Edward III., that the Bishop of Emly was summoned to a parliament, and, absenting himself, was fined. On his petition, the cause of his absence was enquired into, and it was ascertained, by inquisition, that on the Vigil of the Nativity, as the Bishop was riding towards the church, his palfrey stumbled and threw him on the earth, whereby he was grievously wounded, and had three of his ribs fractured; in consequence, during the whole time of the parliament, he lay so sick that his life was despaired of, and without peril of his body he could not approach the parliament; whereupon the King, having consideration of the Bishop's misfortune, and wishing to show him special grace, ordered him to be exonerated and discharged from the fine."—*Vol. ii., Preface*, p. xlvi.

him to be exonerated and discharged from the fine."—p. 57.

"In the year 1351 a Parliament sat at Dublin, and several Statutes were there enacted.... Those statutes are enrolled, though like many others, they never have been published. By one of them the *English* Statute for regulating the fee of the Marshal is adopted and ordered to be followed in Ireland; and by another the *English* statute of labourers is accepted, and the same ordered to be sent by writ to each sheriff, seneschal, mayor, &c., for the purpose of being proclaimed and put in force."—*Ib.* p. 59.

"In the Primate's registry at Armagh, are entered two writs of parliamentary summons issued in the 36th and 41st year of this reign."—p. 60.

"In the year 1351 a Parliament sat at Dublin, and several Statutes were there enacted. Those Statutes are enrolled, though, like many others, they have never been published.

"By one the English Statute of Labourers is accepted, and the same ordered to be sent by writ to each sheriff, seneschal, and mayor, for the purpose of being proclaimed."—*Ib.*, *ib.*

"Two writs of Parliamentary Summons, issued in the thirty-sixth and forty-first years of the reign of Edward III., are now in the Primate's Registry in Armagh."—*Ib.*, *ib.* p. xlvi.

A volume entitled "*Dignities, Feudal and Parliamentary*," published at Dublin, in 1830, by the late Sir William Betham, has been largely used to fill these Prefaces, which however contain no reference either to this work or to its author; and various pages in the following style are given to the world as new original composition:

BETHAM, A.D. 1830.

"Matthew Paris states, that 'Henry the Second granted the laws of England to the people of Ireland, which were joyfully received by them all, and confirmed by the king, having first

CALENDAR, A.D. 1862.

"Matthew Paris states, that 'Henry the Second granted the laws of England to the people of Ireland, which were joyfully received by them all, and confirmed by the King, having first

received their oaths for their observation of them.' It is probable that this was a grant to *all the Irish who chose to adopt it*; but as O'Connor, King of Connaught, O'Neill, King of Kinelowen, or Tyrone, O'Donel of Tyrconnell, and other Irish chiefs, became but vassal princes, 'reges sub eo ut homines sui,' paying to the English sovereign annual tribute in acknowledgment of his sovereignty, it is not probable that they would or could immediately change the laws and customs of their territories, *per saltum*; and we find that by a writ of 6 John, no one was to be impleaded for the chattels or even *the life*, of an Irishman, *until after Michaelmas term in that year*; therefore, if the boon was general, it must then have been considered forfeited by the frequent attempts made by the native Irish, to shake off the English yoke, after Henry's return to England. The writ of the 6th of John, however, seems to imply, that after fifteen days of Michaelmas, 1205, the benefits of the laws extended to all the Irish, as well as the English, although in the reigns of Henry the Third and his successors, the records show that *all the Irish* had not, during those periods, the benefit of the laws of England."—*Dignities, Feudal, &c.* 1830, p. 228-9.

received their oaths for their observation of them.' It is probable this was a grant to all the Irish who chose to adopt it; but as O'Connor King of Connaught, O'Neill, King of Kinelowen, or Tyrone, O'Donell, of Tyrconnell, and other Irish chiefs, became but vassal princes, 'reges sub eo ut homines sui,' paying to the English sovereign annual tribute in acknowledgment of his sovereignty, it is not probable that they would immediately change the laws or customs of their territories; and we find by a writ of the 6° of King John, that no one was to be impleaded for the chattels, or even the life of an Irishman, until after Michaelmas term in that year; therefore, if the boon was general, it must then have been considered forfeited by the frequent attempts made by the native Irish to shake off the English yoke after Henry's return to England. The writ of the 6° of John, however, seems to imply, that after Michaelmas, 1205, the benefit of the laws extended to all the Irish as well as the English, although in the reigns of Henry III. and his successors, the records show that the Irish had not, during those periods, the benefit of the laws of England."—*Calendar, Vol. ii, lii.*

A further view of the sources whence the best portions of these Prefaces have been derived, is afforded by the fol-

lowing, also verbatim, from the same work of Sir W. Betham, without the slightest acknowledgment, and printed as original in the Calendars :

BETHAM, A.D. 1830.

“The earliest mention of a parliament by name, on the records of Ireland, is on the great Roll of the Pipe, of 10 to 12 Edward I....

“In the 13th year of Edward I. the following memorandum is enrolled in the Red Book of the Exchequer of Ireland, and is also to be found on the Close Roll of the same year, Claus. 13, Edw. I, m. 5, dorso. The first are declared to be statutes enacted by the king and his council, the latter enacted in the king’s parliament, *id est*, the king’s court of justice, which were transmitted to Ireland, to be there observed as the law, although parliaments, or assemblies called parliaments, were held previously in that country.

“An entry in the Black Book of the Church of the Holy Trinity, Dublin, of the year 1297, the 26th of king Edward the First, [is] of the first importance in showing the component parts of the parliament held in Dublin in that year.”—*pp.* 258, 9, 61.

“The legal institutions of Ireland were avowedly formed on the English model; in other words, the *English laws* and customs were introduced into Ire-

CALENDAR, A.D. 1862.

“The earliest mention of a Parliament, by name, in the records of Ireland, is to be found in the great Roll of the Pipe, of 10° to 12° Edward I.

“In the Red Book of the Exchequer, and on the Close Roll of the 13° Edward I, is the following memorandum:—‘*Quod die Veneris, &c.* Rot Claus, 13 Ed. I, m. 5. The first are declared to be Statutes enacted by the King and his Council; the latter enacted in the King’s Parliament, *id est*, the King’s Court of Justice, which were transmitted to Ireland, to be observed there as the law, although Parliaments, or assemblies called Parliaments, were held previously in that country.

“In the Black Book of Christ’s Church, of the 26th of Edward I, 1297, we find described the component parts of the Parliament held in Dublin in that year.”—*Vol.* ii. p. liii.

“The legal institutions of Ireland were avowedly formed on the English model,—in other words, the English laws and customs were introduced into Ire-

land, with the English rule. The judges, in both countries, have ever laid it down, as an acknowledged and settled dictum, that a perfect identity of the common laws and legal customs of England has existed in all ages, among the Anglo-Irish, and those Irish who resided within the English Pale and were lieges of the king."—p. 225.

"Phillip le Bret, sheriff of Dublin, was allowed in his account twenty shillings, which he paid to various messengers employed to summon a parliament."—*Dignities Feudal, &c.*, 1830, p. 290.

"In the Rolls Office, Dublin, is a membrane containing three statutes of the parliament held at York, 9, Edward III, transmitted *for observation* in Ireland," *Ibid*, p. 292.

The following appropriation of the ideas and facts of Mr. Lascelles, editor of the "*Liber Munerum Publicorum Hiberniæ*," without any reference to that gentleman or to his work, may perhaps be justified by a reasoning similar to that used in the "*Critic*," by "Puff," who, on being reminded that he had stolen the entire of a famous passage from "*Othello*," declared it to be of "no consequence;" and added that "all that can be said is, that two people happened to hit on the same thought—and Shakespeare made use of it first—that's all:"

LIBER MUNERUM, A.D. 1830.

"But the principal occasion of the disappearance of the re-

land with the English rule. The judges, in both countries, have ever laid it down as an acknowledged and settled dictum, that a perfect identity of the common laws and legal customs of England has existed in all ages among the Anglo-Irish, and those Irish who resided within the Pale, and were lieges of the king."—*Ibid*. p. lii.

"Phillip De Bret, Sheriff of Dublin, was allowed in his account twenty shillings, which he had paid various messengers employed to summon a parliament to meet at Dublin, in Hilary term, 2^o Edward III."—*Calendar, Vol. ii.*, p. xlv.

"In the Rolls Office is a membrane containing three statutes of the parliament held at York, 9^o Edward III, transmitted *for observation* in Ireland."—*Ibid*, xlv.

CALENDAR, A.D. 1862.

"But the principal occasion of the disappearance of the re-

records is not without its consolation ; for it affords hope that all which are regretted are not irrevocably lost. It is this (and Prynne in his preface to Cotton's Tower Records has some curious observations on a similar practice, which from time to time prevailed too much even in England):—The principal keepers of records have been often or commonly men of high office, or of great family and other influence. The Seymour family, the Leinster, the Downshire, the Orrery, &c., &c. have filled the offices of masters of the rolls of chancery, or of principal officer over that or some other record-treasury. In that office it was not unusual for a roll to be often sent for to their private houses, where they but too often have remained. The late Primate of Ireland told me he had it from Lord Hertford, that there were in his private-evidence room certain records of Chancery. Probably similar discoveries might be made in the evidence rooms of the other great families who have held office particularly in that of the Marquis of Ormond.”—*Vol. i. p. 2. col. 2.*

“We may hence account for the wealth of the Chandos Papers, and those in the possession, 100 years ago, of Sterne, the then Bishop of Clogher, so often mentioned in Bishop Nicholson's

records is not without its consolation, for it affords hope that all whose disappearance is regretted are not irrecoverably lost ; it is this (and Prynne, in his preface to Cotton's Tower Records has some curious observations on a similar practice, which from time to time prevailed to a great extent, even in England), it was not unusual for a Roll or record to be sent for to the private house of the Master or principal Keeper of Records, where it but too often remained.

“It is very well known that in the private muniment-room of the late Lord Hertford, ‘certain records of Chancery’ were preserved.

“Similar discoveries might be made in the muniment-rooms of the other great families who have held office, particularly in that of the Marquis of Ormond.” *Calendar, Vol. ii. p. viii.*

“We may thus account for the wealth of the Chandos Papers, and those in possession, more than a century since, of Sterne, then Bishop of Clogher, so often mentioned in Nichol-

historical library. Of these, Madden and Sterne's collections were given to the college of T. C. D. where they may still be seen. And hence we may account for the Carew Papers at Lambeth, and many MSS. in the Cottonian, Harleian, and Lansdown collections of State Papers at the Museum; not to mention those at Oxford, brought there during the civil wars, when Charles I. carried on the government, and held Parliaments, in that city. Lord Orrery's library at Christ Church, Oxford, should contain some valuable manuscripts and records."—*Ib.* p. 3, col. i.

son's Historical Library. Of these, Madden and Sterne's collections were given to the College of T. C. D., where they now remain: and hence we may account for the Carew MS. [*sic*] at Lambeth, and those at Oxford, brought there during the civil wars, when Charles the First carried on the government, and held Parliaments in that city, and those contained in Lord Orrery's Library at Christ Church."—*Calendar*, Vol. i. p. xii.

The late James Hardiman justly deserved to be styled the founder of the modern accurate school of Anglo-Irish documentary learning. Of his acquirements as an historian and archivist a lasting monument is extant in his admirable edition of the famous "Statute of Kilkenny," the original French text of which with an English version, copious notes and illustrative documents was published under his care in 1843, by the Irish Archæological Society with the following title: "A Statute of the fortieth year of King Edward III. enacted in a parliament held in Kilkenny, A. D. 1367, before Lionel, Duke of Clarence, Lord Lieutenant of Ireland, now first printed from a manuscript in the library of his Grace the Archbishop of Canterbury, at Lambeth." Of the portions of this work transferred verbatim into the Prefaces to the "Calendars," without any mention of Hardiman, the following may serve as examples:

HARDIMAN, A.D. 1843.

“In an old book of reference, A.D. 1634, preserved in the Rolls’ Office, Dublin, I find the following entry: ‘Rotul, 13° Ed. III. A Parliament roll in My Lo. Prymate’s hands.’ If he returned this roll, it has been since lost, for it is not at present to be found there. From this entry, however, it may be inferred, that other rolls might have been likewise borrowed; and perhaps, among them, that containing the original inrolment of the Statute of Kilkenny.

“For in a treatise ‘Of the first Establishment of English Laws, and Parliaments in the Kingdom of Ireland, October 11th, 1611, written by James Ussher, afterwards Archbishop of Armagh,’ it is stated, that ‘The Acts of the Parliament holden at Kilkenny, the first Thursday in Lent, 40th Edw. III., are to be seen among the Rolls of Chancery, and are commonly known by the name of the Statutes of Kilkenny.’”—page xix.

“Amongst the numerous Irish records lost by time and accident, the Statute of Kilkenny has also disappeared; for the oldest Statute Roll now extant, is one of the fifth year of Henry VI., A.D. 1426. Bishop Nicholson, in his Irish Historical Library, states, that ‘the Statute of Kilkenny is, and long has been, lost out of the Parliamentary

[CALENDAR, A.D. 1862.

“In an old book of reference of the date of Charles I., preserved in the Rolls’ Office, it is stated that a Parliament Roll of the 13° of Edward the Third, was in the Lord Primate’s hands. This Roll is not now to be found. From this we may presume that other records have been abstracted.

“We read in Archbishop Usher’s treatise of the first establishment of English laws and Parliaments in Ireland, that the ‘Acts of the Parliament holden at Kilkenny, the first Thursday in Lent, 40° Edward III, are to be found among the Rolls of Chancery, and are commonly known as the ‘Statutes of Kilkenny.’”—*Vol. ii. Preface, p. ix.*

“Amongst the numerous records lost by time and accident the latter Statutes have also disappeared; for the oldest Statute Roll now to be found is one of the 5th of Henry VI., A.D. 1426; and Bishop Nicholson, in his ‘Historical Library,’ states ‘that this Statute has long been lost out of the Parliamentary records of the kingdom.’

Records of this Kingdom;’ and it does not satisfactorily appear, that it has been seen by any writer on Irish affairs since the days of Ussher, Davies and Ware. Mr. Plowden, one of our latest historians, has stated, that in his time it was ‘preserved in the Castle of Dublin.’ But this was mere conjecture, which the writer from personal research can negative. After diligent search, however, they have not been found in the place alluded to, or in any other repository in Ireland.

“See Serjeant Mayart’s answer to Sir Richard Bolton’s Declaration, in *Hibernica*, where it is stated, that many of the ancient records of Ireland, in troublesome times, were transmitted into England; and those which remained in Ireland were put up together in one place, in the times of rebellion; and after taken out by the officers of the several courts, but not duly sorted.”—*Hardiman*, pages xviii, xix.

“Plowden states that in his time it was ‘preserved in the Castle of Dublin;’ but it is not now to be found amongst the records of that depository.

“Serjeant Mayart states that ‘many of the ancient records of Ireland, in troublesome times, were transmitted to England; and those which remained in Ireland were put together in one place in times of rebellion, and after taken out by the officers of the several courts, but not duly sorted.’”—*Calendar*, Vol. ii, p. ix.

Another extract from the same work of Hardiman will illustrate how the *original* observations and conclusions in these “Prefaces” have been derived. In the following instance the point was not seen of the italics by which the acute Hardiman indicated that Bishop Nicholson seriously erred in designating Sir George Carew the *writer* instead of the collector of the “Carew Manuscripts;” and also in ascribing to him the authorship of the work entitled “*Pacata Hibernia*;” a history of the wars which he carried

on in Munster against the Irish during the closing years of the reign of Elizabeth :

HARDIMAN, A.D. 1843.

"This passage written nearly 200 years ago, by [Serjeant Mayart] one of the highest legal authorities of the time, is valuable as regards the records of this Country. In it we discover the reason, why several records relating to Ireland, are now to be found in London, viz. in the Tower, the Chapter-house at Westminster and other repositories there ; in all which places they are totally useless.....

"Though useless there they might prove useful at home, if only for historical purposes; and, therefore, and as they belong to Ireland, they ought to be restored.

"The Irish charge Sir George Carew with having taken away and destroyed many of their ancient records. His *collection* in the Lambeth Library has been thus strangely described by Bishop Nicholson. 'This great and learned Nobleman wrote other books (besides *Pacata Hib.*) relating to the affairs of Ireland ; *forty-two volumes whereof*, are in the Archbishop of Canterbury's Library at Lambeth.'"—*Statute of Kilkenny*, 1843, p. xix.

Of Irish historical works produced within the last ten years, none can be pointed out as exhibiting a larger amount of original research among unpublished ancient Anglo-Irish legal records than the volumes of Mr.

