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**ON THE
ORIGIN OF UNIVERSITIES.**

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ON THE
ORIGIN OF UNIVERSITIES
AND
ACADEMICAL DEGREES.

BY
HENRY MALDEN, M.A.
LATE FELLOW OF TRINITY COLLEGE, CAMBRIDGE;
PROFESSOR OF GREEK IN THE UNIVERSITY OF LONDON.



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604.

P R E F A C E.

LAST year the Petitions for and against the grant of a Charter to the University of London were referred to a Committee of the Privy Council, and counsel heard in support of them. An intention was entertained of publishing the whole argument; and I was requested to write a Preliminary Dissertation on the antiquities of the subject, that is, on the Origin of Universities and Academical Degrees. This I did accordingly; but the intention of publishing the argument was dropped; and my manuscript remained in my hands.

I knew very well that my dissertation was very imperfect. It had been written hastily. Many books which I should have been glad to consult, and those not rare ones, it so happened that I had not been able to procure. Others, such, for ex

ample, as Wood's History and Antiquities of the University of Oxford, I had consulted at the British Museum; but my essay was written, partly when I was confined to a sick room, partly when I was a convalescent in the country; so that I was obliged to be content with a few references. A complete History of Universities would necessarily be a work of some magnitude. My essay was short, and contained nothing more than a slight sketch of the early History and Constitution of the two most ancient and celebrated Universities on the Continent, Paris and Bologna, and a similar sketch of those of our own country; and this sketch, slight as it was, was defective in many parts.

For these reasons, when my dissertation was not used for the purpose for which it was written, I did not think of presenting it to the public as a separate work; and I could not spare time to make it complete. But after a while, when I called to mind, that not only the question of the charter of the University of London had been brought before Parliament, but the much more important question

of the admission of dissenters to Oxford and Cambridge, and that the discussion was sure to be renewed; and when I considered the very great ignorance of the nature and primitive constitution of the universities, which had been shown on all sides, in and out of parliament, by those who had spoken and those who had written on the subject; it appeared to me, that even this short essay, which, imperfect as it is, I believe to be correct as far as it goes, might give some useful information, and might prevent some mischievous mistakes. In this hope of doing good I made up my mind to publish it.

There are one or two passages, in which, from the facts stated, an argument is drawn in favour of the pretensions of the University of London. These would have been consistent enough, if the dissertation had been published, as I intended it to be, as an Introduction to the Report of the argument before the Privy Council. I am aware that in a separate work they are out of place: but I have suffered them to stand as they were originally written.

When I wrote these pages, I was not aware of the existence of Meiners' History of the Universities of Europe, (*Geschichte der Entstehung und Entwicklung der Hohen Schulen unsers Erdtheils*; Göttingen, 1805;) a work which would have saved me almost all my labour of research. Some references to it have been introduced in correcting the press.

May 27, 1835.

NOTICE.

The chief authorities which have been consulted in the following dissertation are these:—

1. CONRINGII De Antiquitatibus Academicis Dissertationes Septem cum Supplementis. Conringius was a professor in the University of Helmstad, founded by Julius Duke of Brunswick and Lunenburg in 1576. His dissertations were originally delivered in the form of orations, on occasions of academical solemnity. The second edition, which he published with the supplements, bears the date 1674. We have used the edition printed at Goettingen in 1739.

2. Io. Christ. ITTERI *Moeno-Francofurtensis* De Honoribus sive Gradibus Academicis Liber. The first edition of this work was a small duodecimo; the second a quarto. The latter bears the date 1698. In almost all matters of antiquity Itter relies upon the authority of Conringius. In the Appendix to the second edition is ERICI MAURITII De Honorum Academicorum Origine Oratio, which contains a clear summary of the results of the investigations of Conringius.

3. HEUMANNI Bibliotheca Historica Academica, appended to the Goettingen edition of Conringius. In this work is a short summary of the contents of Du Boullay's History of the University of Paris.*

4. Geschichte des Römischen Rechts im mittelalter, etc. History of the Roman Law in the Middle Ages, by Frederic Charles von SAVIGNY. The third volume of this work contains an account of the Ancient Universities of Europe, especially of Bologna. I have not been able to use the original work; but I have relied upon a series of abstracts of the successive volumes published in the *Antologia*, by the advocate P. Capei, and afterwards collected into a separate volume. These abstracts are sufficiently full, since they make a work of 200 closely printed pages.

5. Edinburgh Review, No. cvi. art. vi. "On the Universities of England—Oxford."

6. Dyer's Privileges of the University of Cambridge.

7. Report of the Royal Commission of Inquiry into the State of the Universities of Scotland. 1831.

* Meiners' copious citations have enabled me to extend the number of my references to Du Boullay.

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ON THE
ORIGIN OF UNIVERSITIES,

&c.

A PETITION to the Crown, praying that a new University may be legally recognised and sanctioned by royal authority, and that it may be endowed with the ordinary privileges of universities, is a novel event in this country. The support which the petition of the University of London has received from the address of the House of Commons, has attracted attention to the subject in an especial degree. The Universities of Oxford and Cambridge are of such high antiquity, that we are accustomed to look upon them as having an immemorial existence; and few but professed antiquaries know anything of their early history. But the proposition to establish a new university naturally excites a curiosity to know the origin of universities in general; in what manner, and by what authority, the existing universities of our own country, and of the other kingdoms of Europe, have been

constituted ; and how they have been invested with those privileges which they now enjoy.

The oldest universities of Europe sprung up in the twelfth century, and were formed by the zeal and enterprise of learned men, who undertook to deliver public instruction to all who were desirous of hearing them. The first teachers soon found assistants and rivals : students resorted in great numbers to the sources of knowledge thus opened to them : and from this voluntary concourse of teachers and learners the schools arose, which were afterwards recognised as public bodies, and entitled Universities, and which served as models for those which in later times were founded and established by public authority. Some of the oldest universities had traditions of their foundation at a more remote period by royal or imperial authority, and these traditions might be nominally true : but as far as their real life, and power, and distinctive character are concerned, their origin was in fact spontaneous, and is to be ascribed to the general excitement of the intellect which pervaded Europe in the twelfth century. In that century the study of law and of theology was revived ; medicine assumed the form of a science ; the learning of the Arabians began to be transfused into Europe ; schools were opened ; the modern languages, which arose from the intermixture of the Latin with the Northern tongues, began to be cultivated and re-

duced to form ; and poets sprung up abundantly, especially in the south and north of France, the Langue d'Oc, and the Langue d'Oil. This general revival of intellectual activity is probably to be attributed to the violent excitement of the first crusade.

The University of Paris was one of the oldest universities in Europe ; and indeed it has a fair claim to be considered as the oldest. For some centuries it was the most famous and the most frequented of all seats of learning, and exercised the greatest influence upon the public mind of Christendom. The greater number of universities throughout Europe assumed its form and adopted its customs ; and this was especially the case with the universities of our own country. With this ancient school, therefore, we shall begin our researches.

It was the old tradition of the University of Paris, that it was founded by Charlemagne ; and consequently its origin was referred to the year 800, or thereabout. This tradition has been rejected by all recent writers who have examined the matter, and treated as an idle tale. It rests upon no distinct evidence ; and even those antiquaries who maintain it, are constrained to confess, that for nearly three centuries after the death of Charlemagne the university had fallen into a state of almost utter decay, and that scarcely a shadow or vestige of letters

was to be found in Paris.* Mr. Hallam states, on the authority of Crévier, that “ the first who is said to have read lectures at Paris was Remigius of Auxerre, about the year 900 :”† and he adds, “ For the two next centuries the history of this school is very obscure ; and it would be hard to prove an unbroken continuity, or at least a dependence and connexion of its professors.”

It is possible, however, that the ancient tradition was not altogether without foundation. Charlemagne not only was a patron of learned men, and encouraged them to resort to his court, but he exerted himself strenuously to diffuse some portion of education among his subjects generally, and particularly among the clergy and those designed for the sacred profession. For this purpose he enacted that schools should be established in all episcopal and collegiate churches, and that they should be open to all students. This rule he vigorously enforced, and it was occasionally revived by his successors ; although through the ravages of the Normans, the general dislocation of society, and the sloth and ignorance of the monks and canons of the tenth century, this wholesome institution fell gradually

* Du Boullay, *Historia Universitatis Parisiensis*, tom. i. pp. 178, 288.

† Europe during the Middle Ages, chap. ix. part ii. He refers to Crévier's *Histoire de l'Univ. de Paris*, t. i. p. 66.

into disuse.* Now it was universally allowed, that the most ancient part of the University of Paris was the faculty of arts or philosophy. This faculty originally constituted the whole university; and the faculties of theology, law, and medicine, were not added till a later period. In consequence of this superior antiquity, the rector of the university was always chosen from the *artistæ*, or graduates in arts; and a doctor of the higher faculties was ineligible. Moreover, this ancient faculty had a special connexion with the church of Ste. Geneviève. The chancellor of the church of Ste. Geneviève was always the chancellor of the faculty of arts; although the bishop of Paris was the chancellor of the other three faculties, and was considered as the chancellor of the university at large.† It is possible that the faculty of arts may have grown out of a school attached to the church of Ste. Geneviève, according to the ordinance of Charlemagne; but this bare possibility is all the proof that can be shown on behalf of the foundation of the university by the great Emperor of the West.

* Conringius de Antiquit. Academ. Dissert. i. s. 43, and Dissert. iii. s. 5. with the Supplements.

† Conringius, Diss. i. s. 43. The superior antiquity of the faculty of arts is beyond all question. It is asserted by Du Boullay and all other writers, and expressly admitted by Flesac in his History of the Statutes of the Faculty of Theology in the University of Paris.