CALENDAR, A.D. 1862.

"Thus we know that numerous records relating to Ireland are now to be found in various repositories in London, where they are totally useless.

"Those records, though useless in London, would prove useful at home, if only for historical purposes; and, as they belong to Ireland, they ought to be restored."—*Vol. 2, p. 9.*

"Sir George Carew has been charged with having taken away and destroyed some of the ancient Irish records, and his collection in the Lambeth Library is thus described by Nicholson : 'This great Nobleman wrote other books besides the '*Pacata Hibernia*,' relating to the affairs of Ireland, forty-two volumes whereof are in the Archbishop's library at Lambeth.'"—*Vol. ii. p. x.*

Gilbert upon the History of the City of Dublin, the value of which was publicly recognized by the Royal Irish Academy awarding their prize gold medal to the author.* Of the unacknowledged use made in the Prefaces to the Calendars of this gentleman's labours some instances are subjoined :

GILBERT, A.D. 1854.

“An illustration of the existence of serfdom in Ireland at the commencement of the fourteenth century is furnished by a proceeding recorded on a Memorandum Roll of the 31st year of Edward I, from which it appears that the prior of the Convent of the Holy Trinity, Dublin, claimed William Mac Kilkeran as his serf ('nativum suum'), alleging that Friar William de Grane, a former Prior was seized of Moriortagh MacGilkeran, his great grandfather, as of fee, and in right of his church, in the time of peace, during the reign of Henry III, taking *Marchet*, such as giving his sons and daughters in marriage; that Moriortagh had a son Dermot, who had a son named Ririth, who also had a son Ririth, and said William; and Ririth junior had Simon, who acknowledged himself to be the serf of the Prior, in whose favor judgment was accordingly given.”

—*Hist. of Dublin*, Vol. i, pp. 103-4

“The Manuscripts which Sir James Ware had collected with

CALENDAR, A.D. 1862.

“Proceedings by the ancient writ *de nativis* are to be found on our Rolls: thus, the Prior of Christ Church, Dublin, brought his writ against one William, whom he claimed to be his *native* or *villein*; and he pleaded that his predecessor was seized of this William's great grandfather, as of fee, in right of his church, and by taking *merchate* (*merichetum*) on the marriage of his sons and daughters and *tabliages* by high and low, at his will, and other *villenous services*: the defendant pleaded, with considerable specialty, but judgment was pronounced for the Prior.”—*Calendar*, Vol. ii, xli.

“The Manuscripts which Sir James Ware (author of the

* See the Address delivered by the President of the Royal Irish Academy, Dublin, 16 March, 1862; Proceedings of the R. I. Academy, Vol. viii, pp. 101-104.

great trouble and expense were brought to England by Lord Clarendon in the reign of James II., and afterwards sold to the Duke of Chandos, who was vainly solicited by Swift in 1734 to restore them to Ireland. On the Duke's death the documents passed to Dean Milles, who bequeathed them to the British Museum, where they now form the principal portion of the collection known as the Clarendon Manuscripts."—*ib.* p. 5.

"In 1695, after the Williamite Legislature had passed an enactment annulling all the proceedings of the Irish Parliament of James II, the Lord Deputy, Henry Lord Capel, and the Privy Council assembled in the Council Chamber on the 2nd of October, and the Act having been read, the Clerk of the Crown, the Clerk of the House of Lords, the Deputy Clerk of the House of Commons, and the Deputy Clerk of the Rolls, who attended by order, brought in all the records, rolls, journals, and other papers in their custody relating to the Jacobite acts. The door of the Council Chamber was then set open, and the Lord Mayor, Aldermen, Sheriffs, and Commons of the City of Dublin, with many other persons, being present, the records, journals and other papers were publicly cancelled and burnt.

'Annals of Ireland') had collected with great trouble and expense, were brought to England by Lord Clarendon in the reign of James II., and afterwards sold to the Duke of Chandos. On the Duke's death the documents passed to Dean Milles who bequeathed them to the British Museum, where they now form the principal portion of the collection known as the 'Clarendon Manuscripts.'—*Calendar, Vol. i, xviii.*

"In 1697, after the Legislature had passed an enactment annulling all the proceedings of the Irish Parliament of James II; the Lord Deputy, Henry Lord Capel, and the Privy Council, assembled in the Council Chamber on the 2nd October, and the Act having been read, the Clerk of the Crown and the Deputy Keeper of the Rolls, who attended by order, brought in all the records, rolls, journals, and other papers in their custody relating to the Acts of James the Second. The door of the Council Chamber was then set open, and the Lord Mayor, Aldermen, Sheriffs, and Commons of the City of Dublin, with many other persons, being present, the records, journals, and other papers were publicly cancelled and burned."—*Calendar, Vol. i, p. xvii.*

“Government continued to use the Council Chamber in Essex Street, till it was destroyed in 1711 by an accidental fire, which consumed many of the Privy Council Books, the Strafford and Grosse Surveys of Ireland, a large portion of the Down Survey, with a mass of other valuable documents deposited in the Office of the Surveyor-General, which, as already noticed, was located in this building.”—*Hist. of Dublin*, Vol. ii, p. 150.

“In the year 1711, a number of the volumes of the Maps of the Down Survey, taken by Sir William Petty, in the years 1655 and 1656, by order of Government, were totally destroyed by a fire which took place in a house in Essex-street, where the Surveyor-General’s office was then kept.”—*Calendar*, Vol. i., xviii.

In the wholesale transfer of these passages the correction of the date from 1697 to 1695, in the errata to Mr. Gilbert’s second volume, was apparently overlooked, and thus the Calendar represents Lord Capel, who died in May 1696, to have appeared publicly at Dublin, in October, 1697—seventeen months after his decease!

The French writers of the latter part of the seventeenth century unanimously agreed to regard the works of the ancients as legitimate prey, but at the same time they declared stealing from a contemporary to be a disreputable offence:

“Prendre des Anciens et faire son profit de ce qu’ils ont écrit,” wrote Le Vayer, “c’est comme pirater au delà de la ligne; mais voler ceux de son siècle, en s’appropriant leurs pensées et leur productions, c’est tirer la laine aux coins des rues, c’est ôter les manteaux sur le Pont Neuf!”

The Prefaces to these Calendars, however, exhibit a remarkable impartiality in the wholesale appropriation of the labours of both ancients and moderns. Of the abstractions from old writers we have an illustration in the following, put forward as entirely original, and without any mention of the work by Sir John Davies, entitled, “A

Discoverie of the true causes why Ireland was never entirely subdued" till the reign of James I. first published at London, in 1612, and frequently reprinted :

DAVIES, A. D. 1612.

"That the meere Irish were reputed *Aliens* appeareth by sundrie records; wherein iudgement is demanded, if they shall be answered in Actions brought by them: and likewise, by the Charters of Denization, which in all ages were purchased by them.

"In the common plea Rolles of 28 Edward the third (which are yet preserved in Breminghams Tower) this case is adiudged. *Simon Neal* brought an action of trespassed against William Newlagh for breaking his Close in *Clandalkin*, in the County of *Dublin*; the Defendant doth plead, that the plaintiff is *Hibernicus & non de Quinque sanguinibus*; and demandeth iudgement, if he shall be answered. The Plaintiffe replieth; *Quod ipse est de quinque sanguinibus (viz.) De les Oneiles de Vlton, qui per Concessionem progenitorum Domini Regis; Libertatibus Anglicis gaudere debent & utuntur & pro liberis hominibus reputantur.* The Defendant reioyneth that the Plaintiffe is not of the Oneales of *Vlster*, *Nec de quinque sanguinibus*. And thereupon they are at yssue. Which being found for the Plaintiffe, he had iudgement

CALENDAR, A. D. 1862.

"That the mere Irish were reputed *aliens*, appears by several records and charters of denization.

"On the Plea Roll of the 28^o Edward III, we find the following interesting record. *Simon Neal* brought an action of trespass against *William Newlagh* for breaking his close at *Clondalkin*; the defendant pleaded that the plaintiff 'est *Hibernicus et non de quinque sanguinibus*', and prayed judgment. The plaintiff replied, *quod ipse est de quinque sanguinibus, viz., de les O'Neiles de Ulton (Ulster), qui per concessionem progenitorum Domini Regis, libertatibus Anglicis gaudere debent et utuntur, et pro liberis hominibus reputantur.*

"The defendant rejoined that the plaintiff is not of the *O'Neils* of *Ulster*, — *nec de quinque sanguinibus*; issue was joined, which, being found for the plaintiff, he had judgment to recover his damages.

to recouer him damages against the Defendant.

“By this record it appeareth that five principal blouds, or Septs, of the Irishry, were by speciall grace enfranchised and enabled to take benefit of the Lawes of England; And that the Nation of the *O'Neales* in Ulster, was one of the five.

“And in the like case, 3 of *Edward* the second, among the Plea Rolles in Bretingham's Tower: All the 5 Septs or blouds, Qui gaudeant lege Anglicana quoad breuia portanda, are expressed, namely; Oneil de Ultonia; O'Melaghlin de Midia; O'Connogher de Connacia; O'Brien de Thotmonia; and Mac Morrogh de Lagenia.”—*Discoverie why Ireland was never entirely subdued*, 4to. 1612, p. 102-4.

It might have been supposed that the “Calendars” should bring to light information new and interesting on the Rolls which form the subject of the work; the reader will, however, be disappointed to find that all the pages of the Preface to the first volume (xxx to xxxv) which purport to be original descriptions of the Irish Records, have been taken entirely, in the following mode, from a printed Report addressed by George Hatchell, Clerk of enrolments, to Robert Wogan, Deputy Keeper of the Rolls, and dated Rolls Office, Dublin, 6th March, 1843; but in these volumes we find not even a remote reference to Mr. Hatchell's Report:

HATCHELL, A.D. 1843.

“The Patent Rolls of Chancery commence in the reign of

“By this record it appears that five principal bloods or septs of the Irish were by special grace enfranchised and enabled to take the benefit of the English Laws, and that the nation of the O'Neils was one of the five.

“On the Plea Roll of the 3^o of Edward II, all the septs or bloods, ‘qui gaudeant lege Anglicana quoad breuia portanda, are expressed; namely, O'Neil de Ultonia, &c. O'Melaghlin de Midia, O'Connogher de Connacia, O'Brien de Thotmonia, and Mac Murrogh de Lagenia.”
Calendar, Vol. ii. p. xxxix.

CALENDAR, A.D. 1861.

“The Patent Rolls of Chancery commence in the reign of

Edward I., and are continued down to the present time. Upon these Rolls are contained the enrolments of grants in fee or perpetuity for lives and years ; of Crown lands, Abbey lands, and escheated lands ; patents of creations of honour ; grants of Charters of incorporation and liberties ; grants of offices, denizations, ferries, and fisheries ; patents for inventions, and specifications thereof ; licences, and pardons of alienation ; presentations ; promotions to bishoprics and deaneries ; special licences ; grants of wardship ; commissions ; inquisitions *post mortem* and on attainder ; orders of Council ; depositions of witnesses *in perpetuam res memoriam* ; deeds ; conveyances ; grants in *custodiam* ; grants of manors and all their appurtenances, and of fairs and markets ; surrenders of lands and offices to the Crown ; summonses to Parliament ; bonds ; obligations ; replevins ; pardons ; letters of attorney ; licences for officers to treat with the Irish ; treaties ; Popes' bulls ; proclamations ; letters of protection ; writs of *amoveas manus*, of possessions taken by the Crown ; writs of *ouster le main* ; deeds and conveyances ; King's letters ; wills ; orders of Council ; &c."—*Hatchell's Report*, p. 1.

“The Parliament Rolls, comprising both the public and private Statutes passed in the Irish

Edward I., and are continued down to the present time. Upon these Rolls are contained the enrolments of grants in fee or perpetuity, for lives and years ; of Crown lands, Abbey lands, and escheated lands, patents of creations of honour ; grants of Charters of incorporation and liberties ; grants of offices, denizations, ferries, and fisheries ; patents for inventions, and specifications ; licences and pardons of alienations ; presentations ; promotions to bishoprics and deaneries ; special licences ; grants of wardships ; commissions ; inquisitions *post mortem* and on attainder ; orders of Council ; depositions of witness [*sic*] in *perpetuam rei memoriam* ; deeds ; conveyances, grants in *custodiam* ; grants of Manors and all their appurtenances, and of fairs and markets ; surrenders of lands and offices to the Crown ; summonses to Parliament ; bonds ; obligations ; replevins ; pardons ; letters of attorney ; licences for officers to treat with the Irish ; treaties ; Papal bulls ; proclamations ; letters of protection ; writs of *amoveas manus* of possessions taken by the Crown ; writs of *ouster le main* ; deeds and conveyances ; King's letters ; wills ; &c."—*Calendar*, Vol. i, p. xxx.

“The Statute Rolls, comprising both the public and private Statutes passed in the

Parliament, commence in the reign of Hen. VI. They include the reigns of Hen. VI., Ed. IV., Ric. III., Hen. VII., Hen. VIII., Philip and Mary, Eliz., and James I., and comprise forty-five Rolls. They are without any calendar or index to the II^o, James I.

“From this period to 1715, the public and private Acts being promiscuously enrolled together on the same series of Rolls, an imperfect Calendar was at that time made, of both kinds of Acts; but from 1715 to 1800, inclusive, when our Parliament ceased, the private Acts being enrolled separately, there was a regular catalogue and index made to those private Acts (but to the entire exclusion of all the public Acts), which is in good order.

“The Statute Rolls, prior to 10^o, Hen. VII., are all in Norman French, and as there are printed Statutes long prior to the oldest Parliamentary Roll appearing here, some of the more ancient of those Rolls must have been lost.”—*Hatchell's Report*, 1843, p. 2.

From the above cited Report of Mr. Hatchell have been appropriated in like manner all the descriptions, given in the “Preface” to the first volume of the Calendar, of the Pipe, Memoranda, Recognizance, Cromwellian, Convert, Roman Catholic, and Palatine Rolls, Letters of Guardianship, Fiant, Inquisitions, &c.

Irish Parliament, commence in the reign of Henry VI. They include the reigns of Henry VI., Edward IV., Richard III., Henry VII., Henry VIII., Philip and Mary, Elizabeth, and James I., and comprise forty-five Rolls. They are without any calendar or index to the II^o, James I.

“From this period to 1715, the public and private Acts being promiscuously enrolled together on the same series of Rolls, an imperfect Calendar was at that time made, of both kinds of Acts; but from 1715 to 1800, inclusive, when our Parliament ceased, the private Acts being enrolled separately, there was a regular catalogue and index made to those private Acts (but to the entire exclusion of all the public Acts), which is in good order.

“The Statute Rolls, prior to 10^o, Henry VII., are all in Norman French, the then legal as well as general language of the Court; and as there are printed Statutes long prior to the oldest Parliamentary Roll appearing here, some of the more ancient of those Rolls must have been lost.”—*Calendar*, Vol. i, p. xxxi.

The mode adopted in these "Prefaces" to supply from others the total deficiency of original research, even among the Rolls which form the subject of the Calendars, is further illustrated in the following entirely unacknowledged appropriation from Mr. Lascelles' introduction to the "*Liber Munerum Publicorum Hiberniæ*:"

LASCELLES, A.D. 1830.

"In the Irish repositories the wonder is, that so many records are extant, and in such preservation. It is not that there are so few, but that there are any at all. Of the Rolls of Parliament, none such are now extant in Ireland, if any ever existed; what in the returns are called Parliament rolls, are in fact Statute rolls. Of these, with the exception of one membrane containing the exemplification of three Statutes enacted at York 3, Edw. III., all the Statute rolls of Ireland are missing, down to the 5th of Hen. VI. Of the reign of Hen. VII. there are but three Statute rolls; viz. for the 8th, 10th, and 24th years; but four, viz., of the 7th, 25th, 28th, and 33rd of Hen. VIII.; of Philip and Mary but one Statute roll, viz. of the 3rd and 4th, Phil. and Mary; Of Elizabeth but three, viz. of the 7th, 11th, 27th and 28th; Of James I. but one Statute roll, viz. of the 1st of the reign; Of Charles I., but five, viz. one of the 10th, and 16th, and three of the 15th year of the reign; of Charles

CALENDAR, A.D. 1862.