The learning which was communicated in this ancient school, as in all others of the same age, was comprised in two courses, called the Trivium, and the Quadrivium. The first included grammar, logic, and rhetoric; the second, arithmetic, geometry, astronomy, and music. These were the seven liberal arts. In fact, the objects of study were then, as they are now at Oxford and Cambridge, philology and mathematical science. Oxford has shown a disinclination to rise above the Trivium: Cambridge, while it does not neglect the Trivium, has manifested a peculiar predilection for the nobler Quadrivium; although it is to be feared that music has fallen from its honourable station among the seven arts. It may be easily imagined, that in the tenth and eleventh centuries the extent of learning which was comprehended under these seven heads was not very large: but little as it was, not many scholars proceeded beyond the Trivium; and the student who had mastered both courses was looked upon as a person of profound erudition. For example, a barbarous verse has been preserved in commendation of the learning of Alan of the Isles, who appears to have been one of the most famous scholars of his time, and who taught in the school of Paris:

“ Qui tria, qui septem, omne qui scibile novit.”*

But the event which gave a new life to the Uni-

* Conringius, Suppl. xlv.

versity of Paris, and from which in fact its existence as a university must be dated, was that from the beginning of the twelfth century Paris became the resort of learned men, who attached themselves in some sort to the existing school of arts, but, leaving to inferior teachers this preliminary learning, delivered public lectures in theology. Filesac enumerates the most celebrated of these theologians who flourished during the reign of Louis VII. the father of Philip Augustus :—Anselm of Lauden, the preceptor of Peter Abelard ; William of Champeaux, who previously, according to Mr. Hallam, at the very beginning of the century, had taught logic and philosophy, and must consequently have lectured in the school of arts ; Peter Abelard himself, whose genius and eloquence, and boldness in speculation, allured a multitude of enthusiastic disciples ; and Peter Lombard, the pupil of Abelard, whose Book of Sentences became a text-book in scholastic theology, and supplanted even the Scriptures themselves.*

These distinguished teachers collected around them a crowd of hearers ; and the success of the

* Filesac in Conringius, Dissert. iii. s. 17. See also Europe during the Middle Ages, chap. ix. part ii. In Conringius, Suppl. xlv. a fuller list of the masters of the theological school is given from Henry, a monk of Ghent, the continuator of a work "*De Scriptoribus Ecclesiasticis*," who seems to have been Filesac's authority.

ters, should be permitted to direct schools without any molestation or exaction.”*

Savigny, however, who mentions this constitution, mentions a letter of the same pontiff, and very nearly of the same date, which has escaped the vigilance of Conringius, by which Peter Comes-tor, who was then chancellor of the school of Paris, was specially excepted and relieved from the prohibition against taking fees for licences to teach. This is the earliest public document extant which has reference to the University of Paris. It appears, as might be expected, that the exception had greater force than the general rule; for in the year 1215, when Innocent III. by his legate, Robert de Courçon, regulated the institutions of the university, he found it necessary to renew the ordinance that nothing should be given to the chancellor for granting licences.†

These regulations of Innocent III. implied the recognition and sanction of the university by the papal see; a sanction which was especially valu-

* “*Quicumque viri idonei et literati voluerint regere studia literarum, sine molestia et exactione qualibet scholas regere permittantur.*” Decretal. Lib. v. tit. 5, in Conringius, Diss. iv. s. 24.

† Itter, *De Grad. Academ.* cap. iv. s. 22. Mr. Hallam, who has mentioned this first statute for regulating the discipline of the university in a note, Ed. 4, vol. iii. p. 524, has by mistake named Honorius III. the successor of Innocent, as the pope by whom it was given.

able, and indeed necessary to its continued existence, when theology had become its leading study and its distinguishing characteristic. In this ordinance, the term *University* was applied for the first time to the Parisian school.*

There are few words, the origin of which has been so utterly forgotten, or their meaning so grossly mistaken, as the term *University*. By many persons, who have taken their notion of the word merely from the English universities, it is commonly supposed that a university necessarily means a collection and union of colleges; that it is a great corporation embodying in one the smaller and subordinate collegiate corporations. This misconception seems to have been entertained even by the author of "A Reply to the Calumnies of the Edinburgh Review;" a pamphlet commonly ascribed to Dr. Copleston, late Provost of Oriel College, Oxford, and now Bishop of Llandaff. He asserts without any misgiving, that "The University of Oxford is not a national foundation. It is a congeries of foundations, originating, some in royal munificence, but more in private piety and bounty. They are moulded indeed into one corporation; but each one of our twenty colleges is a corporation by

* Savigny. There is, however, a letter of Innocent, of the year 1209, in which the term is used: "Doctoribus et universis scholaribus Parisiensibus universitatem vestram rogamus, &c." Du Boullay, iii. p. 52.

itself." How false this notion is, will appear more clearly when we come to speak of the origin of colleges : but no one can entertain it, who is once reminded how many universities exist in which there are no colleges. In the German universities at the present day there are in general no colleges, nor any foundations bearing an analogy to them. Even if we look to the Scotch universities, we shall find that Edinburgh, although it is called a college, is merely a university, and has nothing in common with the English meaning of the term college ; and at Glasgow, Aberdeen, and St. Andrew's, the colleges are corporations endowed for the benefit of the principals and professors, and not of the students ; and scarcely a single student resides in college chambers.* It need not be explained how different these institutions are from the colleges of the English universities. At Oxford and Cambridge, the universities existed before a single college was endowed ; and the universities would continue to exist, with all their rights and privileges unimpaired, even if the property of all the colleges were confiscated, and their buildings levelled with the ground. If they exercised their proper functions, and performed their proper duties, they might continue to be the instruments of national education.

* Report of the Commission of Inquiry into the Universities of Scotland, p. 283.

It may seem superfluous to have dwelt thus long upon this misconception of the meaning of the name *University*; but it is bad policy to be above contradicting a vulgar error. There is another error, which has an appearance of greater learning, and into which even such learned men as Mosheim, Tiraboschi, and Mr. Waddington have fallen;* that universities are so called because they profess to teach *universal* learning. This is a mere quibble upon the word. In the language of the civil law all corporations "were called *universitates*, as forming one whole out of many individuals."† In the German jurisconsults *universitas* is the word for a corporate town.‡ In Italy it was applied to the incorporated trades in the cities. In ecclesiastical language, the term was sometimes applied to a number of churches united under the superintendence of one archdeacon. In a papal rescript of the year 688, it is used of the body of canons of the church of Pisa.§ By applying the term, there-

* See *Thoughts on the Advancement of Academical Education in England*, by James Yates, M.A. p. 165; and *History of the Church*, by the Rev. George Waddington, p. 469.

† Blackstone's *Commentaries*, vol. i. chap. 18.

‡ See Ducange in v. In one example cited by him, it seems to be used by a king of France to denote his whole realm.

§ Dyer's *Privileges of the University of Cambridge*, vol. i. p. 384.

blish the rule, that no one should be allowed to teach without their approbation and permission. This of course led to an examination of the candidates, and to a public trial of their ability, and to a formal ceremony for their admission to the dignity of teachers or *doctors*.*

Of the date of this innovation we are not exactly informed. All that Filesac ventures to assert is, that the constitution of the theological faculty was complete before the end of the thirteenth century; which is undoubtedly true. But the necessity of a formal admission to the privilege of teaching was firmly established long before that time; and, as we have said before, he carries down too late what may be called the voluntary condition of the faculty. On the other hand, Antony à Wood, who asserts that the title of doctor in theology had its origin at Paris about the year 1151, and thence shortly afterwards was adopted at Bologna and at Oxford, appears to have placed the origin of the dignity too early, if he conceived that it was a title conferred by authority and with ceremony. No doubt, in the middle of the twelfth century, the actual *doctors* or teachers, whether at Paris, Bologna, or Oxford, were called *doctors* or teachers; but the appellation had nothing tech-

* Conringius, Dissert. iii. s. 17. See also Erci Mauritii Orat. de Honor. Academ. Orig. p. 36.

nical in it.* Yet Wood's position is confirmed by an old writer cited by Du Boullay,† who says that the degrees of bachelor and doctor took their rise among the students of Peter Lombard's Book of Sentences, which was published about 1151. One of the earliest examples, if it be not the very earliest, of which there is documentary evidence, in which the title of doctor appears to have been an honourable distinction and not merely a descriptive appellation, occurs in a remarkable person, Stephen Langton, archbishop of Canterbury, whose nomination to the vacant see occasioned the great struggle between King John and Pope Innocent III. Innocent, in letters of the date 1207, declares, that "it was not to be imputed as a fault to Langton, but rather to be remembered to his honour, that he had spent a long time at Paris in liberal studies, and made so great proficiency, that he earned the dignity of doctor, not only in the liberal faculties, but also in theological studies."‡ Innocent himself, according to his own testimony, was a master of theology in the University of Paris; but this probably means only

* Hist. et Antiq. Univ. Oxon. lib. i. p. 24.

† T. ii. p. 682.

‡ "Ut meruerit esse doctor."—Itter, *De Grad. Academ.* cap. iv. s. 24; on the authority of Spelman's Glossary, voc. *Magister*, where reference is made to Matth. Paris, *Hist. Angl.* pag. m. 224.

that he taught in the schools.* However this may be, Rigord, the contemporary chronicler of Philip Augustus, asserts, that in the year 1209 the University of Paris was in the most flourishing condition, and that distinct degrees in the four greater faculties were in use.† Innocentius Gentilletus, the author of an Examination of the Council of Trent, asserts in the very beginning of his book, that the degrees of doctor and bachelor in theology were not known till the year 1215, and that then they were devised by the authority of the Lateran Council (i. e. the fourth); and that in the second year of Honorius III. the succeeding pontiff, the doctors and licentiates of law, who were then in the highest repute, (he means the school of law at Bologna,) furnished a pattern for the arrangement of all other academical degrees.‡ The eleventh chapter of the Constitutions of the Fourth

* Itter, *ibid.* and Conringius, *Diss.* iv. s. 24, from Onuphrius, *Chron. Eccles.* Du Boullay, t. ii. p. 682.

† Itter, *ibid.* It seems necessary to receive this testimony with some caution. Itter does not quote the words of Rigord himself, but trusts to the representation of Naudæus, in his *Orat. de Antiquit. Scholæ Medicæ Paris.* If Rigord says nothing more than the sentences which are quoted in his own words by Conringius, *Dissert.* iii. s. 18, and *Suppl.* xlix. though he bears ample testimony to the existence of all the faculties, to the study of the trivium and quadrivium, of the civil and canon law, of medicine and of theology, he makes no mention of degrees.

‡ *Ant. à Wood, Hist. et Antiq. Univ. Oxon.* lib. i. p. 24.

Lateran Council relates to teachers of theology ; but how far it bears out the above assertion, we have no means of ascertaining. It is manifest, however, that the appellation of doctor was known before this time, whatever might be the case with that of bachelor in theology. It seems that these academical distinctions were regulated at that time, and that these regulations were part of the reform which Innocent III. by his legate introduced into the University of Paris in the same year, 1215, as we have related above.*

We have now conducted the theological faculty to the stage in which candidates were examined and approved by the existing teachers, before they were allowed to assume the title of doctor or master, and to deliver public lectures. As yet we have found nothing similar in the faculty of arts ; unless indeed it be supposed that the expressions of Pope Innocent about Stephen Langton prove as much with respect to one faculty as the other. But regulations on this head likewise made part of Innocent's reform ; and it was provided that no one should read, that is, lecture in arts, who had not been an auditor six years, and passed a formal examination. A more curious provision is that the

* Crévier, tom. i. p. 296 ; Du Boullay, t. iii. pp. 81, 82. The Constitutions of Innocent are noticed by Mosheim, cent. xiii. p. ii. chap. i. ; and Dupin, *Nouv. Biblioth. siéc.* iii. ch. x.

aspirant must be more than *twelve* years of age.* There is a most important bull of Gregory IX. of the year 1231, in which, after regulating the admission of masters of theology and the canon law, he ordains that, "with regard to the students of medicine and the *artista*, the chancellor shall promise to examine the masters in good faith, and admitting only the worthy, he shall keep out the unworthy."† At this time the university was in a disturbed state. There had been disputes between the bishop of Paris and the chancellor of St. Geneviève. In the year 1229, in consequence of a quarrel with the citizens of Paris, in which the students of the university conceived themselves to be aggrieved, great numbers of them deserted the university, and many were allured to Oxford by the offers of Henry III. The university remained in a feeble condition for two or three years, when Louis IX. exerted himself for its restoration, especially by the renewal and confirmation of all the privileges conceded to it by former kings; and it is probable that this bull of Pope Gregory was designed to assist his efforts.‡

From this time forth there can be no doubt that

* Du Boullay, t. iii. pp. 81, 82.

† "De physicis autem et artistis cancellarius promittet, bona fide examinare magistros, et non nisi dignos admittens repellat indignos."—Conringius, Diss. iii. s. 18; Du Boullay, t. iii. pp. 140, 141.

‡ Conringius, Diss. v. s. 10.

degrees were regularly conferred in all the faculties after a solemn examination; and although Fiesac could name only two doctors in theology created in the thirteenth century, it is manifest that this is to be ascribed to the want of registers, and not to the rarity of the degree.* Nicholas IV. who was pope from 1287 to 1294, granted to the University of Paris a most valuable and honourable privilege, that doctors who were there approved should everywhere have the power of teaching, lecturing, and directing public schools, (*docendi, legendi, regendi,*) and should be accounted doctors everywhere. It may be worth while to mention, that it was this privilege of catholic degrees, if we may use the expression, which in somewhat later times caused the confirmation of the popes to be sought whenever a new university was founded. It was not questioned that any sovereign might erect a university in his own dominions; or if any difficulty were raised, it was only with regard to a theological faculty: but it was the pope alone who could make degrees valid beyond the limits of the university in which they were conferred, and give them authority throughout Christendom.† By the beginning of the fourteenth century, corruptions

* Ibid. Diss. iv. s. 25.

† See Report of the Commission of Enquiry into the Universities of Scotland, p. 213. This doctrine appears to have been expressly stated in the bull of Nicholas V. by which the University of Glasgow was established.

had crept into the ceremony of taking degrees ; and Pope Clement V. published an edict of the Council of Vienne against the ostentatious and extravagant expenses of the commencing doctors.*

When we proceed to review the history of the University of Bologna, we shall see that the title of doctor of laws was probably as old there as the title of doctor of theology at Paris ; and that the appellation had an independent origin at each place. But it has been argued with great appearance of truth, that the artificial system of academical degrees, with all its gradations and distinctive titles, which was finally adopted in every European university, was derived originally from the University of Paris. Not only does the superior antiquity of the university afford a presumption that this was the case ; but the term *bachelor*, which was everywhere used as the appellation of the lowest degree in each faculty, is said in its proper meaning to be exclusively French, and appears to have been peculiar to the feudal or military law of

* Conringius, Diss. iv. s. 26. This is the same decree as that which Savigny says was issued in 1311, and which he mentions as directed specially to the University of Bologna. In the original decree cited by Conringius, the expenses are limited to " tria millia Turonensium argenteorum." If the Sol Tournois is meant, these will be equivalent to 387 ounces of silver ; a very large sum in that age. The sum named by the Italian abbreviator of Savigny is " lire 500." This is less than the sixth part of the former amount.

France.* The meaning and etymology of the term *bachelor* has occasioned much idle speculation ; but if it be carefully examined, it appears clearly that the knight bachelor (*chevalier bachelier*) was the humblest species of knight, and the term was specially used in contradistinction to a knight banneret. The knight banneret had the right to unfold his banner ; that is, he not only appeared in arms himself, but his possessions were so ample, or his fame as a leader such, that he brought followers into the field to fight under his banner. The knight bachelor furnished himself for the field, but he had no followers, and consequently unrolled no banner. Such a moderate estate as enabled a single knight thus to appear in arms was called a *baccalare*, and hence the term *baccalarius* ; but of the more remote etymology it is difficult or impossible to affirm any thing. In its academical use the term was taken metaphorically, and applied to the humblest species of academical graduate. If the proper use of the word was peculiarly French,—and it appears to have been so,—the academical use of it must have prevailed first in the great University of France, and have been borrowed thence by other academic bodies ; and if this be granted, it will be difficult to resist the inference, that the whole system of academic honours was of Parisian origin.

* Conringius, Diss. iv. s. 24 ; and his followers, Eric Mauryce, p. 27 ; and Itter, cap. iv. s. 25.

We shall return to the subject of degrees when we have examined the origin and early history of some other universities ; and then we shall endeavour to show by what process these licences to teach (for such they originally were) have passed into mere honourable distinctions. At present, we will proceed to explain some further particulars in the constitution of the University of Paris, and mention briefly the privileges conferred on it.

We have seen by the bull of Gregory IX. of the year 1231, that the masters of medicine were not at that time separate from the *artista*, but received their licence to teach from the same chancellor. The faculties were originally all included in the nations of the school of arts : but at some period of the thirteenth century, in consequence of a dispute with the Dominican friars, who wished in fact to intrude themselves into all the chairs of the university,* the faculty of arts consented that the doctors in theology should separate themselves, and form a distinct body. This example was followed by the teachers of law and medicine ; and thus the three faculties were formed, which were represented and governed by their deans. The university was thus divided in an anomalous way into the four nations of the faculty of arts under

* This spirited contest lasted from 1228 to 1259. See Waddington's *History of the Church*, pp. 391, 392 ; Meiners, t. 1, p. 82, from Bull III. 357.

their procurators, and the three superior faculties under their deaps. But it must be borne in mind, that the doctors only constituted the higher faculties: the bachelors and scholars of theology, law, and medicine, were included in the four nations. It has been mentioned already that the rector could be chosen only from the ancient faculty of arts. Savigny, from whom we have taken these details, points out as the great distinction between Paris and Bologna, and between the universities which were formed respectively after these two great models, that whilst at Bologna the university was the university of the scholars, and the body of the scholars possessed the supreme power of the university, at Paris the government of the university was vested entirely in the doctors and masters, and they alone constituted the university, so far as it was a public body. All doctors and masters had originally a right to be present in the general assembly of the university: but after the middle of the thirteenth century, when these degrees no longer necessarily implied that the person holding them was actually engaged in teaching, the lecturers or acting masters only (*magistri regentes*) ordinarily took a part in the general assembly; the other graduates only on extraordinary occasions and by special invitation. It appears, however, that eventually all doctors made good their claim to be considered as *regents*, even though they were not actually engaged in

teaching.* The same intrusion was practised at Oxford; and at Cambridge, in congregations, the doctors of more than two years' standing have the privilege of choosing whether they will vote in the Regent House, or the Non-regent House.

The study of the civil law had been introduced at Paris in the twelfth century, apparently not very long after its revival at Bologna. We know from Giraldus Cambrensis, that he studied it at Paris about the year 1180. From another contemporary witness of the same age we have an account of the method of the lectures on the Pandects. Rigord in 1209 describes the study of the civil law as prosecuted with as much zeal and vigour as those of any of the other faculties, with the exception of theology. But in the year 1220, Pope Honorius III. published a decretal forbidding the study of the civil law at Paris; and in that age of papal supremacy of course the public lectures were silenced. The faculty of law, however, was not extinguished, because the study of the pontifical or canon law survived, and was encouraged by ecclesiastical authority; but it lost its weight and importance in the university. Some attempts were made to revive the study of the Roman law, especially under the authority of the parliament of Paris, in 1568; and in 1576 the celebrated jurisconsult Cujacius took the degree of doctor of laws

* See the *Edinburgh Review*, No. cvi. for June 1831, pp. 388, 389.

at Paris. But the prohibition was renewed ; and the university was not finally relieved from it till the year 1679.* We might adduce more remarkable instances, in which the study of particular faculties was forbidden to particular universities ; but this example is sufficient to show that they were not necessarily places of universal learning.

We must say a few words of the legal exemptions and peculiar privileges of the university and its members. Rigord speaks of a certain "liberty and special prerogative of defence" granted to the scholars of the university by Philip Augustus and his father Louis VII.† There seems no further mention of any privilege granted by Louis ; but Philip Augustus, in the year 1200, granted to the scholars of the university an exemption from the secular courts. They might be arrested by the civil power if they committed any misdemeanour ; but they could be tried and punished only by the ecclesiastical courts.‡ This exemption, as we shall see hereafter, was in imitation of an edict of the Emperor Frederic Barbarossa, published in 1158, in favour of the University of Bologna. In the fifteenth century, however, the criminal jurisdiction over all members of the university was transferred to the parliament of Paris ; apparently

* Savigny. The words of the decretal are given by Conringius, Dissert. iii. s. 18.

† Conringius, Suppl. xlix.

‡ Du Boullay, Hist. Univ. Paris, tom. iii. p. 4. Savigny.

ance as a school of theology, it met with no less favour from the popes. The members of it were not to be compelled to appear anywhere out of Paris, on occasion of suits that might arise among them, even by letters of the apostolic see. But the most singular privilege conferred by the court of Rome, was by a letter of Innocent IV. by which it was provided, that no one should promulgate a sentence of excommunication, suspension, or interdict, against the university or any of its members, without a special licence from the apostolic see; and that, if promulgated, it should be null and void.* It seems that the whole kingdom of France might be under an interdict, and the university exempt from it.

In the account which we have given of the privileges and exemptions of the university, and of the changes which they underwent, it will be perceived that there was a gradual effort after the first ages to withdraw the university from its ecclesiastical connexions, and to bring it back to subjection to the civil authority. Bodin, in the passage cited above on the authority of Conringius, after speaking of the papal privileges of the university, adds, "But our kings and magistrates have often declared that they are not bound by the papal laws." Over the university, as a corporate

* Conringius, Diss. v. s. 10.

body, jurisdiction was exercised in the first instance by the king himself, and after the middle of the fifteenth century by the parliament of Paris.* And at length, in the year 1573, the parliament solemnly adjudged, that the university was a secular corporation, and not ecclesiastical:† a decision which is worth bearing in mind in an inquiry into the legal condition of universities in modern times.

The university, as a corporation, was always very poor, and never possessed any public building; but was obliged to hold its meetings in the houses of the religious orders who were willing to give it this accommodation.‡ The teachers originally delivered their lectures in such rooms as they could hire, or otherwise obtain the use of; and very strange accommodation they seem sometimes to have procured.§ Afterwards, however, the several faculties had their peculiar halls or schools, in which their lectures were delivered.|| Those of the faculty of arts and philosophy were in the *Rue de la Fouarre* (*vicus Stramineus*), and appear

* Savigny. † Itter, cap. v. s. 6. ‡ Savigny.