"The wonder is, that in the Irish repositories so many records are extant, and in such preservation: none of the Rolls of Parliament are now to be found in Ireland, if ever any existed; what we have been accustomed to call Parliament Rolls are in fact Statute Rolls. Of these, with the exception of one membrane, containing the exemplification of three statutes enacted at York, in the third of Edward III., all the Statute Rolls of Ireland are missing down to the 5th of Henry VI. Of the reign of Henry VII. there are but three Statute Rolls, viz., for the 8th, 10th, and 24th years; but four, viz., of the 7°, 25°, 28°, 33°, of Henry VIII. Of Philip and Mary, but one Statute Roll, viz., of the 3rd, and 4th; of Elizabeth, but three, viz., of the 7th, 11th, 27th, 28th; of James I., but one Statute Roll, viz., of the 6th of his reign; of Charles I., but five, viz., one of the 10th and 16th, and three of the 15th year of his reign; Of Charles II., but seven, from the 13th to the 18th of that reign. But this is

II., but seven, from the 13th to the 18th of that reign, (1660-1666). But this is accounted for, as no Parliament sat in Ireland after the year 1666, until the 4th of William and Mary: Of which year only there remains any Statute roll, viz. one of the 4th; of William, only four, viz. one of the 7th and three of the 9th. After which the Statute rolls are in regular series....Of Edward I. but three patent rolls are extant, viz. one of the 1st and two of the 31st of the reign; that is, the rolls of 32 entire years are missing. Of Edw. II. the Patent rolls are missing of the 1st, 6th, 7th, 8th, 12th, 15th, 16th, 17th, and 19th years of the reign. Of Edw. III. are missing the Patent rolls for the first seven years of the reign; also of the 10th, 12th, 13th, 14th, 15th, 16th; from the 21st to the 25th, both inclusively; of the 27th, 28th, and 31st; all the rolls from the 34th to the 41st, both inclusively; also of the 43rd, 44th, 45th, 47th, 50th: in all 34 years are missing of this reign. Of Ric. II. there is no Patent roll extant of the 3rd, 4th, 6th, 7th, 11th, 14th, and 17th years, nor any of the four last years of the reign: in all 11 years. Half of his reign are missing. Of Hen. VI. are missing the Patent rolls for the 6th, 7th, 8th, from the 15th to the 24th both inclusively; the 26th, 27th: in all

accounted for, as no Parliament assembled in Ireland, after the year 1666 until the fourth of William and Mary, of which year there remains only one Statute Roll; of William, only four, viz., one of the 7th and three of the 9th year; after which the Statute Rolls are in regular series. Of Edward I. but three Patent Rolls are extant, viz., one of the 1st and two of the 31st of the reign; that is, the rolls of thirty-two years are missing. Of Edward II. the Patent Rolls are missing of the 1st, 6th, 7th, 8th, 12th, 15th, 16th, 17th, and 19th years of the reign. Of Edward III. the Patent rolls are missing for the first seven years of the reign; also of the 10th, 12th, 13th, 14th, 15th, 16th; from the 21st to the 25th, both inclusive; of the 27th, 28th, and 31st; all the rolls from the 34th to the 41st, both inclusive; also of the 43rd, 44th, 45th, 47th and 50th; in all thirty-four years, are missing of this reign. Of Richard II. there is no Patent Roll extant of the 3rd, 4th, 6th, 7th, 11th, 14th, and 17th years, nor any of the last four years of the reign; in all eleven years. Of Henry VI, the Patent Rolls are missing of the 6th, 7th, 8th, from the 15th to the 24th, both inclusive; the 26th, 27th; in all for seventeen years. Of Edward IV., who reigned twenty-three years, there are extant Patent Rolls of the 1st,

or 17 years; that is, for more than half of the reign. Of Edw. IV. who reigned 23 years, there are extant Patent rolls of the 1st, 7th, 15th, 16th, 21st, 22nd only; that is, the rolls of 17 years, are missing.

"Of Henry VII, who also reigned 23 years, the *Patent* rolls for the first nine years are missing; also for the 11th, 12th, 13th, 16th, 18th, 19th, 20th, 22nd, 23rd; in all for 18 years, more than three-fourths of the reign.

"Of Hen. VIII., who reigned 37 years, the Patent rolls for 20 years are missing, viz. for the four first years; for 15 whole years between the 6th, and 22nd of the reign, and also for the 26th year.

"After this the Patent rolls are preserved in almost a regular series, with the following exceptions: of the reign of Elizabeth there is no Patent roll for the 15th year; Of Charles I. the third part of the roll for the 11th year, *an.* 1635, has been lost or mislaid for many years. From 1644 to 1655 there is a chasm very obviously to be accounted for.

"Cromwell's rolls commence in 1655; from which time, or from the Restoration, with the exception of the interregnum of James II. the Patent rolls are all preserved in a regular series."—*Liber Munerum, Vol. i, p. 2.*

7th, 15th, 16th, 21st, 22nd only.

"Of Henry VII., who reigned twenty three years, the Patent Rolls for the first nine years are missing; also for the 11th, 12th, 13th, 16th, 18th, 19th, 20th, 22nd, 23rd, in all for eighteen years; more than three-fourths of the reign.

"Of Henry VIII., who reigned thirty-seven years, the Patent Rolls for twenty years are missing, viz., for the first four years, for fifteen years between the sixth and twenty-second of the reign, and also for the twenty-sixth year.

"After this, the Patent Rolls are preserved in almost a regular series, with the following exceptions: *of the reign of Elizabeth there is no Patent Roll of the fifteenth year;* of Charles I., the third part of the Roll for the tenth year, 1635, has been lost or mislaid for many years. From 1644 to 1655, there is a chasm very obviously accounted for.

"Cromwell's Rolls commence in 1655, from which time, or from the restoration, with the exception of a portion of the reign of James II., the Patent Rolls are preserved in a regular series."—*Calendar, Vol. ii, pp. vi-vii.*

The work from which the foregoing extensive unacknowledged appropriation has been made is censured in the Preface to the "Calendar" (Vol. i, p. xxvi) as defective, irregular, and unmethodical in its arrangement. Mr. Lascelles might thus well sympathise with poor John Dennis, who on hearing the new stage thunder, which he had invented for his own luckless play, used to promote the success of a rival drama, arose in the pit and exclaimed with an oath—"See how these fellows use me; they will not let my play run, and yet they steal my thunder!"

We are above assured that the Patent Roll of the fifteenth year of Elizabeth, is the only one deficient in the reign of that Queen; yet the first Volume of the "Calendar" (p. 554) avers that the Patent Roll of her seventeenth year "*is not now to be found.*" Further to perplex us, the passage italicised at p. 35, from the second Volume of the "Calendar" is entirely contradicted at p. 551, of the first Volume, where we read that the Patent Roll of the fifteenth of Elizabeth *is still extant*, and find there enumerated sixteen articles stated to be extracted from this document, which, in the foregoing quotation is declared not to be in existence!

I may here observe that Lascelles, when enumerating the Patent Rolls of Ireland, was not aware that there were extant, in the Westminster Chapter House, four rolls containing certified transcripts of all the Irish Letters Patent of a certain class, from the Coronation of Henry V. to the twelfth year of Henry VI: "Transcripta omnium Litterarum Patentium Debitorum et Compotorum ac Annuitatum, sub testimonio Locatenentium Hiberniæ, aut Justiciariorum, tempore Regis Henrici quinti, et ab anno primo ad annum duodecimum Regis Henrici sexti." These rolls, consisting of the original writ of Henry VI., under the Privy Seal A.D. 1434, with the returns made to it by "Thomas Straunge, miles, Thesaurarius Domini

Regis terræ suæ Hiberniæ, et Barones de Scaccario Hiberniæ," preeminently deserved notice in any detailed account of the Patent Rolls of Ireland, but as they were unknown to the writers whose labours have been appropriated in the "Prefaces" we look in vain for any reference to them in the Calendars before us.

Of the other writers laid under heavy contribution to fill the pages of the Prefaces may be mentioned Walter Harris and the late John Caillard Erck. From p. 148-9 of "Harris' Hibernica," Dublin, 1747, have been transferred verbatim the apparently *original* accounts of Irish writers, rolls and records, at pp. vii. xi. xii., and xiii. of the first volume of the Calendar. The following will suffice to exemplify the extent to which the "Calendars" are indebted to Erck's "Repertory of the Inrolments on the Patent Rolls of Chancery in Ireland, commencing with the reign of James I," Dublin: 1846:

ERCK, A.D. 1846.

"Amid the vast heap of records and muniments which is to be found in the public archives of the country, none justly stand in higher estimation, than the Patent Rolls of Chancery; whether considered, in respect to the antiquity, utility, or variety of the documents with which they abound. To give effect to the royal pleasure, when signified under the sign manual or by Privy signet, in favour of any individual, or body politic or corporate—letters patent, specifying the inducement, and defining the nature, extent and tenure of the grant, with the conditions and penalties annexed,

CALENDAR, A.D. 1861.

"Amid the vast accumulation of records and muniments which is to be found in the archives of this country, none justly stand in higher estimation than the Patent Rolls of Chancery, whether considered in respect to the antiquity, utility, or variety of the documents with which they abound. To give effect to the royal pleasure, when signified under the sign manual, or by Privy signet, in favour of any individual or body politic or corporate, letters patent, specifying the inducement, and defining the nature, extent, and tenure of the grant, with the conditions and penalties annexed, were di-

were directed to issue under the great seal of the kingdom.

“The enrolment of these instruments was not required by law, until the statute of Charles rendered it imperative—yet in times, antecedent thereto, it was no unusual thing to insert, in the patent, a clause nullifying the grant, unless inrolled within a given time—and, even in the absence of such provision, the Patentees themselves had recourse, in most instances to this precaution, for their own security, and to avoid the inconvenience, if not loss, resulting from neglect; for it sometimes occurred, that the King was deceived, in granting to one subject, what had been previously passed away from the crown, in favour of another—no record existing of the previous grant.

“This class of records, although commencing with a roll of the tenth year of King Edward the first, contains grants made by King Henry the second,—by John, as well when Earl of Morton, as when king—by King Henry the third—and King Edward, the first. With the exception of the reigns of the first three Edwards, in which many chasms exist, the series of the Patent Rolls forms almost one continuous and unbroken chain down to the present time, with an hiatus here and there; covering a period of time which of itself speaks the

rected to issue under the great seal of the kingdom.

“The enrolment of these instruments was not required by law until the Statute of Charles rendered it imperative; yet, in times antecedent thereto, it was no unusual thing to insert in the Patent, a clause nullifying the grant, unless enrolled within a given time; and even in the absence of such provision, the Patentees themselves had recourse, in most instances, to this precaution, for their own security, and to avoid the inconvenience, if not loss, resulting from neglect; for it sometimes occurred that the king was deceived in granting to one subject what had been previously passed away from the Crown in favour of another, no record existing of the previous grant.

“The Patent Rolls, although commencing with a Roll of the tenth year of King Edward I., contain grants made by King Henry II., by John, as well when Earl of Morton as when king; by King Henry III. and King Edward I. With the exception of the reigns of the first three Edwards, in which some chasms exist, and a chasm in the reign of Henry VIII., during the first twenty years of whose reign there is but one Roll (of the sixth) remaining, the series forms almost one continuous and unbroken chain down to the

antiquity of these documents— and, as regards the utility and variety of them, whether the labours of the antiquarian, the objects of the historian, the pursuits of the legal practitioner, or the purposes of general inquiry, are to be served; these may be best explained, by enumerating the character of the documents which are of most frequent recurrence.

“To explore these stores of information, and unfold their contents, is the object, as far as it extends, of the present work.”—*Repertory of the Inrolments on the Patent Rolls*, (1846,) pages iii.-v.

Erck hoped that the publication of the “*Repertory*,” on which he bestowed much time and care might demonstrate the importance of completing the works begun by the Irish Record Commission, and induce Government to take the matter in hand. Death, however, carried him off before the issue of the second part of the “*Repertory*,” and the results of his painful labours are here appropriated and given to the world as if he had never existed:

“No more the dupe of hopes or schemes,
He sleeps now where the thistles blow,—
Sad anti-climax to his dreams,
Twenty golden years ago!”

The foregoing constitute but a small portion of the specimens which might be given of the vast extent of unscrupulous plagiarisms with which these Prefaces abound—extending even to reprinting as original matter (Vol. i, p. xxv.) the *advertisement* of the “*Liber Mune-*

present time.....Those records cover a period of time which, of itself, speaks their antiquity; and, as regards the utility and variety of them, whether the labours of the antiquary, the objects of the historian, the pursuits of the legal practitioner, or the purposes of general inquiry are to be served; they may be best explained by the enumeration of the character of the documents which have been previously detailed.

“To explore these stores of information and unfold their contents is the object, as far as it extends, of the present work.”—*Calendar*, Vol. i. p. xxxvii-iii.

rum," and (Vol. i, p. xii.) Messrs. Longmans' *prospectus* of the "Chronicles and Memorials of Great Britain," together with whole passages from the Introduction to the edition of the "Book of Common Prayer" published in 1849, by the Ecclesiastical History Society. Perhaps the most ludicrous portions of the Prefaces are those (Vol. ii. pp. xii. to xvi.) professing to treat of manuscripts in the Gaelic language—quite out of place in such a work—and mainly transferred, but with the addition of various typographical errors, from Irish Archæological Journals, and from the Lectures of the late Professor O'Curry, 8vo., Dublin: 1861; pp. 646-647.

The following illustrations of the originality of the penultimate passages of the "Prefaces" could not be omitted without injustice to the boldness of the appropriations:

TRESHAM, A. D. 1826.

"The very decayed state of many of these ancient Rolls has interposed difficulties in the execution of the work, but corresponding exertion has been made, as it was thought desirable to rescue as much as possible of these our earliest Records from oblivion.—*Si successus sæpe, labor certe nunquam, defuit,—* EDWARD TRESHAM." *Rotulorum Patentium et Clausorum Cancellariæ Hiberniæ Calendarium*, 1828, Vol. i. par. i, p. xi.

LASCELLES, A. D. 1830.

"Upon the whole I have endeavoured to establish a storehouse of facts and documents for the use of the statesman, the lawyer, the churchman, the

CALENDAR, A. D. 1861.

"The decayed state of many of these rolls interposed difficulties in the execution of the work, but corresponding exertion has been made, as it was thought desirable to rescue as much as possible of these *our* early records from oblivion—*Si successus sæpe, labor certe nunquam deficit.*" [*sic*]—Vol. i, p. xlv.

CALENDAR, A. D. 1862.

"The information afforded by these records is no less varied than important. They serve as a storehouse of facts and documents for the use of the states-

peer and commoner, the antiquary, as well as the ordinary man of business. Nor will it be found, I trust, unworthy the regard of the philosophical scholar and historian."—*Liber Munerum Publicorum Hiberniæ, Vol. i, Introduction, p. 3.*

The ensuing adaptation of Erck's dedication of his "Repertory" to Viscount Morpeth, will be seen to have no claim to originality beyond the elimination of the name of that nobleman, now Earl of Carlisle, and Lord Lieutenant of Ireland:

ERCK, 1846.

"The work, which was conceived and commenced during *your Lordship's* administration of Irish affairs, has for its object to rescue some part of the most important of our national muniments from the comparative oblivion and obscurity, which, by reason of the difficulty of access, the labour of research, and the expense of official *constats*, they now lie involved—and, whatever light it may throw on our public records, in directing either the pursuits of the historian, the antiquarian, or of the legal practitioners, *it is to your Lordship* [Morpeth] they must feel themselves principally indebted for the encouragement afforded, and the facility of access accorded to me, in extricating and evolving their contents from the rubbish of technical phrases, wordy

man, the lawyer and the antiquary; nor will they be found, I trust, unworthy the regard of the scholar and the historian."—*Vol. ii. Preface, p. lxxviii.*

CALENDAR, 1861.

"This work, therefore, undertaken by *their Lordships'* [of the Treasury] authority, under the direction of the Master of the Rolls, has for its object to rescue some parts of the most important of our national muniments from the comparative oblivion and obscurity in which, by reason of the difficulty of access and the labour of research, they now lie involved; to facilitate the researches of persons engaged in historical investigation and enquiry, and whatever light it may throw on our public records, in directing either the pursuits of the historian, the antiquary, or of the legal practitioner, *it is to the Government* they must feel themselves indebted for the encouragement afforded in extricating and evolving their contents from tech-

parentheses, and the legal forms of diction.”—*A Repertory of the Inrolments on the Patent Rolls of Chancery in Ireland.* 1846. p. i.

nical phrases; wordy parentheses and legal forms of diction.”—*Calendar, Vol. i.* p. xliii.

It would be difficult to adopt any order in noticing the slender thread of original matter with which the pieces from various works have been strung together in these “Prefaces,” without regard to sequence, digestion, or arrangement:

“But so transfus’d, as oil and water flow,
They always float above—this sinks below.”

To detail fully the numerous and complicated errors with which even those few original lines abound would occupy a very large amount of space, I shall therefore merely adduce some specimens which admit of analyzation within a reasonable compass.

The “Down Survey” of Ireland made A.D. 1654-8, was according to the “Calendar” (ii, xvi.) carried to France by James the second (1690) and never returned; yet in the Preface to Vol. i. (xviii.) numbers of its volumes are stated to have been destroyed by fire at Dublin in 1711! The truth is, that the famous mapped Survey, on which are grounded the titles of half the Irish land-owners, was never removed from Ireland, and is now preserved in the Dublin Custom House.

At page ix. of Vol. ii. we read—

“The original of Vallancey’s Green Book, compiled by authority of the late Irish Record Commissioners, is now in my library.”

The amount of errors here aggregated will be seen when it is mentioned that Vallancey compiled the “Green Book” for his own use, before the end of the last century, many years previous to the formation, in 1810, of the Record Commission, by which it was purchased in 1813, after the

compiler's decease, as appears from the following entry in their Report of that year :

“ A book known by the name of Vallancey's Green Book, or Irish Historical Library, purchased by the Secretary, at the instance of Government, and with the approbation of the Board, was laid on the table : whereupon the Board ordered, that the Secretary [W. S. Mason] should take charge of the said Manuscript Book, and make an entry of same in the Catalogue of the MSS. &c., belonging to the Board.”—*Report of Commissioners on the Public Records of Ireland*, 1810-15, p. 485.

The original Manuscript book here referred to, bearing the autograph of Vallancey, and the official attestation of William S. Mason, has for many years been the property of the Royal Irish Academy, in whose Library, at Dublin, it may be seen.

At page ix. of Vol. ii. the compiler of the Preface claims the discovery in London, “ of a valuable collection of Irish MSS. stowed away in sacks, labelled ‘ Baga Hiberniæ,’ the contents of which,” he observes, “ were previously, I believe, unknown. I there found,” he adds, “ among other interesting original letters, one from ‘ Silken Thomas,’ whilst a prisoner in the Tower, directed to his servant Brian,” &c.

The document here referred to as “ *discovered* ” was printed in 1834, at p. 402 of the third part of the second volume of State Papers, under the authority of His Majesty's Commission, and specially noted there as preserved in “ Bag Ireland,” in the Chapter House. It will also be found in Moore's History of Ireland, (1840,) Vol. iii, p. 272, and in Lord Kildare's work on the “ Earls of Kildare,” (1858,) pp. 175-6. The same State Papers, (ib. p. 169) show that the raid of the O'Byrnes upon Dublin occurred in 1533—not at the period of 1475 as stated in the Calendar, (Vol. ii., p. xxiv.) The original establishment of an University in Ireland is assigned (Vol.

ii. p. lxix) to the reign of Edward III. instead of to that of Edward II. Dr. Boate, who died in 1649 is said (ii. xxxiv.) to have written a work in 1652! Three persons, we are assured, (ii. lxx.) were burned for witchcraft in the early part of the fourteenth century at Kilkenny, although the local contemporary chroniclers specially mention that but *one* suffered at the stake. Sir Roland Fitz Eustace, Baron of Portlester, is divided into two personages, and spoken of at p. xxvii. of vol. ii. as “Lord Portlester *and* Sir Rowland Eustace!” Devereux is given the title of “Earl of Ulster” (ii. lxiv.) which he never before received. The submission of Shane O’Neill, who died in 1567, is placed (ii. lxxiv.) under the year 1602. Sir Conyers Clifford is named *Clifton* (ii. lxvii.); but perhaps the most curious and novel piece of information in connection with the legal history of Ireland is the statement at p. xv. of Vol. i. that in the Reign of Henry VIII. the Law Courts of Dublin were held “*in the Castle wall!*”

The mode in which the few acknowledged quotations are referred to may be judged from the following citations for statements occupying a page (ii. xlii.) in double columns of the smallest type:

“‘Notes and Queries.’—Hist. England, Vol. II. p. 65.”

A specific assertion at p. viii. of Vol. ii. that the Librarian at Armagh is “bound by oath to exclude every one of the public from the valuable documents” in his custody, is utterly incorrect, as may be seen by referring to the Irish Statute of 13-14 Geo. III. cap. 40, section iv.

The charge of illiberality insinuated (at page xvi. of the second volume) against the custodians of the Library of Trinity College, Dublin, will be repudiated with indignation, as both unfounded and unjustifiable, by every respectable scholar, conversant with the institution, or with the

services rendered by its learned Librarian, the Rev. J. H. Todd, to solid Irish historic literature.

Passing over innumerable errors on historic and literary points in the Prefaces, I shall turn to those portions which refer to records relative to which one might naturally expect to find here precise and reliable information. At page li. of Vol. ii. we read :

“It is certain that the Statutes, whether printed or unedited, do not go higher than the early part of Edward II.” (1307-1327.)

The inaccuracy of this will be seen when I mention that a Statute passed in Ireland, A.D. 1268-9 is preserved on the Plea Roll of the fifty-third year of Henry III. (No. 5.-277;) even a preceding page of the same volume of the present Calendar (ii, p. xix.) refers to an Act or ordinance of a Parliament held in Ireland A.D. 1295. This grave incorrectness on so important a point as the age of the surviving Statutes of Ireland, furnishes a portentous commentary on the statement made by the compiler of these Prefaces at p. 139 of the Chancery Commissioners' Report, already quoted, that he “has had for a long time in contemplation the printing of our unpublished Statutes,” and which perhaps may now be passing through the press, at the public expense, as companion volumes to the “Calendars!”

I shall next point out a series of errors relative to the “Fiants” so called from their preamble, which was as follows: “*Fiant* Literæ Patentes Domini Regis, in debita formâ, tenore verborum sequentium.” These documents, which the “Calendars” incorrectly designate “*Fiats*,” are noticed as follows, at p. iii. of the second volume :

“From the beginning of the reign of Henry the Eighth to the end of the reign of Elizabeth, 6,625 Royal Fiats or Warrants reached the Rolls' Office for enrolment and preservation. Very few of those were then, or at all, as they should have been, copied on the Roll; and they remain to this day uncalendared, and to the public

almost wholly unknown, a monument of the indisposition which has hitherto prevailed to bring to modern light the contents of our precious archives. I trust the time will arrive when a favourable opportunity and other propitious circumstances will enable me to unfold their invaluable contents to the public, and to remove the reproach arising from their comparative oblivion."

This account of the condition of the "Fiants," although emanating from their official and paid custodians, is wholly incorrect, as Calendars of them from the reign of Henry VIII. were prepared, at public expense, more than thirty years ago, with much care and labour.*

Another allegation in the above passage indicates igno-

* In the tabular digest of the Sub-Commissioners' returns to the Committee of observation, made pursuant to orders of the Irish Record Commission dated 17th March, 1817, and 19th May, 1819, the following entries appear under the head of "Actual result and present state of the works," "Arrangement of Fiants from 21st Hen. VIII., to the present period, into reigns completed." "Catalogue to Fiants, formed as far as 16^o James I." (p. 49.)

The detailed Report, dated 24th December, 1829, of "Works in progress by the Irish Record Commission," signed "William Shaw Mason, Sec. Com. Pub. Rec." states (p. 2) "that the comparison of the un-enrolled Fiants with the Repertory thereof has been made, and the Repertory itself completed; adding that "a fair transcript thereof for depositing in the Rolls' Offices is in progress, with an index of persons." The Report of 1829 further mentions the completion of the collation of the Repertory with 120 files, consisting of 7440 Fiants of Edward VI, Elizabeth, and James I; that 502 pages were fairly transcribed, 460 pages executed of indices of persons and places, and that the files of unenrolled Fiants of Henry VIII. and Elizabeth were arranged and labelled.—*Notes of Proceedings of Irish Record Commissioners, 25th March. 1829, page 24.*

The Report of these Commissioners for 1830 further records the collation and completion of their Repertory with 68 files, consisting of 2042 unenrolled Fiants of the reign of James I.; also that the assortment of the Fiants of the preceding reigns, up to Henry VIII. inclusive had been perfected.

rance even of the precise nature of the documents styled "Fiants," now lying obscurely in the Rolls' Office, Dublin.

"Fiants," I may observe, were instruments under the royal, or occasionally the vice-regal, hand, on the model of which were prepared Letters Patent from the Crown under the great seal. The Patents and "Fiants" were thus duplicate instruments; the "Fiants" were not intended to be engrossed on the Patent Rolls, but to be "entered of record" in books, a distinct and less solemn, yet secure evidence. Letters Patent were handed to those to whom they had been granted, but the "Fiants" were retained in the office, and on proof of the loss of a patent, patent roll, or enrolment in the Exchequer, an original Fiant was admitted in evidence as a record of the highest authority.

To exemplify the multitudinous errors, unfounded assertions, and misleading conclusions which pervade this work, I shall analyze the statements in these Calendars relative to the declaratory act passed in the Parliament of Ireland in the tenth year of Henry VII, A.D. 1495. On this subject the first passage is as follows:

"In the reign of Henry VII., Ireland was a scene of tumult and violence. At this period, in the town of Trim, in a strong castle, the records of the country, for security, were deposited. They were seized on by O'Neill, and *utterly destroyed*; and thus the documents serving for evidence to constitute the title of the Crown to property perished."—*Calendar, Vol. i, p. xiii.*

A few lines further down (p. xiv.) we are assured that, on this occasion, "it was a mere chance that suffered a few, such as the Patent, Plea, Close, Statute, and Memoranda Rolls to escape."

There is no evidence that any documents were deposited in the Treasury of Trim at this period, except those specially referred to in the Statute of 10 Henry VII, cap. 15, as

connected with the King's titles to the Earldoms of March and Ulster, and the Lordships of Trim and Connaught. This Statute does not ascribe the destruction of these records to O'Neill, but, on the contrary, avers that they were "taken and embesilled by divers persons of malice prepense." Had they been "utterly destroyed" by O'Neill the Parliamentary Lawyers of Henry VII. in Ireland, would not have ordered, as appears from the same Statute, proclamation to be made that "whatsoever person have any of the said Rolls, Records, or Inquisitions or knoweth where they be, and do not deliver them, or show where they be to our Sovereigne Lord's Counsail, within the said land within two months, next after the said Proclamation, that then they and every of them, that shall so offend this present Act, be deemed felons attainted."*

Any observations on the law of property or title, put forward under special judicial approval, might naturally be regarded as meriting attention; yet it is difficult to comprehend the object of the following passages on the Statute of the 10th year of Henry VII. declaratory of the Crown's title to lands, the records of which had been embezzled, as above mentioned:

"This Statute is a Parliamentary assertion of the rights of the Crown; it sets forth that the records were stolen from Trim, and destroyed, and provides a remedy therefor; *but what provision was made for those holding immediately from the Crown by Patent? who, in the absence of those records, could prove a title to his ancestral possessions?*"—*Calendar, Vol. i., page xiv.*

These interrogatories might be construed into implying that the Crown, after the embezzlement of the Records, intended to violate private rights by seizing on the lands referred to, through the authority of Parliamentary.

* Statutes passed in Ireland Vol. I. (1786) p. 52.

investiture, with the collusion of the Lords and Commons of Ireland. Such a view, however, cannot be supported, I believe, by the production of even one instance of a subject holding under the Crown of England, having been dispossessed by virtue of this act. The irrelevancy of the above italicized queries in the Calendar will be apparent, when it is remembered that each landholder retained his own evidences; and that both Common and Statute law required the King's title to be of record under the great seal. To substitute such title, purloined from the Treasury of Trim, the declaratory act referred to was passed, which, analogous to the long subsequent Acts of Settlement and Explanation, constituted the Crown a trustee for every individual having interests within a defined territory, thus eminently securing its subjects instead of disturbing them, as the above cited passage in the Calendar would insinuate.

“Was this the cause, two centuries later, of Lord Strafford issuing that famous ‘Commission for Defective Titles,’ by which every proprietor in the West was dispossessed, unless he could show, in writing, a clear, indisputable, indefeasible title from the Crown? But how few records remained will be found in the fact, that when the same Lord Strafford sought to find the title of his patron, Charles the First, to the entire province of Connaught, upon an inquiry held at Galway, he produced in evidence this Statute of 10^o Henry VII. to show the loss of the records, and to maintain the title of the Crown in their absence.”—*Calendar, Vol. i, xiv.*

The inaccuracies here on a comparatively modern period, are nearly equal in number with the lines. “Two centuries later” than 1495 would have been 1695, sixty years subsequent to 1635, the time intended to be indicated. The *cause* of the Commission for “Defective Titles” was not the loss of records but the expectation of augmenting the King's revenue, and of effecting a new “Plantation.”

The Commission was issued by Charles I, *not* by Lord Strafford, a peer not then in existence; nor did the proceeding embrace the "entire province of Connaught." Proprietors who could not produce records were *not* "dispossessed," but permitted to remedy defective titles, having been publicly assured that it was the King's resolution to "question no man's Patent, that had been granted formerly upon good considerations, and was of itself valid in law," and that "his great seal was his public faith and should be kept sacred in all things." The title of the Crown to portions of Connaught was *not* first found on an "inquiry held at Galway," but by the Jury of Roscommon in 1635. The King's title was *not* maintained on this occasion by the production of the Statute of 10, Henry VII, in the "absence of records," but by exemplifications of muniments from the Tower of London, sent over under the great seal by the famous Coke, and by sundry records in the Irish Exchequer, as may be seen from the "Brief of His Majesty's title," in this matter, A.D. 1635. The statement that then but "few records remained," is disproved by the following observations in a letter from the Lord Deputy of Ireland to Coke in 1634, on this subject:

"Few days pass us upon the commission of defective titles, but that some patent or other starts which not any of his Majesty's Officers on this side knew of before. So that we can judge of nothing upon any sure ground till the party be heard."

Having thus, to a limited extent, exhibited the character of the "Prefaces," I shall next proceed to consider the value of the illustrative notes and commentaries to be found in the body of the Calendars.

The important manuscript known as "Crede Mihi" is said in a note at page 28 of the second volume of the Calendar to be "preserved in Marsh's Library," whereas

this exquisitely written little tome is a part of the muniments of the See of Dublin, and, as such, now in the custody of Archbishop Whately.

The following incomprehensible note appears at page 211 of vol. 2, as a commentary on the word "onions" in the text:

"Soap or tallow."

A territory styled "Briffium," never before heard of, is mentioned at page 93 of the same volume; and further on (477) we find the following strange names appended to a Government document of 1586:

"Jo Armaham. O'Gormanston. O'Delvim."

No such signatures are to be found on the original which, however, contains the autographs of Joannes Armacanus, John Long, Archbishop of Armagh; Christopher Preston, first Viscount Gormanstown, and Christopher Nugent, ninth baron of Delvin, whose names have been deciphered into the above forms.

A full examination of the expositions given in these Calendars of obsolete English law terms would require one, in the words of an old epigrammatist, to

"tell of Fourching, Vouchers, and Counterpleas,
Of Withernams, Essoins, and Champarty."

A single specimen will suffice to illustrate the errors on these points, without entering further into Dry-as-dustian legal commentaries:

"Meskenningham—an unjust citation into court."

Calendar, Vol. i, p. 425.

The term "Miskeningham," which will be found in the charters of the City of London from Henry I. and Henry III. signified the fine paid for changing or amending a plea or count: the word *Miskening* means literally mis-

counting or mis-pleading, for liberty to rectify which was paid the fine styled Miskenningham.*

The etymological portions of the Commentaries are perhaps the most note-worthy; they assure us that the term "Dycker" of hides, commonly used by butchers and tanners, is derived from *dekas*, the latter, according to the Calendar, (vol. ii, p. 179.) being the Greek numeral for ten!

"Coshery," the composition paid of old in Ireland for exemption from supplying victuals to a chieftain and his followers, is lucidly explained as follows:—

"*Cois-a-re*, cess or rent, for the King, received by receiving him in coshery."—*Calendar*, Vol. i, p. 45.

Further indisputable evidence of erudition appears in the following:

"Tanistry seems to be derived from *Thanis*, and is a law or custom in some parts of Ireland."—*Calendar*, Vol. ii, p. 260.

Every Irish scholar knows that the English word Tanistry is derived from the Gaelic *Tanaisteacht* meaning successorship; the eldest son of a chief in ancient Ireland being usually recognised as his presumptive heir and successor, was styled in Gaelic *Tanaiste*, that is minor or second. Tanistry was declared illegal in the first years of the seventeenth century, and its existence in Ireland at the present day, as stated in the above extract from the Calendars, is a novel and startling piece of intelligence, which no doubt, will receive due attention from Her Majesty's Law Officers.