§ See in the *Edinburgh Review*, No. cvi. p. 399, an extract from the Cardinal de Vitry, who wrote in the first half of the thirteenth century, and describes the state of Paris, and of the university in particular. Conringius alludes to this passage, Suppl. xlv. but seems to have been too scandalised at it to quote it.

|| Savigny.

to have been very numerous, and to have been apportioned among the nations of the faculty.*

The great concourse of students in the early universities made it difficult for them to obtain lodgings, and the citizens of course demanded for their lodgings very high prices. To remedy this inconvenience, recourse was had to somewhat arbitrary expedients. Frederic II. when he founded his university at Naples, fixed a *maximum* price for lodgings, and enacted besides that all lodgings should be let according to the joint valuation of two citizens and two scholars.† The latter regulation was in force in the English universities. At Bologna, in like manner, four taxors were appointed to regulate the price of lodgings.‡ Elsewhere it was provided, that when a scholar had once hired lodgings, he should not be disturbed in the possession of them so long as he paid his rent. But, in spite of all such arbitrary regulations, it is manifest that the more celebrated and the more frequented any university was, the greater would be the demand for lodgings, and the higher the price of them. This pressure upon the poor students excited charitable

* Edinb. Rev. No. cvi. pp. 400, 401.

† Conring. Diss. v. s. 9, gives large extracts from the emperor's letter of foundation, preserved in the Collection of his chancellor, Petrus de Vineis (Pietro delle Vigne), lib. iii. epist. 2.

‡ Savigny.

benefactors to relieve it in a more effectual manner. The religious orders first established, in several university towns, hostels (*hospitia*) for those of their members who resorted thither either as teachers or learners. The example was followed by individuals; and houses were provided, in which poor scholars enjoyed the benefit of free lodgings. Free board was soon added; and in many cases small stipends or bursaries to defray the necessary expenses of the scholars. For the sake of discipline, these foundations were placed under the superintendence of one or more graduates; and these masters assisted and instructed their pupils; but only in subservience to the public lectures and exercises of the university.* Such establishments were called inns, hostels, halls, or colleges. The latter name was generally restricted to foundations, where there was an endowment for the support of several graduates.

As Paris was the most ancient university, so it was the university in which collegiate establishments were first founded. According to Mr. Hallam, Cr  vier enumerates fifteen colleges founded

* This general account of the origin of colleges, as well as the greater part of the following account of the colleges of the University of Paris, is taken from the very able and learned article in the Edinburgh Review, to which reference has been already made.

in the University of Paris during the thirteenth century, besides one or two of a still earlier date. It is doubtful how far the latter part of this account can be depended upon.* Savigny esteems the famous college of the Sorbonne to have been the most ancient in Paris; and this was founded by Robert de Sorbonne only in the year 1250. Apparently Crévier included in his list such *hospitia* of the religious orders as have been mentioned above. The great college of Navarre, which is said sometimes to have contained seven hundred pupils, was founded by Johanna Queen of Philip the Fair, in 1304.† The colleges of Harcourt and Boissy were of the same century. The *Collegium Trilingue*, for the study of Latin, Greek, and Hebrew, was founded by Francis I. early in the sixteenth century.‡

The great colleges of Paris stood on a footing very different from the colleges of the English Universities. They soon became appropriated to particular faculties, or to particular departments of a faculty. Sometimes, but rarely, they included more than one faculty. Thus the theological fa-

* The College of Good Boys of St. Honoré was founded for twelve poor scholars and an overseer in 1208. Meiners, t. i. p. 109, from Du Boullay, iii. 45, 46.

† Meiners, t. i. p. 122.

‡ Du Boullay.

culty was collected at an early period in the college of the Sorbonne ; and all its lectures and public disputations took place there, with the exception of two courses delivered in the college of Navarre. Regent masters were nominated by the faculties as lecturers in the colleges. These lecturers remained subject to their several faculties, and were liable to be controlled or removed by them. Consequently, attendance on their courses was considered as equivalent to attendance on the public courses delivered in the schools of the university. The colleges speedily began to admit within their walls scholars who were not supported by their foundations ; and the college lectures were ultimately thrown open to the members of other colleges, and to those scholars of the university who belonged to no college at all. This took place in the course of the fifteenth century. The lectures in the public schools were thus almost entirely superseded, at least in the faculties of theology and arts ; and the colleges became the instruments of the public instruction of the university. During the latter half of the fifteenth century, the great colleges of the faculty of arts, or, as they were called, the colleges "de plein exercice," amounted to eighteen ; although by the middle of the seventeenth century they had fallen to ten. There were about eighty smaller colleges, of which more than half still sur-

about the year 1075, began to lecture on law, but without attracting much notice.*

Irnerius had a very different success. He not only may be said to have created the University of Bologna, but he was the author of a great revolution in the jurisprudence of Europe. Savigny calls him a Bolognese. He is more commonly supposed to have been a German. His name indicates at least a German origin.† According to Conringius, he was engaged in teaching the liberal arts at Ravenna; and was invited thence to Bologna for the same purpose, apparently by the authority of the city.‡ Whilst he was lecturing in arts in the Bolognese school, copies of some of the books of the code of Justinian, which were beginning to excite attention, and to be circulated through Italy, reached Bologna. Irnerius applied himself diligently to the study of them. There is a story, of better authority than such stories usually are, inasmuch as it comes from the celebrated jurisconsult Azzo, that his researches into the Roman law were first occasioned by a dispute about the meaning of the word *as* in the Vulgate.

* Savigny, tom. vi. cap. 26; chiefly on the authority of Odofredus.

† Irnerio is the Italian form of it; but German writers call him Guarnerius, Warnerius, and Wernerius: so that we may conjecture Werner to have been the true name. His glosses are signed sometimes G. sometimes Y.; that is, Guernerius, or Yrnerius.

‡ Diss. i. s. 45.

There is another tradition, the authority for which is the Abbot of Usperga, a chronicler of the age of Frederic II., that is, about a century after Irnerius, according to which his labours upon the monuments of the civil law were in the first instance rather grammatical and critical than legal. This is highly probable, from the situation in which he was then placed. He is said to have been requested by the Countess Matilda to arrange and restore, and correct the text of the Institutes, the Pandects, (that is, of the Digests, as certain portions of them were called,) the Codex, and the Authentica. The lady who directed his attention to this important object was Matilda Countess of Spoleto and Tuscany, the last of the ancient race of sovereign princes of Tuscany, who, in the pontificate of Gregory VII. consented to hold her dominions as a fief of the Holy See. Irnerius, after thus studying thoroughly the monuments of the code of Justinian, undertook to expound it in the public schools. Conringius distinctly asserts that this novel course of lectures was undertaken with the sanction of the Republic of Bologna, and that Irnerius was rewarded for his labours at the public expense.* He lectured with so much zeal and energy, that he collected large numbers of hearers, and gave an effectual impulse to the study of the Roman law throughout Italy

* "*Jus Romanum Bononiæ in Italia doceri publice cœpit, sumptibus et cura reipublicæ illius, per Irnerium.*" Diss. i. s. 45.

and Europe. His own reputation he raised to a great height. The precise date of the commencement of his lectures cannot be ascertained, nor are the events of the latter part of his life known. His name is mentioned in the records of public business and judicial proceedings between the years 1113 and 1118. From 1116 to 1118 he was in the service of the Emperor Henry V. and in this last year was employed by him at Rome in affairs of the highest importance. Savigny argues speciously enough, that it is not likely that he would be employed in State affairs, when he was known only as a grammarian and a Master of the Trivium and Quadrivium. His introduction to political life must have been his reputation as a teacher of law; and accordingly the origin of the Bolognese school must be placed at the end of the eleventh century, or the very beginning of the twelfth. After 1118 Irnerius quitted his school to attach himself to the Imperial Court; and Savigny thinks it doubtful whether he ever returned to Bologna. He treats as a fabrication of no authority the account in the chronology of Otto Muræna, that the famous "Four Doctors" of the age of Frederic I. or Barbarossa, namely Bulgarus, Martin Gosia, Hugo, and Jacopo della Porta Ravennate, were pupils of Irnerius; and that when his scholars came to him on his death-bed, and requested him to name his successor in the school, he replied by a distich, in which

he characterized these pre-eminent disciples.* When, however, we consider the prevalence of the tradition that the School of Law at Bologna was founded, and Irnerius appointed to teach by the authority of the Emperor Lothaire II. or the Saxon, in 1125, or soon after; even though the tradition is demonstrated to be false as to the first origin of the school, we may think it probable that Irnerius, after the death of his patron Henry V. and the accession of Lothaire, returned to his academical employment at Bologna. He could hardly, it would seem, have established his school so firmly, if his labours had been confined to the brief period before he entered the service of the imperial court. Sigonius, in his history of Bologna, fixes the time of his death in the year 1150. Upon what authority he makes this assertion is not clear; but if it be true, "the Four Doctors" might have been his auditors during many years.

The Roman law had never been utterly forgotten or disused in the provinces of the vast empire which was formerly subject to it. The countries of the South of France, many parts of Spain, and a great portion of the inhabitants of Lombardy, professed to be governed by it. But the only source from which a knowledge of it was derived was exceedingly scanty.

* Savigny, tom. iv. cap. 27. Conring. Diss. iii. s. 19. In his Suppl. li. s. 3. he has given Otto Muræna's story from the Annals of Baronius, lib. xii. an. 1558.

It was nothing more than the Breviary of Alaric, which was extracted from the Theodosian code by the order of the king of the Visigoths about the year 500; and the Theodosian code itself contained little beyond the more recent laws promulgated after the establishment of Christianity. The code of Justinian, in which the whole mass of Roman jurisprudence was reduced to a regular form, was long posterior to the separation of the Eastern and Western Empires, and was never acknowledged to have any authority in the provinces of the West. If it was remembered and recognized at all in Italy, it was only in the southern part of the peninsula, which remained longest connected with the Greek Empire. It was not, however, absolutely unknown to learned men. Some ecclesiastical writers refer to it; for example, Hincmar, the archbishop of Rheims in the ninth century: and they bear testimony to the respect with which it was regarded by the Roman church.*

At the close of the eleventh and beginning of the twelfth centuries, the growing liberty, civilization and wealth of the Italian cities made them feel the want of a more exact and comprehensive and reasonable system of law, than could be extracted either from the meagre relics of Roman jurisprudence which they still possessed, or from the customs which the Lombards and other northern races had

* Hallam.

brought with them into Italy, and which had been modified by the introduction of feudal relations. Accordingly, when the more copious fountains of legal science were opened by Irnerius, it was felt that an actual and pressing want of society was suddenly relieved. The study of law not only attracted the attention of individuals, but became an object of solicitude to communities; so that multitudes of scholars from every part of Italy resorted to Bologna. The fame of the new study soon spread beyond the Alps, and foreigners of every nation, and especially from Germany, flocked to the university; so that in the time of Azzo (about 1220), ten thousand students were assembled in its halls.* In the middle of the fourteenth century the number was about thirteen thousand.†

One of the most important labours of Irnerius and his successors was to collect the scattered manuscripts of the monuments of the civil law, which were all more or less imperfect, to piece them together so as to restore their integrity, and by a careful collation to correct the numerous corruptions of the text. It was thus as editors that they were even more useful than in their function as interpreters and commentators. The earlier school of Bologna was pre-eminent for its critical diligence in ascertaining the text. Journeys to Pisa were

* Conring. Diss. iii. s. 19.