Among a series of depositions of witnesses at Waterford in 1587, relative to a marriage, we read the following passage in the second volume of the Calendar:

* *Privilegia Londini*, 8vo. London: 1723, p. 36; *Liber Albus*, translated by H. T. Riley, 1861, p. 115.

“Margaret O'Brenagh of Killaspuck, in the county of Kilkenny, widow, states she saw her aunte, Helene Brenagh, wife of Richard Toben, come to witness's house, after the marriage, to ask help of her husband, Piers Brenagh, to be given to M'Thomas with her daughter, who gave her then a colp.”—*Vol. ii, p. 508.*

Colp is the ordinary Gaelic word used in Munster to designate the number of sheep which can graze on a certain extent of pasturage. Nothing is more common in the South of Ireland, than for Gaelic speaking farmers, under circumstances similar to those above mentioned, to arrange how many *colps* shall be the marriage portions of their children. A note, however, on the above passage in the Calendar avers, as follows, that *Colp* means a wax-candle!—

“Colp, Colpo—A small wax candle, à copo de cere. We read in *Hovenden* [Hoveden] that when the King of Scots came to the English Court, as long as he stayed there he had every day, de liberatione triginta sol' et duodecum [duodecim] *vassellos* [Wastellos] dominicos, et *quandraginta* [quadragesima] grossos longos Colpones de dominica candela Regis.”—*Vol. ii, p. 508.*

The above note has been appropriated, without acknowledgment from Du Cange, but with the inaccuracies here italicised,—the correct words being those in brackets. The entire passage, compressed by Du Cange, will be found at page 738 of Savile's edition of Hoveden (Frankfort, 1601) where that writer describes the reception of William King of Scotland, by Richard Cœur de Lion in 1194, the arrangements on which occasion are here cited in the Calendar to illustrate the internal economy of an Irish farm-house four centuries later; and to show that a wax candle—“coupon de cire”—was given as a marriage portion by Pierce Brenagh of Killaspuck in the County of Kilkenny!

The climax, however, appears to have been attained at

page 273 of the second volume, where we encounter the following explanation of the name "Cahernamarte:"

"Cahernemort. The City of the Dead : hodie Westport."

One might here exclaim as Pantagruel did to the Limosin pedant who professed "escorier la cuticule de la vernacule Gallicque." "Que dyable de language est cecy ? le croy que il nous forge icy quelque language diabolicque ; il veult contrefaire la langue des Parisians ; mais il ne faict que escorcher le latin !"* The full value of the above etymology will be appreciated after a perusal of the following lines published many years ago, by the greatest of Gaelic scholars and topographers:

"*Cathair-na-Mart, i. e.* the stone fort of the beeves. This was the name of an ancient stone fort of a circular form, and also of a castle built by O'Malley on the margin of the bay of Westport. The town of Westport is still always called *Cathair na mart* in Irish by the people of Connaught and Munster. The stones of the ancient *Cathair* [or fort] were removed some years since, but its site is still pointed out by the natives within the Marquis of Sligo's demesne."—*Annals of the Kingdom of Ireland, by John O'Donovan, M.R.I.A., vol. iii, p. 1803. Dublin : 1848.*

The word *Mart*, on which the Calendars have raised an imaginary Nekropolis, is, it may be observed, the common Gaelic term for beeves or kine, and of ordinary occurrence in old Irish documents. The first entry in the Irish list of the annual tribute paid in ancient times by the people of Munster to their King is—"Tri cèat mart a Muscraidhi"—three hundred beeves from the men of Muskerry. In the sixteenth century the word had become Anglicised

* "Comment Pantagruel rencontra ung Limosin qui contrefaisoyt le language François." Pantagruel, liure ii., chap. vi. Œuvres de Rabelais, Paris : 1837, p. 74.

Marte, and deeds of that period abound with references to “fatte martes.”

In the compositions of the English Government with the native Irish Chiefs, in the reign of Henry VIII., we frequently find such entries as the following, in the agreement in 1544 between the King and O’Donell, preserved in the Lambeth Library: “Dominus O’Donell, in signum amoris et benevolentiae, ad sui Regis Christianissimi, aut ejus Deputati in Hibernia, coquinam, singulis annis, centum boves sive *martas*, more suae patriae, pollicetur ac promittit;” and in a covenant made by the English Government with the head of the Clan O’Reilly in 1558, the latter bound himself to observe all the stipulations, under a penalty of one thousand *martes*, in the following terms: “ac si deliquerit in aliquo premissorum solvet Dominæ Reginae mille *martas*,” Hibernicè *mile mart.* }

We may well conceive the admiration with which conscientiously laborious investigators must regard a system which, under legal patronage, and at the Nation’s expense, can pronounce the ancient Celtic law of Tainistry to be still in operation in Ireland;—by a single line change a flock of sheep into a wax candle, and transmute a common-place stone bullock-pen, into a “City of the dead;” in the words of the “Dunciad:”

“— all flesh is nothing in his sight;
Beeves, at his touch, at once to jelly turn,
 And the huge boar is shrunk into an urn.”

Reasonable limits preclude the devotion of further space to the Prefaces and annotations, and we now come to the consideration of the body of the work itself, purporting to be a “Calendar of the Patent and Close Rolls of Henry VIII., Edward VI., Mary, and Elizabeth.” Here naturally, at first arises the question as to the language in

which were written the original documents thus calendared or catalogued. On this important point the only information given us is to be found in the following lines, some of which will be perceived to coincide remarkably with the language used by Mr. Erck in the Preface to his "Repertory," published in 1846, as already noticed:

CALENDAR, A.D. 1861.

"It [the first volume of the Calendars] purports to contain an abstract of every instrument on the Rolls; *condensed and translated into English*; all abbreviations and contractions have been rejected; all technical phraseology discarded. The purport of each document has been minutely and accurately analyzed; *the substance of every important clause and provision extracted, and the names of every person and place in each accurately specified*, with a view of rendering accessible to the public the original MSS., obscured as they now are in *obsolete languages and modes of expression*; written in antiquated and nearly unknown character, obscure and frequently illegible, *rendered more embarrassing by abbreviations, which frequently leave the number, gender, or tense of a word difficult of ascertainment*; and which might, if not in time rescued from oblivion, ultimately share the fate of the memorials of Babylon or Nineveh, and like the Rosetta stone, depend for interpretation upon the chance

ERCK, A.D. 1846.

"The plan of the first part of the work, now submitted to the public, purports to contain a full abstract of every instrument on the roll—all the articles have been translated into English—all abbreviations and contractions of words, rejected—all technical phraseology discarded—and nothing, but the subject matter of the grant, retained; showing the inducement, nature of the donation, tenure, conditions, and penalties annexed if any."—*A Repertory of the Inrolments on the Patent Rolls of Chancery in Ireland, commencing with the reign of King James I.; edited by J. C. Erck, L. L. D. Vol. i., part i. Dublin: 1846, p. vi.*

discovery of some ingenious student."—*Vol. i. p. xliii.*

The following passage on the same subject is not the only one in these Calendars taken verbatim from Mr. Robert Lemon's Preface to the "State Papers," published under authority of his Majesty's Commission, London: 1830:

CALENDAR, A.D. 1862.

"I have ventured to *preserve the ancient orthography, but to reject the abbreviations* which abound in the letters of many of the writers of the period—a period when not only orthography was so unsettled, but grammatical rules were violated in the holograph letters of the most eminent, and of those who affected the greatest learning, it is often impossible to discriminate between the design and the error of the clerk. To *translate and condense* those mouldering memorials of a by-gone age, accumulated during centuries, when time and accident have in many instances rendered them almost illegible, has been my arduous task."—*Vol. ii. p. lxxix.*

R. LEMON, A.D. 1830.

"It was determined to preserve the ancient orthography, but to reject the abbreviations which abound in the letters of many of the writers of the period."....."At a period when not only orthography was so unsettled, but the plainest grammatical rules were perpetually violated, even in the holograph letters of the most eminent men, and of those who affected the greatest scholarship, it is often impossible to discriminate between the design and the error of the clerk."—*State Papers, Vol. i, part 1., Preface, p. xxii.*

The instruments on the Rolls are above stated to have been condensed and *translated into* English in these Calendars, and reference is made to the obscurities of the number, gender, and tenses of words. The passage quoted from the second volume states that the ancient orthography has been preserved, and also mentions the

translation and condensation of these materials. We may thus divine for ourselves whether the abstracts have been made from Latin, French, or Gaelic—"obscure in number, gender, and tense"—but how, in these *translations* from "obsolete languages" into English, the ancient orthography, as above stated, has been preserved, must, in the words of the Preface, be left to the "chance discovery of some ingenious student." The same mythical personage may perhaps also discover the object proposed to be attained in prefixing to these volumes, three large coloured fac-similes of documents, without indicating either where the originals are preserved, or why they were specially selected for engraving.

It may, however, without undue temerity be averred, that there can be but one opinion among scholars as to the value and accuracy of translations of records emanating from a source which publicly declares that a stone bullock-pen in Irish, signifies in English "a city of the dead."

Before proceeding further I shall give a short explanation of the documents styled "Patent Rolls" and "Close Rolls" with which ordinary readers could scarcely be expected to be conversant, when the following passage from the preface to the Calendars evinces unmistakable ignorance on these subjects :

"The Patent Rolls (patentes) were those open grants from the Crown, for they were open to the inspection of all, and so called patent. The Close Rolls (clauses) were so called, because they contained writs from the Crown, sealed and directed to the officers by whom they were received, and to whom alone they were open ; as also royal letters, obligations, recognizances, deeds."—*Vol. i, p. xxxvii.*

It may here be stated that the name of Letters Patent—"Literæ Patentēs,"—was applied to charters, deeds or instruments written upon open (patentes) sheets of parch-

ment, bearing pendant at bottom the great seal of the sovereign by whom they were issued, and to all of whose subjects in general they were addressed.

Letters Close—"Literæ clausæ"—were used to convey royal mandates, letters and writs of a less public nature, folded and sealed on the outside, whence the designation of "closed" letters in contradistinction to the open or "patent" letters:—so, under the French monarchy, the king's letters were either "Lettres Patentés" or "Lettres de cachet."

"When," says Hunter, "the practice arose in the reign of John, of enrolling copies of those letters for the purpose of preservation and future reference, and perhaps for the further purpose of being a check upon the forgery of instruments of such great importance, they were entered on two distinct Rolls, now called the Patent Rolls and the Close Rolls," or, I may add, "Rotuli Literarum Patentium" and "Rotuli Literarum Clausarum."

It will thus be seen that the above six lines from the Calendars of 1861, descriptive of the documents which form the material of the work contain four grave errors—1. Patent Rolls were not "open grants" but merely the *enrolments* or copies of such grants. 2. Close Rolls were never styled "*clauses*" till so named in these Calendars. 3. Close Rolls did not contain "sealed" writs from the crown, but only abstracts of such documents: indeed, it would be utterly impracticable to *roll* up, as here mentioned, a number of parchments, each bearing an impression in wax of a Great Seal. 4. Close *Letters*, confounded in this Calendar with Close *Rolls*, were not, as above stated, accessible and directed solely to "officers;" but, on the contrary, "Literæ Clausæ," were commonly addressed to any individuals to whom the sovereigns desired to transmit their orders on either public or domestic matters.

The plan adopted in these Calendars of publishing translated abstracts of ancient records has long been exploded as objectionable and unsatisfactory. The frequently used arguments above reproduced in favour of this system have been conclusively disposed of by the highest authorities; and on this point may here be cited the observations of Mr. T. D. Hardy, in his Introduction to his Calendar of the Close Rolls in the Tower of London, a work, to the value and accuracy of which I feel pleasure in bearing testimony, from practical experience. Having correctly observed that actual trial has proved that documents of moderate length can be copied in much less time than would necessarily be occupied in making abstracts of them, an expert writer being able to transcribe very nearly as fast as he can decipher, Mr. Hardy with indisputable authority, adds :

“Whereas for the purpose of abstracting it, he [the writer] must indispensably read the document through, next, he must make himself familiar with its various points and bearings, and then he will have to consider the most concise and explicit way of forming the abstract. Added to all this, there is a difficulty, not so slight as it may appear, in reducing into a more compendious form matter that has already undergone the process of curtailment, and which by re-abridgment would be subjected to the danger of omitting some expression which possibly might alter the purport or embarrass the sense of the whole instrument. In being furnished with a transcript of the documents themselves, the Reader can suffer no disappointment; for it often happens that what is deemed worthless by some, may be held by others to be of the greatest value; nor can he have any anxiety to see the originals, instigated by the possibility of discovering some different reading, or other matter which had escaped the notice and proper attention of the abstracter. So important, indeed, has it been thought for every document to be printed in the most correct manner, that in many instances obliterations of whole sentences have been retained (though marked as effaced in the original) as essential to the meaning, it being impossible without them thoroughly to understand the document in

which they occur, as the scribe appears frequently to have erased words fatal to the sense, forgetting at the moment the structure of the sentence ; and, consequently, unless the effacement or obliteration had been retained, the instrument must have appeared to be incapable of rational construction ; whereas, by exhibiting it to the Reader whole and entire, he is enabled to ascertain its real meaning. For these reasons it has been deemed expedient to give a complete and literal transcript : in short, as close a *fac simile* of the originals as modern types would admit....In no case whatever," says Mr. Hardy, "has the liberty been taken [in my work] of altering or amending a word when wrong from either clerical or grammatical error, such inaccuracies being denoted by an underline, to indicate that such error did not escape attention."

The most conclusive mode of testing the accuracy of the entries in the Calendars would be by collating them with the original Rolls of which they are alleged to be abstracts ; but such a course is precluded by the official intimation quoted at page 6 that the *paid* keepers of these documents "*have not time to attend to*" *historical inquiries*. Relying, however, on independent sources, I shall examine the Calendars in their principal departments—grants of lands and other hereditaments ; of offices ; and of pardons.

In many instances we find merely the name of the individual to whom the grant was made, the particulars of the lands being entirely omitted—leaving such entries almost valueless. The comparatively limited number of grants of lands and hereditaments registered in these volumes demonstrates conclusively that either the Calendars are very incomplete or the Patent Rolls themselves incredibly defective in their contents ; and here we look in vain for various important Irish grants, passed during the reigns of Henry VIII, Edward VI, Mary, and Elizabeth. Of these omissions I annex some specimens, premising that among them is not included any grant passed in a year of which the Patent Roll is alleged to be

not forthcoming ; to each grant is appended the day of the month with the year of the reign, in which it was made, but reasonable limits preclude the addition of the services, rents, and other details, embodied in the instruments :

- 1537 To Pierce Butler, Earl of Ossory and Ormond, and James, Lord Butler, thirty-three Manors, viz., 6 in Kilkenny ; 9 in Tipperary ; 6 in Carlow ; 1 in Wexford ; 1 in Waterford ; 4 in Kildare ; 4 in Dublin, and 2 in Meath ; 3 October, 29, Henry VIII.
- 1542 To Sir A. St. Leger—the possessions of the Monastery of Graine, Co. Carlow ; 4th May, 34 Hen. VIII.
- 1543 To Provost and Burgesses of Clonmel—the Monastery of Friars Minors, Clonmel ; 9 March, 38, Hen. VIII.
- 1544 To Sir E. Butler, Baron of Dunboyne, the Monastery of Fidert Cross, Tipperary ; 16 Jany, 35, Hen. VIII.
- 1549 To John Travers—the manors of Hollywood, Rathmore and others in Leinster ; 13 Nov. 3 Edward VI.
- 1552 To Nicholas Bagnall, Marshal of Ireland, the College of Newry, the lordship of Mourne, the manors of Carlingford and Cowley, in Down and Louth ; 2 April, 6, Edward VI.
- 1555 To Gerald, Earl of Kildare—his ancestral estates in Ireland ; 1 May, 1 and 2, Philip and Mary.
- 1568 To Sir Edward Butler,—the Monastery of Baltinglass ; 24 May, 10, Elizabeth.
- 1568 To Sir Luke Dillon—the moiety of the manor of Castleknock, Co. Dublin ; 20 August, 10 Elizabeth.
- 1569 To Robert Dillon—the possessions of the Priory of St. John, Kilkenny ; 2 March, 11, Elizabeth.
- 1570 To Sir N. White—the manor of Leixlip, Co. Kildare ; 11 June, 12, Elizabeth.
- 1571 To John Whitney—the castle and Lordship of Syan, Queen's Co. ; 1 March, 13, Elizabeth.
- 1574 To Calvatio O'More, the Manor of Ballina, Co. Kildare ; 3 August, 16, Elizabeth.
- 1577 To Sir Cormac Mac Teige, Mac Carty—possessions of the Preceptory of Morne, Co. Cork ; 6 October, 19, Elizabeth.
- 1578 To William O'Carroll—the territory of Ely O'Carroll, King's Co. ; 1 August, 20, Elizabeth.

- 1578 To the Mayor and Bailiffs of Galway—the customs of Galway, and the possessions of the Monastery of Colles Victoriæ; 21 Sepr. 20, Elizabeth.
- 1579 To Christopher Nugent, Baron of Delvin—the possessions of the Priory of Foure, Co. Westmeath; 20 July, 21, Elizabeth.
- 1583 To Gerald, Earl of Kildare—the possessions of the Monastery of Down; 6 December, 26, Elizabeth.
- 1586 To Donald O'Madden—the Lordship of Longford, Co. Galway; 11 June, 28, Elizabeth.
- 1586 To Cuconacht Mac Guire—the whole County of Fermanagh, 17 Jany, 28, Elizabeth.
- 1587 To Con Mac Neill óg John—the Lordship of Castlereagh, Co. Down, at an annual rent of 250 cows to be delivered at Newry; 30 March, 29, Elizabeth.
- 1588 To Sir Henry Harrington—the lands of Kilrothery &c., Co. Wicklow; 26 Nov. 30, Elizabeth.
- 1588 To Hugh Worth—the territory of Kinalmeaky, Co. Cork; 30 Sept. 30, Elizabeth.
- 1588 To Sir George Bouchier—the castle and loch of Loch-gur and 12,880 acres, Co. Limerick; 12 Nov. 30, Elizabeth.
- 1588 To Hugh Cuffe—CastleneKille and lands, Co. Cork; 18 Nov. 30, Elizabeth.
- 1590 To Edward Sutton—possessions of the Priory of Thome, Co. Tipperary; 6 June, 32, Elizabeth.
- 1590 To Ros bán Mac Brian Mac Mahon—chief rents of Ballylekebally lands, Co. Monaghan; 20 Nov. 33, Elizabeth.
- 1591 To Robert Bostock—the possessions of St. Mary's Abbey, Co. Dublin; 3 March, 33, Elizabeth.
- 1592 To John Lee—the moiety of the Manor of Castleknock, Co. Dublin; 26 March, 34, Elizabeth.
- 1598 To Sir John Proby—the wardship and marriage of Ellen Fagan, daughter and heiress of Thomas Fagan; also the wardship and marriage of Walter Ussher, son and heir of John Ussher, at an annual rent to the Crown of £18 6 0 for the former, and ten shillings for the latter; 18 December, 41, Elizabeth.
- 1599 To Pierce Edmonds—the wardship and marriage of Patrick Scurlock, son and heir of Martin Scurlock, of Rathredin, King's Co. at an annual rent to the Crown of £10 19 6; 21 August, 41, Elizabeth.

The preceding constitute but a very small portion of the grants omitted in the Calendars, although passed under the Great Seal, and embodying information of most important nature to investigators of almost every class. It appears scarcely credible that Patents, passing through the Chancery of Ireland, could have been delivered to their respective grantees without having been enrolled or entered of record; some of them being of great importance, as that of the whole County of Fermanagh in 1586; the grant of upwards of twelve thousand acres in Limerick to Bouchier in 1588; while the patents noted in the foregoing list, as omitted in these Calendars under 1537 and 1555, are the documents under which, to-day, the two high Peers of Ireland, the Duke of Leinster and the Marquis of Ormond, derive their ancient titles and family estates.

In these Calendars are also most improperly omitted details of the privileges and services of Crown tenants; matters of high legal import as distinguishing rights of great Barons and Parliamentary Peers. Such omissions preclude an accurate view of the progress of English law and customs in Ireland, and seriously prejudice historic, legal and genealogical investigators, who in the absence of these particulars are unable to trace cases where the non fulfilment of peculiar obligations led to forfeitures, and loss or compositions with the Crown, for subsequent re-grants of estates.

The style in which the grants of offices are here calendared is equally unsatisfactory. The mere dates of important official appointments in Ireland having been long before the world in printed books, it was superfluous to reproduce them, unless accompanied by the Patents detailing the extent and nature of the offices conferred. This would have afforded accurate information on the state of the revenue and expenditure at various periods;

on the powers of heads of departments, and on the juridical and general history of the country, by exhibiting the class of records to be consulted in inquiries on special subjects. Among the Patents of this class which should have appeared in these Calendars but of which we find no entries in the volumes before us, may be mentioned the following: Creation of the office of Ulster King at arms, principal Herald of Ireland, 1552; establishment of the Athlone Pursuivant, 1552; the transfer of the See of Dublin to Archbishop Hugh Curwen by Philip and Mary, 1555; the elaborate document issued by Elizabeth on her accession in 1559 authorising the proclamation of a general pardon in Ireland; the grant of 1574 by which the Queen of England recognised Aodh, the son of Manus O'Donell, as Chief of the territory of Tirconnell; Her Majesty's Letters Patent delivered into the Chancery of Ireland, 18 September, 1585, for the "dividing the parts of Ulster not yet reduced into Shire ground," establishing six counties in the North; the Commission of 10th of July, 1591, and its return, delivered into Chancery on the third of the following month, specifying the limits fixed upon for the county of Tyrone, with the allotment and division of that county; the very important document of 1601, detailing particulars of the exchange and coinage of the new standard in Ireland. The omission of the latter is the more reprehensible as the place which it should have occupied (vol. ii. 578-582,) is filled with matter extending to five pages, *frequently before printed*, although no intimation of this fact is given to the reader.

The three following extracts will serve to illustrate the useless mode in which important appointments several times before printed have been again calendared in these volumes:

- 1558-9 "Appointment of Thomas, Earl of Sussex, to the office of Lord Deputy of Ireland,—July 3."—*Vol. i, p. 418.*
- 1574 "Grant of the office of Deputy General of Ireland to Sir Henry Sydney.—August 5."—*Ib. p. 555.*
- 1574 "Appointment of the Earl of Essex to the office of Earl Marshal of Ireland.—Mar. 9."—*Ib. 556.*

The above few lines are given in these Calendars to represent letters patent of the most elaborate character, written in Latin, containing numerous clauses of the highest interest, illustrating regal and vice-regal prerogatives; the state of the English Government in Ireland; the exact nature of the offices conferred, and descending so far into details as to prescribe minutely even the fashion and emblazonry of the baton of the Queen's Marshal in Ireland.

A great part of these Calendars is occupied with entries of pardons, but the reasons for which they were granted are seldom given, and many pages are filled with such useless entries as the following:—

- 1544 "Pardon of Donaghe Shillerie, otherwise Cavanaghe, otherwise O'Byrne, of Innyscorthie, horseboy, Dec. 7, 35°."—*Vol. i., p. 103.*
- 1552 "Pardon of Ferdoroghe O' Brenane, John O'Brenane, Dermot O'Brenane, Patrick M'Donoghe Boy O'Brenane, Donald O'Ferroll O'Brenane, William M'Shane O'Henons, Donoghe M'Teige Teige M'Donyll O'Brenane, William M'Shane O'Brenane, Fiune M'Shane O'Costogine, David M'Gillepatricke, Gillernow M'Teige, Donogh M'William, and John O'Brenane, Kerns, Mar. 21, 6°."—*Ib. ib. 273.*
- 1553-4 "Pardon of Moriortagh Rowe O'Dowylle, otherwise Twoce O'Maline, Maurice, otherwise Moriortaghe Oge M'Donaghe M'Henry Edale, Melaghlin M'Donaghe M'Henry Edale, Donald bane M'Art Rowe, John O'Mollyne, Rory M'Shane O'Dowile, Edward Dowe, Hugh Dowe, M'Donnell M'Shane Glasse, Thady O'Hee, M'Gilpadricke O'Hee, and Thady More M'Donoghe M'Teige M'Dermot O'Egeyre—*No date.*"—*Ib. ib. 325.*

- 1558-9 "Pardon of Teige M'Dermod, Sherehee M'Morihirtagh, Gilpadrick M'Morihertagh, M'Dermod, Fardorogh M'Davye, and Dermod M'Teige, of Leix, Kerns, Decr. 16, 1."—*Ib.* 397.
- 1558-9 "Pardon of the Archbishop of Dublin.—Dec. 15, 1°."—*Ib. ib.*
- 1558-9 "Pardon of Sir John Power, Lord Baron de le Power.—Dec. 16, 1°."—*Ib. ib.*
- 1602 "Pardon of Donogh M'Donnell M'Gillpatrick Clanteres, Shane M'Donnell M'Gillpatrick Clanteres,—O'Bergin,—O'Brohie,—O'Kellie,—M'Gilpatrick,—M'Teige,—O'Birnie,—Roche,—Egerton,—Fleming,—and others.—Dublin, March 4, 45."—*Vol. ii*, p. 634.

Similar valueless entries of "pardons" occupy frequently from *six* to *seventeen* consecutive pages of these Calendars, as in vol. i. pp, 158 to 163 ; 172 to 188 ; 199 to 208 ; 273 to 280.

Had the precise nature of each pardon been accurately specified, such information might have furnished important links of the highest value to historical investigators as well as to inquirers into pedigrees, lands, and titles.

Your Lordships may thus estimate the amount of value to be attached to the Editor's statement (vol. i. p. xliii.) that the "purport of each document has been minutely and accurately analyzed, the substance of every important clause and provision extracted, and the names of every person and place in each accurately specified."

The desire to economize space and the public funds cannot, with truth, be pleaded for the curtailment by which the entries in these volumes have been, as I have shown, virtually rendered useless, for many pages, purporting to be illustrative original documents, embodied in the Calendars have been *reprinted* verbatim from common books, without any acknowledgment. Thus, the late Dr. John O'Donovan's Irish version and English translation of a covenant between Mac Geoghegan and Fox, A.D. 1526, is

most inappropriately *reprinted* under the year 1600, filling three pages in Gaelic and English (vol. ii. 572 to 574) without mention of its translator, O'Donovan, or of the "Irish Archæological Society" in whose "Miscellany" it appeared in 1846, p. 191. In a similar manner four pages of the same volume of the Calendars (60 to 64) are entirely occupied by *reprints* of documents relative to the obsolete Dublin local impost, styled "Tolboll," totally out of place in calendars of Patent Rolls, and published by Dr. Aquilla Smith, in the "Miscellany" already mentioned, pp. 33 to 41. The elaborate schedules compiled and published by Mr. Erck in 1846 ("Repertory," pp. 81-2, 169-170.) of Sir Walter Raleigh's Irish possessions are *reprinted as the result of new research* in p. 324 to 327 of the second volume of the Calendar; pp. 325, 515, and 630 of which are also composed of *republications* from the Calendar of Patent Rolls of James I. printed in 1830, pages 66, 58, 565.

The following figures will exemplify the vast extent to which documents and abstracts of records published in the Calendars of 1861-2, as the result of *new and original* investigations, have been *reprinted verbatim and without acknowledgment*, from the printed "Reports of the Commissioners appointed to inquire into the Municipal Corporations in Ireland: presented to both Houses of Parliament." 1835:

Calendar Volume I—pp. 78, 355-7, 423, 523: *reprinted verbatim and without acknowledgment* from the above Reports, pp. 573, 805, 810, 621, 451.

Calendar, Volume II—pp. 86-87, 96-99, 110-112, 180-182, 212, 306, 310, 455-456, 825: similarly *reprinted* from same Reports pp. 69, 105-106, 557, 558, 75, 76, 479, 579, 584, 455, 456, 213.

Equally preposterous with the foregoing appropriations, is the title of "Calendars of Patent and Close Rolls" given

to these Volumes, which do not contain either abstract or notice of any *Close Roll*, and in which every roll described is headed "*Patent Roll!*"

The rapidity with which these Calendars were executed was very remarkable :

"Nec pluteum cædit, nec demorsos sapit ungues."

The first volume, bearing date May, 1861, was completed in an incredibly short period. The second volume, containing printed matter sufficient to fill about 1000 pages similar to this, came before the public in June, 1862, thus succeeding the first within the time barely requisite for the mere printing. Literary history records a few rare instances of marvellous celerity in the composition of imaginative and poetical works, when

"Wit a diamond brought
Which cut his bright way through."

But I believe that no specimen can be adduced of the compilation of any analytical catalogue of documents, "heavy with the dulness of the past," having been completed with a rapidity remotely approaching to that with which these Calendars are alleged to have been executed, "at intervals snatched from the labours of official duties!" The justice of my remarks on this point will be admitted when I mention that the ancient and obscure records given in these volumes as having been *separately deciphered, translated, and epitomized*, in the most careful manner, amount to the enormous number of 5291 !*

* The number of the Patent Rolls and of the articles entered upon them alleged to have been *newly analysed* in the Calendars of 1861-2 are as follow—the figures within brackets denoting the numbers of the articles—Henry VIII. 24 rolls, [1142]; Edward VI. 8 rolls [1096]; Mary, one roll [97]; Philip and Mary, 7 rolls

Why the country should have been taxed for this *alleged* new examination and epitomizing appears inexplicable, since *all the Rolls included in these two Volumes were translated and calendared more than thirty years ago, under the superintendence of James Hardiman, for the Irish Record Commission, at the cost of the nation*, as may be seen from the note at foot. The Irish Record Commissioners' Calendar of Patent and

[369] ; Elizabeth, 47 rolls [2508] ; in all 87 rolls containing 5212 entries, which, with 79 entries from Fiants (Vol. i. pp. 557-70) make a total number, as above, of 5291 entries, of which 3792 are contained in the first and 1499 in the second volume of the "Calendars."

The details of the preparation of the Calendars of Patent and Close Rolls under the late Irish Record Commission are given as follows in the published Reports of that body:

In March, 1816, these Commissioners officially reported that a Calendar to the Patent and Close Rolls in the Rolls' Office had been prepared from their commencement to the 43rd year of the reign of Elizabeth, and that considerable progress had been made in its final revision for press ; 6th Annual Report, 1816, p. 2. In March 1817, the 7th Annual Report, p. 8, states that "the Calendar to the Patent and Close Rolls formerly in the Bermingham Tower repository has been nearly completed and considerable progress made in the collation thereof by Mr. Hardiman." The eighth Annual Report in March, 1818, p. 12, records the completion of the formation of the Calendar and progress made in its collation and final revision for press. In January, 1819, the Commissioners reported, p. 42, that "the Calendar to the Patent and Close Rolls in the Rolls' office has been already brought down to the commencement of James I." In the Supplement to the same Report, p. 48, the following was given as the then state of the work :

"Arrangements of Patent and Close Rolls from 31 Edward I, to the present time in Chronological order, completed. Catalogue to same, giving accurate descriptions of each Roll, completed. Calendar of Contents of same to the end of the reign of Elizabeth, containing upwards of 12000 pages completed ; and considerable progress made in the revision of same for printing. Indexes nomenclum and locorum to same, containing 5412 pages completed."

Close Rolls to the end of the reign of Henry VII, published in 1828, contained an announcement that the second part of the volume, comprising the reigns of Henry VIII, Edward VI, Philip and Mary, and Elizabeth, was then in press. *The printing of this Calendar, commencing with Henry VIII, was actually executed in 1830, to the end of the reign of Edward VI. including every roll contained from p. 1 to p. 299 of the first Volume of the newly-produced Calendar :* but as the latter makes no reference whatever to that of 1830, parallel specimens are here appended of the entries with which they both commence :

CALENDAR, A.D. 1830.

“ Patent Roll, 5 and 6 Henry VIII.

I.—1. Grant from the King to Edward Becke, otherwise Beke, of Manchester.—To trade freely throughout Ireland, during his life, exempt from payment of the King’s customs, tolls, &c. Ap. 5th....II—1. Grant of the office of Second Justice of the Chief Place to John Barnewell, knt. Lord of Trymleston. 2 Jan. Pat. Office. III.—1. General Pardon to Christopher Ussher of Dublin, merchant, the King’s Collector and Customer, and Matilda Darcy his wife.—13 Jan. IV.—2. General Pardon to William Brent, abbot of the Monastery of St. Thomas the martyr, near Dublin, and his convent. V.—3. Grant from the King, for a certain sum of money, to Edward Plunket, knt, lord of Donsany, Meath Co., five Marks of Annual rent, issu-

CALENDAR, A.D. 1861.

“ Patent Roll, 5, 6 Henry VIII 1514-5.