† Muratori, Script. Rer. Ital. t. xvi. p. 325.

frequently undertaken to consult the celebrated manuscript of the Pandects, which is commonly said to have been brought to that city from Amalfi in 1185, but which Savigny asserts to have existed there long before. In later days, when jurisconsults were less zealous, Bartolus made one such journey, which he has taken care to commemorate four times.*

It is uncertain how early the title of Doctor was given to the teachers of the Bolognese School. Some writers, as we have seen, suppose that it was borrowed from the theological school of Paris. Others reverse the transmission. It is likely enough, as was said before, that it was given independently at each place. The earliest teachers were called lord, master, judge (*Dominus, Magister, Judex*); and these titles seem to have been in common use before that of doctor.† It is important to remark that *Dominus* was a customary appellation, because a want of attention to this point has led even Conringius to misinterpret the famous edict issued by Frederic Barbarossa at Roncaglia, which we shall mention presently.

Not very long after the revival of the civil law, another subject of study, of much less intrinsic

* Savigny in the 22nd chapter of his third volume has given a very complete account of the state of the text of the Pandects and other monuments of the Justinian code in the twelfth century, and of the labour which the school of Bologna bestowed upon them.

† Conring. Diss. iii. s. 19; Suppl. li. s. 3. Savigny.

worth, was brought into public notice at Bologna. In the early ages of the church the public letters of bishops were known by the name of Decretals (*Epistolæ Decretales*). As the see of Rome increased in power, an especial regard was paid to the decretals of the Bishop of Rome; and in A.D. 494, a synod held at Rome under Pope Gelasius declared the decretals of the apostolic see to be of the same authority as the canons of councils. When the power of the popes became more and more exorbitant after the time of Charlemagne, they insisted on the supremacy of their decretals. Collections of these ecclesiastical statutes were made, but they were not sanctioned by authority. At length, in 1151, Gratian, a monk of St. Felix in Bologna, published his collection, which was called simply the *Decretum*. This compilation was immediately received with great favour, and was made the subject of public lectures in the schools of Bologna; if we may trust Conringius, even in the pontificate of Eugenius III. who died in 1153;* and many scholars were attracted to the study of it. Thus the foundations of the pontifical or canon law were laid. The decrees of succeeding pontiffs made a goodly superstructure. The popes of course regarded the study of this new branch of jurispru-

* Conring. Diss. iii. s. 19. He cites the author of the *Life of Gratian*. If Conringius is right in naming Pope Eugenius, Panvinus was wrong in referring the publication of Gratian's *Decretum* to 1154. See *Itter*, cap. iv. s. 21. Mr. Hallam says that it was published about the year 1140.

dence with peculiar favour. The civil law was too popular in Italy even for papal power to interfere with. But in other countries they discouraged the study of the civil law, and sought to substitute for it the exclusive study of the canon law. This was the cause of the prohibition of the study of the civil law in the University of Paris, which we have already noticed; a prohibition which Innocent IV. endeavoured to extend to the whole of France. England, Scotland, and Hungary.* According to Savigny, there were doctors of the canon law at Bologna about the end of the twelfth century. When degrees came to be regularly conferred, the degree of doctor was taken either in the civil or canon law separately, or jointly in both.†

Although the University of Bologna had its origin, as was observed before, in a school of arts and philosophy, little or nothing is known of this part of it during the twelfth century. It appears to have been obscured by the splendour of the rising school of law. But about the year 1220, we find that the Emperor Frederic II. transmitted to the philosophical school of Bologna certain works

* Savigny.

† There is a sufficiently full account of the compilation of Gratian, and of the origin of the pontifical law, and of the authoritative additions which it received from successive popes, in Mr. Waddington's *History of the Church*, note A. to chap. xxi. pp. 467—469. Mr. W. names as his chief authority, Giannone, *Stor. di Nap. lib. xix. cap. v. s. 1.* See also Mr. Hallam's *Middle Ages*, ch. vii. (vol. ii. p. 286.)

of Aristotle and other philosophers, which he had caused to be translated into Latin from the original Greek or from Arabic versions. The very interesting letter of the emperor, with which he accompanied his gift, is preserved in the collection of his chancellor, Pietro delle Vigne; and the greater part of it is quoted by Conringius.* This gift gave new life to the study of philosophy. About this period translations of Greek philosophical and mathematical works, made, indeed, not from the originals, but from Arabic translations, became numerous, and opened new sources of knowledge to the scholars of the West.

The origin of the Medical School of Bologna is not marked; but in the thirteenth century there were several celebrated professors of medicine, who attracted a large concourse of auditors. They were in possession of some few books of Hippocrates and Galen, and of several translations of the works of Arabic physicians.† We are probably not wrong in the conjecture that the medical school of Bologna was the offspring of Salerno, and that it was founded in the reign of Frederic II., when his possession of the kingdom of Naples at the same time with the empire of Germany and the titular sovereignty of Lombardy, made the connexion between the north and south of Italy much more intimate than it had been before.

* Pet. De Vineis, lib. iii. ep. 69; Conring. Diss. iii. s. 20.

† Conring. Diss. iii. s. 21.

Bologna had been one of the most celebrated seats of learning in Europe for nearly two hundred and fifty years, before theology constituted a regular part of its studies. There were not wanting occasionally lecturers in theology; for example, Alexander III., before his elevation to the papedom, had lectured on theology at Bologna: but the teachers of this science undertook their labours as a voluntary enterprise, without authority or sanction. At length, in the year 1362, Pope Innocent VI. granted to the university, as a mark of special favour, permission to teach theology, and erected a faculty of theology on the model of that of Paris.*

That we may not entirely lose sight of chronological arrangement in our account of this celebrated university, before we proceed to describe more particularly its internal constitution, we will notice the singular privileges conferred upon its scholars by the Emperor Frederic Barbarossa, at the Diet of Roncaglia, in November 1158. This was a Diet of the Kingdom of Lombardy, held to settle the disputes between Frederic and the Lombard cities, and to reconcile, if possible, the claims of the emperor to the sovereignty, and of the cities to municipal self-government. But amongst graver political matters, an edict was issued, which, in the first place, provided for the safe conduct and pro-

* Conring. Diss. iii. s. 21. Savigny.

tection of foreign scholars and professors, travelling or residing in the emperor's dominions for the sake of study; and in particular, that no molestation should be offered to them, nor any exaction practised upon them, under pretence of any public offence or debt of the province or city to which they belonged; and which, in the second place, granted to all scholars, in case any suit was brought against them, the option of having it determined either by the master under whom they studied, or by the bishop of the place.* It is remarkable that no express mention is made of Bologna in this document; but that it was designed for the benefit of scholars resorting thither is apparent, because it was by far the most frequented place of study in the emperor's dominions, and probably the only one at that time which was visited by foreign students. Professors of law are specially mentioned; and Bologna was then the only school of law; and the

* Authent. "Habita, &c.:" Tit. Ne filius pro patre (iv. 13). The whole edict is given by Conringius, Suppl. lxx. and he has commented upon it in his Fifth Dissertation, ss. 4-8, and the annexed Supplements. Savigny's explanation of it is short and clear. The words in which the important privilege is granted are these: "Si litem eis quispiam super aliquo negotio movere voluerit, hujus rei optione data Scholaribus, eos coram *Domino vel Magistro suo* vel ipsius civitatis Episcopo, quibus hanc jurisdictionem dedimus, conveniat. Qui vero ad alium judicem eos trahere tentaverit, etiamsi causa justissima fuerit, a tali conamine cadat."

permission to a scholar to bring his cause before "his lord or master," seems to assume that his lord or master was a legal character. Another reason for applying the edict peculiarly to Bologna, is this; that the four famous doctors already mentioned, who were the chief professors of the university, were then in close attendance upon the emperor. Not only were they his assessors in hearing complaints and determining suits;* but they were invited by the emperor to adjudge what rights ought to be restored to his crown, which had been usurped by the cities without a special royal grant: and when they refused to take upon themselves alone so invidious a task, twenty-eight judges were named to act with them on behalf of the cities, the four doctors acting more particularly on behalf of the emperor.† It can scarcely be doubted, therefore, that the edict was drawn up by them, and with a special reference to their own university, although with far-sighted wisdom they made the language of it general. We may observe, by the way, that the employment of the four doctors in such a business as that we have mentioned is a splendid testimony to the reputation and authority of the university. The privilege granted to the scholars of choosing their judge seems

* Radevicus, lib. ii. cap. 5. in Conring. Suppl. li. s. 3.

† Savigny, tom. iv. c. 28. He cites Otto Muræna, an. 1158. Muratori, t. vi. p. 1015 et seq.

strange to us; but in that age and country it would not appear a violation of common usage. In consequence of the intermixture of different races in Lombardy, each of which had its own national laws, it had been the ancient custom for every one to declare according to what law he chose to live and be judged, whether the Roman law, the Lombard, or the Frank or Salic law. We may easily suppose that the declaration was not made till the individual had occasion to appear before some tribunal. Granting therefore to the scholar the option of taking for his judge his master or the bishop, was in fact giving him his choice of being tried by the civil or the ecclesiastical law; a privilege not very different from the ancient custom of the country. It appears that the imperial edict was at first interpreted by the professors as giving them the right of criminal as well as of civil jurisdiction; but as they found themselves unable to exercise effectively a criminal jurisdiction, they resigned the right to the city before the end of the twelfth century, and contented themselves with the power of determining civil suits.* This edict of Barbarossa, which at the same time granted to the scholars an exemption from the ordinary civic tribunals, and conferred an important power upon the professors, was the earliest example of exemption or privilege granted to a university. It

* Savigny, tom. iii.

was made a precedent for other universities, and may be regarded as the source of all their exclusive jurisdictions.

We have before observed that Savigny lays down as the great distinction between the universities of Paris and Bologna, that at Paris the professors or lecturers only constituted the university, considered as a privileged body, and that the students were subject to them; on the contrary, at Bologna the scholars constituted the university, and had the power of electing academical officers, whom the professors were bound to obey. The scholars of law were divided into two bodies, or *universities*, as they were called—according to the old meaning of the word—the Citramontanes and the Ultramontanes, that is, Italians and foreigners. These were subdivided into nations; the former into seventeen, the latter into eighteen. Each nation had an officer called its counsellor; except that the Germans had two procurators instead. At the head of the two universities of law was the rector, who was the chief dignitary of the whole academy of Bologna. The earliest mention of a rector is at the very end of the twelfth century. At first only one was elected; then two, one for each university; and finally only one. He was elected annually by the preceding rector, by the counsellors of the nations, and by electors nominated from the whole university. He was taken

from each nation in turn, according to a regular cycle.

The professors and scholars of arts and medicine endeavoured at an early period to constitute themselves into a particular university, and to choose a rector of their own. But the attempt was resisted by the lawyers, and prohibited by the city; and they were compelled to rank themselves with the scholars of law. But not many years after they renewed their efforts; and their right was formally acknowledged by the city in 1316.

In 1362, Innocent VI. established the Faculty or University of Theologians, on the model of the theological faculty of Paris; that is, it consisted of the doctors only, and the scholars were considered as belonging to the artists. The chancellor of the University of Theologians was the bishop of Bologna. At an earlier period, Honorius III. who was pope from 1216 to 1227, when he regulated the *promotions* or collation of degrees in the school of law, had made the superintendence and assent of the archdeacon of Bologna necessary. Savigny seems to consider this as a personal authority, vested in the archdeacon for the time. However, it was retained by his successors; and in time they assumed the title of chancellors, and exercised a supervision over all the faculties except the theologians.

The precise time when degrees were first conferred at Bologna cannot be ascertained. Of course, by degrees we do not now mean appellations bestowed by common consent or arbitrarily assumed, such as those of master, judge, or doctor, borne by the first teachers of the school ; but titles of honour, carrying with them certain privileges, conferred by authority, and after examination. Savigny conjectures, with great probability, that it was in consequence of the jurisdiction conferred by Frederic I. upon the masters or teachers, that it was considered necessary to prohibit the voluntary assumption of that office, and to provide a form of admission. The actual doctors conferred the title and dignity of doctor by *co-optation* ; that is, they received the candidate into their body by common consent. By this admission he obtained the right of lecturing at Bologna, which by a papal grant, as at Paris, was extended into a right of lecturing anywhere with the name and authority of doctor ; the right of jurisdiction over the scholars ; and a vote in the admission of future doctors. When degrees became so common as to be merely titles of honour, so that doctors did not necessarily teach, the right of jurisdiction over the scholars was confined to those who actually lectured (*legentes*), according to the obvious meaning of Frederic's edict. The right of voting in promotions was extended to all who had

at any time taught in the schools.* The first doctors, of course, were doctors of the civil law. There were doctors of the canon law, as we have mentioned, about the end of the twelfth century. In the thirteenth century we find doctors of grammar, of philosophy, and of medicine: Savigny mentions even doctors of *notariate*, if we may coin a word to express the art or science of a notary. The title of doctor was by this time considered as more honourable than that of master, although originally no distinction was made between them; and the appellation of master was retained by those lecturers who were not yet promoted to the doctorate. That there were such lecturers we shall see presently.

We have explained that there were four universities: two of the scholars of law, Italian and foreign; one of the artists and scholars of medicine united, in which were comprehended also the scholars of theology; and one of the doctors of theology. But there were also formed in course of time five colleges of doctors, which (with the exception of the Theological College) were established upon quite a different principle. The Theological College may have differed only in

* The *legentes* and *non-legentes* of Bologna correspond to the *regentes* and *non-regentes* of Paris and Oxford and Cambridge, except that the latter terms were applied equally to doctors and masters, the former only to doctors.

the number of its members from the University of Theology; but there were two colleges of law, one of doctors of the civil law, the other of doctors of the canon law; and two separate colleges of the doctors of philosophy and medicine. These colleges seem to have been corporations, in which a limited number of doctors of the several faculties were united, and monopolized the power of promotion or admission to degrees, to the exclusion of the other doctors, who, according to the earlier constitution of the university, had an equal right to exercise it. They were confirmed, however, by the statutes of the year 1397. The first origin of the legal colleges runs back to the twelfth century: probably they were then open to all doctors. The legal colleges were each under a prior; how the others were governed, Savigny does not state. By these colleges, or faculties, the candidates for degrees were examined. They had a building for their common use, in which they met, near the cathedral; because the public examinations were held in the cathedral, and degrees solemnly conferred there. Savigny warns his readers, that these colleges of civil and canon law are not to be confounded with the *College of Doctors, Advocates, and Judges*, which was an institution of the city of Bologna for civic purposes. It may not be superfluous to warn the English reader not to confound these colleges,

which were merely corporate faculties, with the English notion of the word college. There were some colleges, in our sense of the word, which were restricted to the relief of really indigent scholars; but these foundations never had any weight or influence in any Italian university.

To return to the collation of degrees: it is probable, for the reason assigned by Savigny, that they were first conferred by authority soon after 1158. In the early part of the succeeding century, in consequence of the frequent promotions of unworthy persons, Honorius III. interposed his authority, and placed the promotions under the superintendence of the archdeacon of Bologna, who thus became the chancellor of the university. But corruptions of a worse sort were behind. It is necessary to observe first, that originally scholars were forbidden to marry into the families of Bolognese citizens without the licence of the rector. Exemptions from this prohibition were granted, which were at last extended to all the descendants of all doctors. By the terms of this exemption, it is manifest that the doctors of the university had become closely connected with the families of the citizens. This connexion prepared the way for the gradual encroachments of municipal selfishness; and at last the principal chairs in the university were granted only to Bolognese citizens. But the actual doctors profited by the example, and went a

step further, and took an oath not to grant degrees to any but members of their own families. This outrageous monopoly began to produce its natural effects in the ruin of the university; and commotions and struggles ensued between the years 1295 and 1304, which ended in compelling the doctors to admit all Bolognese equally to degrees: but the rank of doctor, at least in the two legal colleges, or faculties, was still confined to citizens of Bologna.

There were two examinations to be undergone, or rather two disputations to be maintained, before a candidate could be admitted to the dignity of doctor of law. The first was a private examination before the college or faculty of doctors. There was a whimsical regulation, that if any doctor in the examination or disputation did not treat the novice *lovingly*, he was punished by suspension from his functions for a year. There seems reason to apprehend, that, before such an enactment would be made, the ordeal must have been a very severe one. After this first examination, the aspirant was called a licentiate; that is, he had received a licence to submit himself to the public examination. The second, or public examination, took place in the cathedral, as we have noticed; and here the peculiarity of the constitution of the Bolognese school manifests itself. On this occasion it was not the doctors but the scholars who disputed against the candidate. It may reasonably be conjectured, that

in the most ancient period of the university, this public examination by the scholars was the only one; and that the previous examination in private by the doctors, by which the latter was gradually reduced to a mere form, was a contrivance to remedy the preposterous distribution of authority in the ancient school. Frequently the public examination followed the private one after a very short interval; but sometimes a considerable interval was suffered to elapse between them, and thus the title of licentiate became a species of degree.

At one time, the commencing doctors took an oath to the magistrates of the city, that they would not lecture out of Bologna; but this oath was abolished on the petition of the scholars in 1312.

Savigny tells us, that professors who migrated to other cities with their scholars, were subject to confiscation and very heavy fines; but how these were exacted in such a case does not appear.

All doctors had the power of lecturing in right of their degree. Licentiates could not lecture without permission from the rector: but not only licentiates, but simple scholars, were allowed to lecture. If they had studied diligently five or six years, they obtained a licence from the rector, upon payment of a fee proportioned to the magnitude of the division of law upon which they proposed to lecture. The scholar who had lectured upon an entire title or treatise, or who had delivered a

formal interpretation upon a point of law, took the name of bachelor, and was considered to have earned this first degree.

One remarkable and important character of the school of Bologna was, that, at a comparatively early period, its professors or lecturers received public salaries. Not to insist upon the position of Conringius, that Irnerius began to lecture upon law at the expense of the city; in 1279 we find the scholars, instead of paying their fees individually, contracting with a professor to lecture to them upon a certain subject for a certain fixed sum. The next year they petitioned the city to pay a professor named by them a certain sum for lecturing on the *Decretum*; and their petition was granted. In 1289, two chairs were established with a fixed salary; one on the civil law, the other on the canon law: but the choice of the lecturers remained with the scholars; and they elected annually, sometimes re-electing the same person, sometimes choosing a new lecturer. A hundred years afterwards the salaried chairs were much increased in number; so that, in 1384, there were nineteen salaried lecturers in law, and twenty in arts. The professor of civil law, who had the highest salary, received three hundred florins. By this time the professors began to consider themselves as public functionaries, and election by the scholars became more rare. In 1420, there were twenty-one lecturers in law, and

scarcely one is said to have been elected. Nor were the salaried professors always doctors : on the contrary, six salaried chairs were established, which were held by lecturing scholars. The date of this foundation is not known. It existed in 1388 ; and Savigny supposes it to have originated about the middle of the fourteenth century. These lecturers were elected annually by seventy-six electors. Doctors, licentiates, and natives of Bologna, were ineligible ; an exclusion, which was evidently a re-action against the monopoly of the colleges ; and the chairs were divided equally between the Citramontane and the Ultramontane scholars. Afterwards, on account of the tumults attending the elections, it became customary for the two universities to present twelve candidates, from whom were chosen by lot four lecturers on the civil law, and two on the decretals. According to Conringius, in the year 1664, there were at Bologna one hundred and twenty-six professors, of whom forty-nine were professors of law ; and the senate of Bologna was said to expend annually in their salaries nearly forty thousand crowns.* The professors who had no public salary, received fees from their pupils ; and in the flourishing times of the university many acquired great wealth.

Anciently, the professors held their schools in their own houses ; but, in the fourteenth century,

* Conring. Diss. iii. s. 21.

public schools were founded, in which the doctors had a right of lecturing each twice a week; the bachelors in the afternoon, if they were not occupied by a doctor.

We will conclude our account with a few words on the jurisdiction of the university. The rector had supreme authority over all the members of it, except the German nation, which was subject only to its own procurators. The counsellors of the nations constituted a council which assisted the rector. The civil jurisdiction of the rector was not questioned when both parties in a suit belonged to the university, or if a citizen voluntarily brought before him a suit against a scholar; but if a suit against a scholar was brought before the magistrates of the city, and the rector claimed to hear it, there generally ensued a great contest between the university and the city, in spite of the edict of Roncaglia. Soon after the rectorate was first instituted, the city endeavoured to abolish the office, or to render it dependent upon the civic power. In 1214 especially, great tumults were occasioned by these efforts. But the university maintained its privileges; and they were at length fully established by the papal power. The criminal jurisdiction of the rector in general extended only to matters of academical discipline. He had the power of punishing both professors and scholars by fine and expulsion. Sometimes, in graver matters, a mixed jurisdiction

was exercised by the rector and the magistrates of the city. But in 1544, the pope confirmed the criminal jurisdiction of the rector, when both the offending and the injured party belonged to the university, and the offence was not capital.

The university had statutes at an early period, since they were confirmed by the pope Innocent IV. in 1253. They were revised and corrected every twenty years by eight scholars appointed for the purpose, and called *Statutarii*. They were finally confirmed in 1544 by the pope, who had then become the sovereign of the city, and were made binding on the whole community.*

One of the most singular points in the history of the University of Bologna is the admission of the female sex to its honours and offices. There is mention in early times of learned women on whom degrees were conferred. It is said that Novella d'Andrea read lectures on jurisprudence, but took the precaution of drawing a curtain between herself and her auditors. Mrs. Piozzi mentions la Dotteressa Laura Bassi, who taught mathematics and natural philosophy; and Lady Morgan has introduced us to Signora Clotilda Tambroni, a learned professor of Greek. But the boldest inroad into

* The whole of this account of the internal constitution of the University of Bologna is extracted from Savigny, tom. iii. although with a very great variation of arrangement.

the scientific province of the ruder sex was made by Madonna Manzolina, who lectured on anatomy.