Membrane I—License to Edward Becke, otherwise Beke, of Manchester, to trade freely throughout Ireland, during his life, exempt from payment of the King’s customs or tolls.—Ap. 5. 5°. 2. Grant to John Barnewell, knight, Lord of Trymleston, of the office of Second Justice of the Chief Place ; To hold during pleasure, with a Salary of 40 marks.—Jan. 2, 5°. 3. Pardon of Christopher Ussher, of Dublin, merchant, the King’s collector and customer, and Matilda Darcy his wife.—Jan. 13. Membrane 2.—4. Pardon of William Brent, Abbot of the monastery of St. Thomas the Martyr, near Dublin, and his convent.—Jan. ... Membrane 3. 5. Grant, for a certain sum of money, to Edward Plunket,

ing out of Crossdrome and Castell Cor, in the King's hands, by reason of the minority of John Plunket, son and heir of Edmund Plunket, late lord of Kyllen, decd., so long as same shall remain in the King's hands.—Without account. 4 April.

VI. 3. Grant of the office of Justice of Ireland to William Preston, viscount and lord of Gormaneston. — 13 Ap. — Pat. Off [ice].

Dorso. VII.—1. Award by the Lords and Council, that Henry Duff and others of Drogheda, shall have a certain ship and goods, lawfully taken by them as a prize.—4 Aug. 6th."—*Calendar of 1830, page 1.*

knight, Lord of Donsany, of five marks annually, issuing out of Crossdrome and Castell Cor, in the county of Meath, in the King's hands, by reason of the minority of John Plunket, son and heir of Edmund Plunket, late Lord of Kyllen, deceased; so long as the lands shall remain in the King's hands.—Without account.—April 4. 6. Grant of the office of Justice of Ireland to William Preston, Viscount and Lord of Gormanston. — April 13.

Dorso. 7. Award of the Lords and Council, directing that Henry Duff and others, inhabitants of Drogheda, shall have a certain ship and goods, well and lawfully taken by them, as a prize.—Aug. 4, 6°."—*Calendar of 1861, Vol. i. p. 1.*

The remainder of the Calendar of 1830, including all the Rolls of which abstracts are given in the *new* Calendars from the beginning of the reign of Mary to the end of that of Elizabeth was not printed, in consequence of the breaking up of the Irish Record Commission and the manuscript of it extending to upwards of 12,000 pages, with indices occupying 5412 pages, continues, as public property, no doubt, in safe and responsible custody.

Whether the unacknowledged appropriation of the compilation of 1830 is the key to the wonderfully rapid execution of the Calendars of 1861-2; why a defective and inaccurate work like the latter should have been preferred to that executed under so eminent a scholar as Hardiman; and why the public funds should have been

expended to re-produce in an imperfect and comparatively valueless mode, that which had been at the cost of the Nation previously compiled in a superior and satisfactory form, and even partly printed, are questions which will, no doubt, receive your Lordships' serious attention.

A notice of these Calendars would be incomplete without mentioning that they have been formally and publicly commended by the Lord Chancellor of Ireland; the Master of the Rolls of Ireland; the "Ulster King of Arms," as well as by some of the most noted lawyers in Ireland, whose opinions are given to the world in a pamphlet issued with the Calendars, entitled "Selection from letters received in reference to the Calendar of Patent Rolls." The Master of the Rolls of Ireland writes, that the "important duty of preparing the Calendar" has been "discharged entirely to his satisfaction!" The Lord Chancellor of Ireland, in a letter, printed at page 4 of the pamphlet referred to, declares that the "publication does great credit to the labour of the Editor;" that "the preface is interesting and instructive;" that he is "convinced of the value of such publications to the lawyer and the historian;" and that the "very careful manner in which the work appears to have been completed has conferred an important benefit on the public, and more especially on those who may be engaged with Irish history!" Sir J. B. Burke, "Ulster King of Arms," in a letter dated "Record Tower, Dublin Castle," designates the work "an admirable Calendar," "a great boon," and "an invaluable contribution"—apparently overlooking the entire omission from it of any entry of the Patent by which, as mentioned at p. 65, he holds the office of principal Herald of Ireland, and under which he annually receives from the public exchequer a salary of forty marks, and a suit of clothes!

The system adopted in the Calendars of giving short translated abstracts of records, which as shewn at p. 60 has been long condemned by the most competent authorities, is however, highly praised in a letter, printed at page 5 of the pamphlet referred to, and there set down as written by "Gerald Fitzgibbon, Esq., Queen's Counsel, Master in Chancery." This letter contains the following passages, addressed to the editor of the Calendars:

"The plan of the book is simple and clear, and the execution is very creditable. I would suggest an addition to this valuable work which, as long as you live may be of comparatively minor utility, but may hereafter be found of the highest importance, and that is, a key to those ancient records, which, it is well known, no other living person can read as you can. A copious alphabet, with a full list of all the contractions, would be a valuable bequest to future times; and the present heads of our legal body would confer a great and lasting benefit on their successors, and the public of future ages, by now securing the performance of this work by one so competent and so exclusively fit for the task as you are."

Your Lordships may decide whether ignorance of the subject or keen satire is at the bottom of this epistle. Every man of even ordinary education knows that numbers of profound and accomplished palæographers exist on the Continent and in Great Britain, and that in this branch of learning some of the Archivists of Ireland hold an eminent and recognized place. Eighty-two names appear on the official "Liste des Archivistes" in France for the year 1862, and, of these, twenty-five are of the class designated "Archivistes paléographes."

Another of the legal dramatis personæ in this "Comedy of Errors" is the "Right Hon. James Whiteside, Queen's Counsel, Doctor of Laws, and Member of Parliament," who, by his recent performance on the stage of a public hall in Dublin, has demonstrated to the world his entire want of a correct knowledge either of British or general his-

tory—or even of the annals of the University which he represents in the House of Commons.

This noted member of the Bar, in the authorized edition of his treatise on the Parliament of Ireland, published by the Booksellers to the University of Dublin, for the “Committee of the Young Men’s Christian Association, in connection with the United [Established] Church of England and Ireland,” holds up these Calendars to the admiration of all “Christian young men” as models of “patient ability,” further assuring such ingenuous youths, that the preface “points out the yet unexplored sources whence much additional light might be cast on the Irish Parliaments of the Pale!”*

* “The Life and Death of the Irish Parliament, a Lecture by the Right Hon. James Whiteside, Q.C., L.L.D. M.P.” Dublin: Hodges and Smith, Booksellers to the University, 1863, p. 14.

To point out the principal of the innumerable evidences of astounding ignorance of accurate historic materials by which this production is characterized, would far exceed the present limits: two illustrations may however be given of the author’s nescience of common historical facts connected with the legal profession to which he belongs. Page 13, of his above cited work, contains a distinct statement that the ancient Irish had no laws “save their own free will.” A conclusive contradiction to this is supplied by a passage written nearly a century ago, by a Provost of the University of Dublin. After mentioning the opinions expressed by various pretentious but superficial writers, that the old Irish had neither written laws nor settled jurisprudence, Dr. Thomas Leland, in his *History of Ireland*, 1773, demonstrated from the existing manuscripts of the ancient Gaelic laws, that a very elaborate and extensive code formerly existed among the natives. These laws, wrote Dr. Leland, “not only provide against murder, rapes, adultery, theft, robbery; but such crimes as are not generally cognizable by human tribunals, such as slander, tale-bearing, or disrespect to superiors. . . . The property and security of woods, the regulation of water-courses, but above all, the property of bees, on which depended the principal beverage of the people, were guarded by a

The study of ancient muniments having long ceased to form part of *legal* education, the elucidation of the contents of records has become recognised as a distinct branch of

number of minute institutions, which breathe a spirit of equity and humanity." We are not to wonder that a people, accustomed to the refinements found in their own laws, should be pronounced of all others the greatest lovers of justice." "This," added Dr. Leland, "is the honourable testimony of Sir John Davies and Lord Coke: with shame we must confess that they were not taught this love of justice by the first English settlers."—*History of Ireland, by T. Leland, T.C.D. Dublin, 1773, vol. i. pp. xxiv, xxxvi.* The strong opinions expressed by the chief scholars of Europe on the importance of these old laws, which, according to Mr. Whiteside, *never existed*, induced Government in 1852 to appoint a Commission for the special object of making a collection of the surviving ancient legal institutes of Ireland. This Commission has carried on its labours within the precincts of that University of which the author of the above statement is a Parliamentary representative; and according to the return made to Parliament by the Rev. Charles Graves, Secretary to the Commission, dated from Trinity College, Dublin, in 1857, the mere transcript of the original Gaelic of these ancient laws amounted then to 5142 folio pages! To this proof of Mr. Whiteside's knowledge of ancient Irish laws, an illustration may be added of his intimate acquaintance with the history of eminent lawyers who figured in Ireland. At p. 59 of his work, already quoted, on the Irish Parliament, he writes of Sir John Davies, Attorney General to James I., "Although he had much in his power, *he took not one acre of land in Ireland to himself.*" The inaccuracy of this assertion will be seen when it is mentioned that, of the lands "planted" in Ulster, during the reign of James I, Sir John Davies received 1500 acres, called Lisgowely, in the precinct of Clinawly: 2000 acres called Gavelagh and Clonaghmore, in the precinct of the Omy; and 500 acres called Cornechino, in the precinct of Orior; the details of these lands will be found in the Survey of Ulster, made by N. Pynnar, by commission under the great seal of Ireland, dated 28th November, 1618. In addition to these 4000 acres, Davies received, under a royal grant, dated 11th July, 1614, lands in the following Counties, — Kilkenny, King's and Queen's Counties, Tipperary,

learning, demanding peculiar aptitude and laborious application to acquire knowledge on such abstruse points, as the respective characteristics of the formula and effect of each document included in the class styled "diplomatique;" the language, writing, orthography and brachygraphy of various centuries; the styles of different monarchs in their charters and letters; the tests of the authenticity of dated or undated documents; the peculiarities and bearings of medieval, legal and municipal regulations; the characters and legends of seals or details of "l'art sphragistique," with innumerable other minute specialties, in which no assistance is derivable either from modern law or from profound classical knowledge. To the foregoing acquirements the qualified Irish archivist must superadd an acquaintance, substantial and minute, with the histories, social institutes and existing documents of that Celtic people which so long occupied the greater part of the land of Ireland; the various meanings and obsolete or current applications of words, names or denominations borrowed from their tongue; and the amount of value to be attached to writers in various languages who have hitherto touched on any portions of these subjects. There is no

Leitrim, Westmeath, Wicklow, Galway, Kildare, Clare, Cork, and Kerry; Patent Roll xi., James I., pars i., lxxix, 42, dorso.

"The History of Dublin," according to Mr. Whiteside, p. 6, "has been admirably written by the late Rev. James Whitelaw." Yet we have the authority of the present President of the Royal Irish Academy (Academy "Proceedings," vol. viii, page 102) that the compilation thus eulogised by Mr. Whiteside, "is full of the most absurd errors" and mainly composed of unacknowledged reprints from wretched guide books and Dublin Almanacs! Of the transformations effected by Mr. Whiteside in his performance, a striking instance appears at p. 21, where Henry Castide, described by Froissart as "a squire of England, an honest man, and a wise," is metamorphosed into "*one Doctor Bastide*,"—for the instruction of the Young Men's Christian Association!

road to such acquirements but long, laborious application ; and the few real proficient in them can appreciate the full truth of the axiom of the French sage—"Le genie n'est qu'une plus grande aptitude à la patience."

That some high legal functionaries should have compromised their learning and sagacity by delivering in print their commendations of such a work as these Calendars, while exciting special wonder, demonstrates the value of the advice conveyed in the following lines, written more than three centuries ago, by a learned Lord Chancellor of England, on the mishaps of a sergeant of the law, who unwisely overstepped his own special department :

"Wyse men alway, affirme and say, that best is for a man
Diligently for to apply, the business that he can ;
And in no wyse, to enterpryse an other faculte.
A man of lawe, that never sawe the wayes to buy and sell,
Weening to ryse by marchandyse, I wish to speed him well !
When a hatter will go smatter in philosophie,
Or a pedlar ware a meddler in theologie.
All that ensue such craftes newe, they drive so far a cast,
That evermore, they do, therefore, beshrewe themselves at last.
In any wyse, I would advyse, and counsaile every man,
His owne crafte use, all new refuse, and lightly let them gone."

The Master of the Rolls in Ireland, the judge of questions of literary property in that country, occupies a strange position before the world in this matter, since his name appears on the title pages of these volumes as the patron and promoter of a work in which the law of copyright, and even the first principles of literary honesty have been violated by an unprecedented extent of unscrupulous plagiarism and unjustifiable appropriation.

We have here, indeed, a remarkable testimony to the wisdom of the ancients embodied in the above verses. By venturing beyond his own department of modern law, an upright and preëminently equitable Judge, engrossed with

the weighty business of the Irish Rolls' Court, has been unwittingly beguiled into having his name published as patronizing and approving of a series of gigantic infringements upon mental property, the rights of which he had hitherto upheld with all the authority of his office, and in a manner becoming the son of an accomplished scholar, who, it is believed, felt prouder of the commendations bestowed by Edmund Burke upon his writings, than of his title of Baron of the Irish Exchequer.

It must, however, in justice be stated, that the eminent personages misled in this affair, were not exclusively Irish. Of the three Chancery Commissioners who presented to Parliament the series of blunders on the Records, noted at p. 7, one was an English official of high rank, specially despatched from London to supervise the inquiry at Dublin. How seriously compromised even the highest authority on English records may be in dealing with public muniments peculiar to Ireland, is unanswerably evidenced by the fact, that Sir John Romilly, Master of the Rolls and President of the Record business of England, has, by his "flattering commendations," promoted and encouraged the publication of these Calendars—as is distinctly stated in the first page of the Preface to the Second Volume!

That a first step, however tardy, taken by the Treasury towards improving the discreditable condition of the Public Records of Ireland should have produced such fruit, is regretted by those who appreciate the beneficial results which might have arisen from the laudable intentions thus frustrated, through causes, it should in truth be observed, beyond your Lordships' immediate control.

Public justice demands that your Lordships should give directions to discontinue the issue in the present discreditable form of these Calendars, abstracted without ac-

knowledge from the labours of others. The sole question appears to be whether it may be more desirable to cancel them entirely, or to publish a supplement exhibiting accurately the portions which have been appropriated from other books, giving tables of the numerous errata, and supplying, from a collation of the original rolls, the many important and serious deficiencies in these volumes. Certain it is, that such a supplement would be the most conclusive exposé of the miserable results of audacious charlatanism.

In dismissing these "Calendars" I reiterate in the most emphatic terms, addressed to the whole literary world, interested in historic learning, that the Archivists of Ireland indignantly repudiate all connection with this discreditable compilation, inasmuch as they have been ignored in every step of a work, which, to the heavy detriment of the public, has been committed, to shallow and pretentious incompetency, through an unreasoning deference to the hollow prestige of a conventional profession.

To point out the steps which should be taken to preclude the repetition of mistakes such as the publication of these Calendars, leads to a wider field, and necessarily involves a consideration of the course proper to be adopted with reference to the Public Records of Ireland, the condition of which, as exhibited in the commencement of the present paper, is, I may observe, almost identical with that in which analogous documents in England stood in the early part of the present century.* Down to the year

* The invaluable records of the Exchequer of Ireland are admitted (see p. 6) to be neither in responsible custody, nor in a secure repository. To the state of the archives of the King's Bench the following reference was made in 1857, by the present Attorney General for Ireland. "Mr. Thomas O'Hagan, Q. C., said he was not an archæologist himself, but, in his professional capacity, he had an opportunity of seeing some of the most valuable materials for Irish

1839, the national muniments of England were dispersed in fifty-six repositories in widely distant parts of London, many of them entirely unfitted for the safe custody of documents, damp, ill-ventilated, offensive; never cleaned, aired nor warmed. To obtain access to any of these Records, searchers had to make numerous applications, and to pay heavy fees to the nominal Keepers, who, for the most part, neither gave regular attendance, nor provided any convenience for those who had occasion to consult them.

Sir Francis Palgrave, by great exertions, brought these numerous establishments under one system, and united the contents of the different depositories in the Public Record Office, established in London, pursuant to the Act for keeping safely the Public Records, passed in 1839, in which has been aggregated every instrument coming under the denomination of a "Public Record," which the Act defined to comprehend all rolls, records, writs, books, proceedings decrees, bills, warrants, accounts, papers and documents whatsoever, of a public nature belonging to Her Majesty. The documents previously dispersed in the fifty-six Repositories having been consolidated, under proper officers, literary inquirers are allowed to make searches without payment of fees; the issue of Calendars has been commenced, and the Public obtain the fullest assistance in the production and use of the Records.