We shall devote a little time and attention to the University of Salerno. This we will do, partly on account of its antiquity ; although it does not appear to have been taken as a model, or to have determined the form of more recent universities, as Paris and Bologna did ; but chiefly, because it was the first and most famous Medical University. As Paris was the great school of theology, and Bologna of law, so, from the twelfth to the fourteenth century, was Salerno the school of medicine. In the neighbourhood of Salerno was the monastery of Monte Cassino. About the middle of the eleventh century, or a little later, Constantine, a native of Africa, who professed to have spent nine-and-thirty years in travelling throughout Asia, for the sake of acquiring learning in the most celebrated seats of Arabic philosophy, settled at Salerno, and after a while became a monk of Monte Cassino. Here he compiled, and dedicated to his abbot, Desiderius, (who, in 1086, when Gregory VII. died at Salerno, was elected to succeed him, under the name of Victor III.) several medical works, which he professed to be original, but which were in reality for the most part translations from the Arabic. It is likely that among the Arabic works which he thus made known to the Latin world, were Arabic versions of Greek medical writers. At least,

very soon after, we find the Salernitan school in possession of a Latin translation of some works of Hippocrates, which was probably derived from an Arabic source. These works of Constantine gave an impulse to the study of medicine in Italy; and as copies of them were more easily procured at Salerno than elsewhere, students of medicine resorted thither; and in a short time a medical school was formed, in which public instruction was given by masters of the art. A poetical work on the preservation of health is said to have been composed by the masters of this new school, and addressed to Robert Duke of Normandy, the son of the Conqueror. If this be true, its date must have been either the end of the eleventh century, or the beginning of the twelfth.*

Conringius more than once refers the establishment of the school of Salerno to Roger I. the Norman sovereign of Sicily and Prince of Salerno, about the year 1100.† It seems doubtful, however, whether there is any ground for this assertion beyond the fact that Roger published a severe edict, regulating the practice of medicine, and forbidding any one to attempt it, under pain of confiscation of all his goods, who was not approved “*by the magistrates and judges.*” But this edict is rather an argument against the importance of the school at this time; since, if it had acquired any

* Conring. Diss. iii. s. 22.

† Diss. i. s. 45; iii. s. 22.

authority, the testimonial of the masters to the medical aspirant would probably have been required, as it was at a later time by the constitutions of Frederic II. If, however, this edict raised the standard of the medical profession, it might occasion a greater resort of students to the only seat of medical learning.*

Of the fortunes of the Salernitan school during the twelfth century Conringius affords no particular evidence ; but Ægidius Corboliensis, a poetical physician of Paris, who lived at the end of the twelfth century and the beginning of the thirteenth, reproaches the University of Salerno with granting medical degrees, and consequently a licence to lecture, to unlearned and inexperienced youths :

“ *Doctrina quibus opus esset, ferulæque flagello,*

“ *Et pendere magis vetuli doctoris ab ore,*

“ *Quam sibi non dignas cathedræ præsumere laudes.*” †

In the thirteenth century we find Frederic II. carefully regulating by his constitutions the whole practice of medicine in his paternal dominions, and the course of medical education in his universities of Salerno and Naples. He ordains, that, because the science of medicine cannot be understood without a previous knowledge of the rules of logic, no one shall study medicine unless he first study

* See Conring. as above, and Diss. iv. s. 23.

† Conring. Diss. iii. ss. 18, 22.

logic for three years. It is provided, however, that he may learn surgery before the time thus assigned. Then it appears that the course of medical study was to last five years; and in those five years the masters were to teach in the schools the authentic books of Hippocrates and Galen, both in theoretical and practical medicine. Nor was any one to practise surgery, unless he had studied that branch of medicine at least a year, and had learned in the schools the anatomy of human bodies. After five years of study, the student who desired to practise medicine was required, in the first place, to present himself at Salerno in the public assembly of the university, and to be approved by the judgment of the masters. After this solemn examination he was to receive written testimonials, not only of the masters, but of those who had taken a degree, but did not teach;* which testified that he had studied the requisite time, and bore evidence to his sufficient knowledge and his general good character. With these testimonials, by which the academical degree was conferred upon him, he was to present himself before the king himself, or, in his absence, before the viceroy of the kingdom,† and receive from him a licence to practise medicine. Confiscation and imprisonment for a year was the punishment denounced against all who should presume to heal in

* "*Tam magistrorum quam ordinatorum nostrorum.*"

† "*Ad præsentiam nostram . . . ordinatus accedat.*"

violation of this edict. The same process was necessary to obtain a licence to practise surgery, except that the time of study seems to have been shorter: and even when all these conditions were fulfilled, the new physician was required to practise for an entire year with the counsel of an experienced brother in the art.

There are points in this singular ordinance which deserve consideration, and possibly imitation, even in the present age. We perceive that Frederic considered a preparatory education, by which the reasoning powers should be exercised and trained, to be as necessary to the physician as his course of professional study. He thought *five* years a period not too long for a regular medical education. He placed a short period of apprenticeship to the practice of the art, if so it may be called, *after*, and not before, the course of theoretical study. And highly as he favoured the universities of his kingdom, he refused to consider an academical degree as constituting in itself a licence to practise, and required the licence of the supreme power to be superadded. The degree was merely a testimonial.

By another part of the same constitutions he enacted, that no one should lecture on medicine or surgery, except at Salerno or Naples; and that no one should take the title of master, unless he had been diligently examined by the masters of medi-

cine and the officials of the crown. By the latter term we are probably to understand some dignitaries entrusted with the superintendence of the universities.

There are several other curious provisions, which enact that a physician is to visit his patients twice a day, and once in the night, if required; which regulate his fees for a visit and a journey; which prohibit his contracting for the cure of a patient for a fixed sum; and which forbid his forming any partnership with the compounders of medicines, *confectionarii*, as they are called. Much vigilance is exercised over these *confectioners*. Not only are they required to take an oath that they will make their confections according to the prescribed form, but in every district of the kingdom two circumspect and trusty men are to be appointed, and bound by oath, under whose testimony all electuaries and syrups, and other medicines, are to be legally made and sold. At Salerno this office is assigned to the masters in physic. But these are matters which may be interesting to a medical antiquary, but have little connexion with the history of universities.*

There was a school of law at Salerno; but we hear nothing of philosophy or theology. The university fell into decay from the neglect and dis-

* Conring. Diss. iii. s. 23.

couragement of the French race of kings; and in the time of Conringius (the seventeenth century) had long entirely perished.

Frederic II. founded a university at Naples, and endowed it with ample privileges;* but its degrees were never acknowledged in other universities. Savigny ascribes this to its peculiar constitution, by which the degrees were formally conferred by the king himself, and not by the academical faculties. But it is at least as probable, that, as Frederic was always denounced as the enemy of the church, the degrees of his university never received from the popes that catholic extension, which, as we have explained, the pope alone was considered to have the power of giving.

The vulgar tradition of the University of Oxford used to be, that it was founded by King Alfred about the year 890 or 895. The college called University College, which is the most ancient in Oxford, was supposed to be the germ or rudiment of the university; but this tradition has fared as ill in the hands of critical inquirers as the Parisian tradition of Charlemagne. There is no evidence to support it, except a passage found in *only one* manuscript of Asser, the biographer of Alfred; which for that reason is justly believed to be an interpolation. And as to University College, nothing is recorded of it before the year 1219, when Roger Caldwell is

* Conring. Diss. v. s. 9.

named as the master of it; and it seems not to have been endowed for the maintenance of graduates till 1280, when the university applied to this purpose a bequest of William Archdeacon of Durham, who died in 1249.* It appears, however, that Oxford was a place of study in the reign of Edward the Confessor. Ingulfus, who was Abbot of Croyland, in the Isle of Ely, under William the Conqueror, says of himself, that he was educated first at Westminster, and then passed to Oxford, where he made proficiency in such books of Aristotle as were then accessible to students, and in the two first books of Tully's rhetoric.† Mr. Hallam, with a tender and considerate feeling towards the old tradition, observes, "Since a school for dialectics and rhetoric subsisted at Oxford, a town of but middling size, and not the seat of a bishop, we are naturally led to refer its foundation to one of our kings; and none who had reigned after Alfred appears likely to have manifested such zeal for learning." Mr. Dyer appears to hold, with regard to such traditions of royal foundation generally, the same opinion which we have intimated about the connexion of the University of Paris with Charlemagne: "We have been for giving the foundation of Ox-

* Camden's *Britannia*. See also Dyer's *Privileges of the University of Cambridge*, vol. ii. Diss. Gen. p. clxii.

† Conring. Diss. iii. s. 7. Hallam, *State of Europe during the Middle Ages*, chap. ix. part ii.; ed. iv. vol. iii. p. 524.

ford University to Alfred, &c. ; correctly, however, only so far as princes may have founded or encouraged schools, and prepared the way for what we now call universities.”*

For more than half a century after the time when Ingulfus must have studied at Oxford, we find no traces of the existence of the school. Robert Pulein, a theologian from Paris, expounded the Holy Scriptures at Oxford under the patronage of Henry I. (Beauclerc), and gave new life to the study of theology in England. He continued his labours under the protection of Henry II. till he was called to Rome, and became chancellor of the apostolic see.† In the reign of Stephen we find that Vacarius, a Lombard by birth, who had studied the civil law at Bologna, came into England, and formed a school of law at Oxford. It is clear, as Mr. Hallam observes, that a foreign teacher would not have selected that city as the place for his exertions, if he had not found a seminary of learning already established there. The students of philosophy and theology opposed themselves to this new science ; and Stephen prohibited Vacarius from teaching, and even demanded that the books of law should be delivered up to him. But this prohibition appears to have had

* Privileges of the University of Cambridge, vol. i. p. 383, note.

† Camden's *Britannia*.

little effect; since we find by two decretals of Alexander III. of 1164 and 1170, that Vacarius remained in England in the reign of Henry II.; and we may reasonably conclude that he did not remain here idle: indeed, there is evidence that he founded a school of law, in which he had successors; since we find from Giraldus Cambrensis and another contemporary authority, that there was a great rivalry between the *legists* and the *artists*, who complained that the study of philosophy was depreciated in comparison with the study of law.

On account of the difficulty and expense of obtaining copies of the original books of the Roman law, and the poverty of his English scholars, Vacarius compiled an abridgement of the digests and codex, in which their most essential parts were preserved, with some difference of arrangement, and illustrated from the other law-books. Manuscripts of this work are still in existence. It bore on its title that it was "*pauperibus presertim destinatus*;" and hence the Oxford students of law obtained the name of *Pauperistæ*. Savigny says that this book was written in England about the year 1149. Vacarius, therefore, must have commenced his public lectures a little before that time; and we thus gain a date for the reappearance of the school of Oxford.*

* Hallam, vol. iii. pp. 517. 525: Savigny, tom. iv. c. 36.