Turning to Ireland we find that in 1812, Sir Robert Peel, then Secretary for Ireland, proposed to concentrate,

history, crumbling away under the dome of the Four Courts [Dublin.]"—*Report of Excursion of Ethnological Section of British Association, Dublin: 1859.*

in one building at Dublin, the entire of the contents of the various metropolitan record repositories, including the muniments in the several law courts and offices. In 1817, the Imperial Parliament passed an act (57, George III, chapter 62) for the concentration and arrangement of Irish public records. This act commenced with declaring that, after the expiration of existing interests, the offices of Surveyor General of Crown Lands; Keeper of Records in the Bermingham Tower at Dublin;* Keeper of the

* These Records consist mainly of Plea Rolls; Rolls of the Pipe; the archives of the Parliament of Ireland; the documents of the Irish State Paper Office, together with collections made under the late Irish Record Commission. The office of Keeper of these Tower Records was a sinecure held, for life, under patent dated 29th November, 1805, at the period of its abolition, by Philip Henry Stanhope, fourth Earl of Stanhope. By undertaking to act gratuitously as Lord Stanhope's deputy, a late Ulster king of arms, succeeded in locating himself in this Tower, having, it is said, ejected by personal violence the late William Shaw Mason, Secretary of the Irish Record Commission. Under the Statute above quoted, these Records should have been removed to a Public Record Office; but, at the time of this intrusion, attention was not called to the serious impropriety of allowing original Rolls and Documents the property and evidences of the Public to come under the hands of a herald, who, as Ulster king of arms, is a professional genealogist, receiving fees for constructing pedigrees and making out claims for titles. Great injustice was thus often silently but most effectively inflicted upon individuals. Parties having once engaged, or purchased, the professional interests of the Ulster king of arms, as a pedigree agent or herald, consequently insured all the advantages derivable from a monopoly or non-production in evidence, of the Tower Records in his custody. It is needless here to enlarge on the intolerable nature of such a system, since, in consequence of the obscurity in which the Tower Records have hitherto been retained, it was impossible to demand, by the usual legal course, any specific document, of the actual existence of which positive or direct proof was

Records of Parliament; and Clerk of the Paper-office, should be abolished and not "granted to any person or persons whomsoever;" all records, maps, books, and

unattainable, from the want of arrangements similar to those established for the Public in the General Record Office in London. Lord Brougham protested against an Ulster king of arms being believed on oath before the House of Lords, and designated him to that august assemblage, as a person whose business was to "wear a motley coat; walk in processions, and superintend funerals." It would appear that his Lordship's knowledge of the nature of this office was based on a Commission bearing date 5th of June, 1684, to the Ulster king of arms of that day, and which defined his office to consist in "taking knowledge of and registering the descents, matches, and issue of the nobility and gentry of the kingdom of Ireland, as also in preventing and reforming usurpations, disorders, and abuses in the bearing and using of arms and titles of honour, as also in the regular and undue using of *velvet palls, or supporters at any funeral whatsoever.*" The small importance originally attached to this office is shown by the official "Establishment of Ireland, Civil and Military," signed by Charles II, 1684, in which the Ulster king of arms is set down for an annual salary of £26 13 4, while the State Trumpeter and Kettle-drum performers were paid each £70 per annum. In the schedule of the officers and servants attending the House of Peers in Ireland, from 1719 to 1729, the name of the Ulster king of arms is put at the foot, three degrees below the "Fire Maker to the House of Lords," a position acquired apparently by the low quarrels in these times, for fees, between the "Ulster king" and the herald-painters and undertakers of funerals in Dublin. One of these Dublin undertakers, named Aaron Crossly, carried on a long dispute with William Hawkins, Ulster king of arms, who sought to oppress him by virtue of his employment under the House of Lords; but several of the Peers protested against this protection being taken advantage of by their servant, whose errors in heraldry were exposed by Crossly, proving, that, among other mistakes, the Ulster king had blazoned the arms of the see of Ossory "as if one half of the Bishop were dead and the other half living"! The fee to the Ulster king of arms for introducing a Baron or Bishop into his place in the House of Peers of Ireland was fixed at £1 17 6; and in

papers, connected with the offices were, under this act, ordered to be transferred to a Repository to be appointed "for the preserving and securing of the Records of Ire-

1750 it appears that, in point of rank and emolument, the Ulster king of arms was, so far as the Peers were concerned, placed on a level with a "second class door-keeper to the House of Lords," the salary of £53 6 8 being allowed to each. The House of Lords of Ireland, in 1789, passed a formal resolution declaring that, after careful examination, they had concluded that the entries in the books of the Ulster king's office were "very incorrect;" and that, moreover, several of the Irish Peers had paid for entries which had not been made. Such facts show the grounds on which Sir W. Blackstone founded the opinion which he delivered as follows, in the seventh chapter of the third book of his famous "Commentaries on the Laws of England:" "The marshalling of coat armour, which was formerly the pride and study of all the best families in the kingdom, is now greatly disregarded, and has fallen into the hands of certain officers and attendants upon this court [of heraldry] called heralds, who consider it only as a matter of lucre, and not of justice, whereby such falsity and confusion have crept into their records, which ought to be the standing evidence of families, descents, and coat armour, that, though formerly some credit has been placed to their testimony, now even their common seal will not be received as evidence in any court of justice in the kingdom." When such a vile or venal state of heraldic morality existed in England, under the surveillance of a regular "College of Heraldry," one may conjecture the extent to which the Ulster kings of arms, as principal and uncontrolled heralds for all Ireland, were led into fabrications and perversions as a matter of "lucre and not of justice." The Ulster king of arms in 1800, was a member of the House of Commons of Ireland, and although he is alleged to have advanced the price of his vote, by opposing the Union at first, before he came into terms with Lord Castlereagh, yet the annuity granted him, nominally in consideration of his loss of emoluments consequent on that measure, could not be brought up beyond £290 19 5: while at the same time Mrs. Taylor, Keeper of the Parliament House, was granted a pension of £877 18 9, together with an annuity of £472 18 11 for her under-housekeeper, Mary Foster! The Irish Archæ-

land," and the Government of Ireland was, by the same authority, invested with full power to take the requisite measures for the safe custody, preservation, and arrangement of these, and of "*all other records relating to Ire-*

ological Society, in its Transactions for 1843, have given evidences of what the Council of that learned body stigmatize as the "bare-faced fabrications of names, personages, events, and ancient armorial bearings," embodied in pedigrees, disposed of for money "by William Hawkins, Esq., Ulster king of arms and Principal Herald of all Ireland, *under the seal of his Office.*" Further disclosures of this nature, nearer to our own time, will be found in the correspondence between C. J. O'Donel, Esq., Barrister at Law, and Sir William Betham, Ulster king of arms, published at Dublin in 1850, in which Mr. O'Donel protested against the undue interference with Records in the Dublin Tower, which he publicly declared had not been kept free from interpolations and corruptions. Mr. O'Donel's statements, which have never been disproved, were supported by reference to a pedigree then recently issued, abounding with "scandalous fabrications," signed sealed, and *authenticated* by the Ulster king of arms, and to which even the attestation and signature of the Lord Lieutenant of Ireland, of the day, had been, by some means, obtained! On the death of Lord Stanhope, in 1855, the office of Keeper of the Records in the Dublin Tower finally expired, and according to law, could "not be granted to any person or persons whomsoever," and in compliance with the Act of Parliament these muniments should have been removed to a Public Record Office. An illustration of the obscurity hitherto involving all matters connected with Public Records of Ireland is found in that well-known, laborious, and, in the main, accurate publication, Thom's Official Directory of Great Britain and Ireland, at p. 830 of which, for 1863, the present Ulster king of arms is entered as "Keeper of the Dublin Tower Records,"—an office which, as above shown, cannot legally exist; nor in any case could the Public, at this time of day, submit to have muniments, the property of the country, deposited anywhere but in a Public Record Office, free from all professional influences or agency; and so arranged and calendared that, as in London, any individual may obtain the fullest assistance in their production and use.

land." An Act of 1822 (3 George IV, chapter 56), moving in the same direction, abolished the Irish offices of Teller of the Exchequer, Auditor General, Clerk of the Pells, and Muster Master General, and provided that their records should also be removed to a Public General Repository.

No actual immediate movement was made under this legislation, and the first practical step towards concentrating the Records resulted from the act of 1829 (10 George IV, chapter 50) consolidating and amending the laws relating to the management of the land revenue of the Crown in Ireland.

This concentration of portions of the public muniments of Ireland was commenced in 1831, under the supervision of Mr. W. H. Hardinge, who with the approbation of the Treasury, removed to the western wing of the Dublin Custom House, six of the nine classes included in the Acts, viz.: the Records of the Surveyor General, Auditor General, Vice Treasurer, Teller of the Exchequer, Clerk of the Pells, and Muster Master General, together with the records of the 1688 forfeitures. The records of the offices of the First-fruits and Twentieth parts, Commissioners of Imprest accounts, Excise, Customs, Post-office, with a variety of smaller Collections, have since that year been removed to this Repository, and the arrangements, classification, and registration of the entire mass of documents have been accomplished in a style eliciting the highest commendations from the most competent authorities* in England and Ire-

* See the "History of the Survey of Ireland, commonly called the 'Down Survey,' by T. A. Larcom, F.R.S., M.R.I.A. Dublin: For the Irish Archæological Society, 1851." "Notes of Materials for the History of Public departments," by F. S. Thomas, London: 1846. "Fasti Ecclesiæ Hibernicæ, by H. Cotton, D.C.L., 1846.

land, and demonstrating the great benefit which would have accrued to the country had the entire of the other Irish public muniments been concentrated under the same zealous, skilful, and indefatigably laborious head.

The majority of otherwise educated people are not aware that Ireland is anomalously situated with regard to titles to public and private property, as, owing to former events in that kingdom, the Irish Public Records constitute the principal, if not the only, legal evidence of original settlement and continued subsequent enjoyment of all real property in Ireland, whether ecclesiastical, lay, or corporate, as well as of the origin, nature, variations, and extent of the Crown's hereditary revenues. In corroboration of these remarks it will suffice to cite here the unquestionable authority of General Sir Thomas Larcom, the present Under-Secretary for Ireland, who, in his valuable work on the history of the "Down Survey," mentions one class of muniments, which, in his own words, are "the legal record of the title on which half the land in Ireland is held."

These features are as important to Great Britain as to Ireland in matters of property; it should also be remembered that the Irish Public Records are the chief memorials of the English race in Ireland, and, in an historical point of view, they are absolutely requisite for the elucidation of many highly important points of the annals of the British Empire.

Although well aware of the hitherto not ungrounded impression prevailing among scholars in Ireland, that they have but too little to expect from the guardians in London of the Imperial finances,* I must here, in justice, express

* The amount of justice hitherto exhibited to Ireland in the administration of the grants of the Imperial Parliament for the

my conviction that had not individual interests and sordid motives combined, up to the present, to withhold from the light accurate and impartial information on portions of the Public legal Records of Ireland, I should not to-day

publication of chronicles, memorials, and calendars of documents *nominally* for Great Britain and Ireland may be estimated from the fact that of the *fifty* large volumes thus already published, at the general national expense, under the Master of the Rolls in England, *not one* was committed to the editorial care of any scholar in Ireland; and the only *one* of these productions bearing upon Ireland, is a Calendar of Irish State Papers, in London. The little reform contemplated in this system appears from the last official list of the numerous books in progress, under the same arrangement, which includes only *two* volumes entrusted to editors in Ireland; but at the same time measures have been taken, necessarily at heavy cost, under this grant, to despatch scholars to decipher, translate, and prepare for publication documents connected with English history, in Paris, Lille, Vienna, Barcelona, Simancas, as well as in other parts of Europe. Such is the injustice inflicted under this "Imperial measure" upon those learned scholars in Ireland who have acquired for Irish historic literature the high position which it now admittedly holds, having produced, at great personal sacrifice, works, with which but few of the volumes issued under the Master of the Rolls in England can stand comparison in point of accuracy, erudition, and perfect mastery of the subject matter. Of all the publishing bodies of these kingdoms, says a late writer in Blackwood's Edinburgh Magazine, the Irish Archæological Society is "the most learned." The labour and the merit of producing such "wonderfully learned editions" as those printed by this Irish Society, are, adds the same author, "almost beyond practical appreciation."—*Blackwood*, vol. xc., page 458; xci., pages 319-325. Of the publications in England, under the Master of the Rolls, a learned writer in *Fraser's Magazine* (lxvi., 130-133) observes that "the details and execution of this design have been hardly equal to the plan itself;" and points out instances in which some of the editors in England have mistranslated the simplest phraseology in almost every page; thus producing works, "not such," he justly adds, "as should appear under the authority of Government."

have to lay their wretched condition before the authorities who, with honourable enlightenment, have liberally opened the national purse—not only for the execution in England of various desirable archivistic labours, but also to have examined and calendared every document extant abroad connected with the history of Great Britain.

A full consideration of this subject, in all its bearings, cannot fail to demonstrate that the only satisfactory and really economical course to be adopted is one analogous to that taken so successfully in England—namely, to concentrate all the Public Records of Ireland, both metropolitan and provincial, in one general Repository at Dublin, under the management of archivists qualified to render them available in cases of justice, and competent, in their own departments, to maintain for this part of the empire a character for accurate and precise documentary learning.

By adopting a proper collocation, preserving the official origin of each class, a systematic and sound foundation might be laid for producing calendars of their contents in a manner appropriate to each department, and useful to the public in historical and legal inquiries. “Without calendars and indices,” says a high English authority, “the Public Records are as a sealed book and comparatively useless.”

This arrangement might be made sufficiently expansive to absorb periodically the records of various public offices, thus relieving them from obstacles to their current every day business, and enabling Government to simplify and economize those departments and courts, where the merely nominal custody of ancient records by those, who, as has been shown, are avowedly ignorant of their contents, and unable to answer any inquiries in connection with them, is at present made a source of unproductive public expenditure.

Such a Record Repository might clearly be established under the Statute of 1817, which, as already mentioned, authorizes the Government of Ireland, in plain words, to take measures for the proper care, arrangement, and aggregation of *all the Public Records of Ireland*; but should any perverse petty legal technicalities be raised by individual interests to mar the carrying out of a work so beneficial to the country at large, the Legislature can readily find means, as previously in England, to dispose of such obstacles.

In taking leave of the subject, for the present, I trust that I may not be considered to have been entirely unsuccessful in my essay to accomplish the objects which impelled me to enter upon this task; namely, to do justice to labourers whose works have been unfairly appropriated: to vindicate the real historic literature of Ireland: to arrest the mis-direction of a well-intentioned national expenditure; to indicate the proper steps to be taken to remedy the present neglected and precarious condition of the great body of the Irish Public Records; and to let the world see the true obstacles which impede the production of accurate and solid historical works in this part of the Empire.

I have the honour to remain,

Your Lordships' Obedient Servant,

AN IRISH ARCHIVIST.

Volumes I., II. III., price 7s. each, bound in cloth,
with general Index.

A HISTORY OF THE CITY OF DUBLIN.

BY J. T. GILBERT, M.R.I.A.

Hon. Secretary Irish Archæological and Celtic Society.

“The Author has removed from Ireland the national reproach of having no History of its Metropolis. He has produced a work, which has been, and will continue to be, read with interest, and referred to as an authority by all who may in our own time or in future generations, study the history and antiquities of the city of Dublin.” *Address delivered by the President of the Royal Irish Academy, 16 March, 1862.*

“From the unpublished Anglo-Irish legislative enactments, and from such-like decayed and decaying manuscripts, ancient records, which have become almost hieroglyphics to the present age, the Author of this work has gathered the life-history of an ancient city; he has made the stones to speak, and evoked the shadows of the past to fill up the outline of a great historical picture. In a history illustrated by human lives and deeds, and localized in the weird old streets, once the proudest of our city, many a family will find an ancestral shadow starting suddenly to light, trailing with it long memories of departed fashion, grandeur, and magnificence. It is not a mere record of Ionic pillars, Corinthian capitals, or Doric pediments, which the Author gives us, but records of the human life that has throbbled through the ancient dwellings of our city, century after century; of the vicissitudes of families, to be read in their ruined mansions; of the vast political events which in some room, in some house, on some particular night, branded the stigmata deeper on the country; or the tragedies of great hopes crushed, young blood shed, victims hopelessly sacrificed, which have made some street, some house, some chamber, for ever sacred.” *Dublin University Magazine.*

“We have been much interested with the originality and variety of this work. The author's research and reading are beyond dispute. Other writers, in fiction and history, will be indebted to him for the indication of much matter that might otherwise have remained unknown to them.” *The Athenæum.*

LONDON:

J. R. Smith, 36 Soho Square; J. Duffy, Paternoster Row.

DUBLIN:

M'Glashan and Gill, Sackville St; J. Duffy, Wellington Quay.