The study of the civil law obtained but little favour in England, except with the clergy. The resistance of the nation to the encroachments of the papacy in the reign of John, disposed all laymen to look with suspicion on a system of law imported from Italy, and recommended by ecclesiastical authority, and they preferred adhering to their own traditionary common law. After a time even the clergy regarded the civil law only as subsidiary to the study of the canon law. The canon law must have followed close upon the civil law, and have been taught at Oxford within a few years after the publication of Gratian's *Decretum*; for the Benedictines of St. Maur bear testimony to the existence of an eminent school of canon law at Oxford about the end of the twelfth century, to which many students repaired from Paris.*

The testimony of Ant. à Wood expressly confirms Savigny's opinion, by assigning 1149 as the date of the introduction of the civil law into Oxford; and he refers to the same date, or to a time very little later, the introduction of the scholastic theology and of the degree of doctor.† It can scarcely be doubted that these latter were introduced from Paris; and it may be suspected that à Wood is a little too early in claiming for Oxford

* Hist. Litt. de la France, t. ix. p. 216: cited by Mr. Hallam.

† Hist. et. Antiq. Univ. Oxon. lib. i. p. 24. in Itter.

the title of doctor. Of course, when the appellation was first used, it signified merely *teacher*, and was not a technical degree. A. Wood states his belief that mention may be found of *masters in theology* in public acts of the reign of Richard I. Camden assigns the reigns of Henry II. and Richard as the period in which the university grew up to a flourishing condition, and commemorates Robert Pulein as the chief author of its celebrity.

Oxford is called a *university* in a public instrument of the 3rd of John, A.D. 1201, which is of earlier date than any extant application of the word to Paris.* In that year, according to Wood, it contained three thousand scholars.† Its earliest charter was granted by John. Its privileges were confirmed and extended by Henry III. in 1255; Edward I. in 1275; Edward II. in 1315; and Edward III. in 1327; and by succeeding kings. It appears that the university sought a recognition and renewal of its privileges at the beginning of every new reign. The same was the case with the University of Cambridge. Their privileges now depend upon the Act of Incorporation, which was passed with regard to both of them in the thirteenth of Elizabeth, A.D. 1570. The body of statutes, which is still nominally unrepealed, how-

* Dyer, Privileges, vol. i. p. 412, note.

† Hist. and Antiq. p. 177.

ever modified by subsequent interpretations, additions, or restrictions, or silently antiquated in practice; which the university still professes to obey, and which every member of it swears to obey; was compiled in 1636, when Archbishop Laud was chancellor, chiefly from the existing statutes, and was solemnly ratified by the convocation, the chancellor, and the king.*

The University of Oxford was confirmed by papal authority, and received such privileges as the See of Rome claimed the power of bestowing. It was mentioned in the Constitutions published by Clement V. after the council of Vienne, A.D. 1311, in company with Paris, Bologna, and Salamanca. It was ordained that schools should be erected for Hebrew, and Arabic, and Chaldee, in each of these *studia*; and that all prelates and ecclesiastical corporations in England, Wales, Scotland, and Ireland should be taxed for the maintenance of professors of these tongues at Oxford. These were the same Constitutions mentioned above, in which the expense upon taking a doctor's degree was limited.

We have, however, several notable instances, how little the authority of the popes was regarded, or rather how utterly it was denied, by the more vigorous of our kings, in matters relating to the universities. Edward I. published a brief, which was

* Edinb. Rev.

confirmed by a parliament held at York, against the preaching friars, and their proceedings at Oxford, although they were supported by papal bulls.* Edward III. in the fortieth year of his reign, in consequence of petitions of the universities of Oxford and Cambridge on the one hand, and of the friars of the four mendicant orders on the other, made an ordinance, with the assent of parliament, by which, after removing a prohibition imposed by the universities upon the admission of young scholars into the aforesaid orders, it was enacted, that all bulls and processes issuing from the court of Rome, and procured by the friars against either of the universities or any person in them, should thenceforth be absolutely null and void; and the friars were forbidden to use or allege them.† It is true that the bulls and citations seem to have been procured by the friars in consequence of a statute of the universities which they deemed a grievance, and which the king and parliament repealed; but it is observable that the act does not wait for the See of Rome to recall its edicts, but at once declares them null and void. In like manner the same king, in the forty-ninth year of his reign, abrogated statutes made by the chancellor and

* Ayliffe's *Hist. of Oxford*, vol. ii. pp. 19, 20, in Dyer's *Privil.* vol. i. p. 426.

† The Act is given at length in the *Norman French*, Dyer's *Privileges*, vol. i. pp. 71, 72.

proctors and the rest of the governing body of the university, cited the official persons before him, and removed them for contumacy, although they pleaded in justification the pope's bulls.* It is true that many assumptions of authority on the part of the Roman See were received with silence or submission, especially by less able princes; but these precedents are sufficient to show that constitutionally the power of the king and parliament was held to be supreme, and the interference of the pontiff was only by sufferance. It is clear, likewise, that our early kings did not consider the universities as corporations, to be among the objects of ecclesiastical superintendence, but took them under their own peculiar authority. Thus, Henry III. once, when he was going to Gascony, appointed the Archbishop of York and two others guardians of the university, to receive complaints during his absence. If it had been subject to ecclesiastical authority, the Bishop of Lincoln, the bishop of the diocese, or the Archbishop of Canterbury, the metropolitan of the province, would have been the proper depositaries of all complaints.†

In 1209 John caused three scholars of the University of Oxford to be hanged on a charge of murder; and in consequence the whole body of scholars left the town to pursue their studies elsewhere,

* Dyer's Privil. vol. i. p. 426.

† Dyer's Privil. vol. i. p. 426, from Ant. à Wood.

some betaking themselves to Cambridge, some to Reading.* It may be presumed that they soon returned; for the university continued to flourish. It was augmented in 1229, and the following year, by a similar migration of the discontented scholars of Paris, who were invited over by Henry III.† Wood gives an exaggerated statement of the number of scholars at this time, from which it may fairly be deduced that it was really very great.‡ The university continued to flourish in the following reigns: Matthew of Paris expressly ranked Oxford as an ecclesiastical school next to Paris, and called it the foundation of the church.§ It must have suffered, no doubt, in the wars of the Roses; the increase of universities on the Continent checked the influx of foreign students; and after the commencement of the Reformation in England under Henry VIII. when the monastic orders were dissolved and their property confiscated, and the church in its unsettled state offered to students of theology few prizes except the crown of martyrdom, the number of scholars was very

* Matth. Paris, in Mr. Hallam.

† See above. The earliest authentic document in Hare's Register of the Charters, &c. of the University of Cambridge, is of Henry III. An. Reg. 13, A.D. 1229, "*Literæ Patentes ad Universitatem Parisiensem transmissæ pro scholaribus invitandis, ut se studii causâ in Angliam transferant.*"

‡ See Hallam, vol. iii. p. 526.

§ Conring. Diss. iii. s. 7, and Wood.

much diminished. In the year 1546 there were only thirteen degrees conferred; and in 1552, though the students who had their names on the books were a thousand and fifteen, yet the greater part were absent, and had in effect quitted the university.* The general establishment of schools, and the invention of printing, which causes private study to be substituted for attendance on the oral instruction of public lectures, have prevented the university in modern times from ever equalling the ancient number of its pupils; but it is not our intention to trace this part of its more recent history.

Collegiate foundations were established in Oxford at a very early period. Of the existing colleges, University College and Baliol College were founded before the end of the reign of Henry III.; Merton College in the reign of Edward I.; and Oriel College was founded by Adam de Brome, with the licence of Edward II. So little honour is attached in history to the memory of this unhappy prince, that it will be charitable to bear in mind his connexion with a foundation which is now the institution of the greatest utility and highest reputation in the university. The motive for these foundations was the same which we have explained above in speaking of the University of Paris: to give the scholars facilities for obtaining lodgings, to relieve the indigent from some portion

* A. Wood, in *Edinb. Rev.* No. cvi. p. 410.

of their expenses, and to provide more effectually for discipline by introducing into the university a species of domestic superintendence. But the number of *colleges* in which provision was made by endowment for the pecuniary benefit of their members, was nothing in comparison with the number of *halls* or *inns* in which the students lived chiefly at their own expense, and which merely furnished cheap and convenient lodging, and the supervision of a respectable tutor or principal, who was responsible to the university for the good conduct of his pupils. In the early part of the fourteenth century, at the commencement of the reign of Edward II. the number of halls is said to have been about *three hundred*, while the colleges were only three.* For the establishment of these halls nothing more was necessary, than that a certain number of scholars should agree to live together, and find a doctor or master of their own choice, to act as their principal; and that they should hire a house, and find caution for a year's rent. The chancellor or vice-chancellor could not refuse to sanction the establishment, and admit the principal to his office. In general the halls were held only upon lease; but by privileges similar to those which have been noticed in foreign universities, the rent of the halls was fixed every five years by the taxors, and scholars could not be ejected by the proprietor from a

* Wood, A.D. 1307, in Edinb. Rev. No. cvi. p. 409.

building once occupied by them, so long as they punctually paid the stipulated rent. The halls were always subject to be visited and regulated by the authority of the university.* The causes which diminished the number of students in the university diminished the number of halls, though the number of endowed colleges gradually increased. At the commencement of the fifteenth century the students were decreasing, while the colleges had increased to seven. In the early part of the sixteenth century the number of halls had fallen to *fifty-five*, while the endowed colleges amounted to twelve.† Not very long after, the university, in a public letter addressed to Sir Thomas More, complaining of its general state of decay, spoke of the ruin of the halls, and explained that the colleges alone were enabled to preserve their existence by means of the endowments provided for their members. In 1546 there were only *eight* inhabited halls;‡ and five years after the historian remarks that the ancient halls were either desolate, or were become receptacles of poor religious people turned out of their cloisters. In these circumstances the halls lost their value as property to the owners, and several were bought up at a low rate by the colleges. The old colleges thus extended their build-

* Edinb. Rev. No. cvi. pp. 408 and 412.

† Wood, A.D. 1503 and 1516. Edinb. Rev. p. 409.

‡ Wood.

ings. Before this period they had rarely, if ever, admitted any pupils who were not members upon their foundations, and provided for by endowment; but now they began to take in pupils who were not on their foundations; and the diminution of the number of students in the university made it possible for them to receive them almost all. Six new colleges were founded in the seventeenth century, partly, it may reasonably be concluded, in consequence of the little cost with which sites for them could be purchased. Since that period, one college has been founded (Wadham, in 1610, or soon after); and three of the eight surviving halls changed by endowment into colleges, of which however one is since extinct.

It cannot be questioned, that one reason of the decay of the halls and the increase of the colleges was the more effectual superintendence and tuition which was supplied in the colleges, in consequence of the number of graduates who were members of them. In later times, since the tuition of the colleges has supplanted the public instruction of the university delivered by professors and public lecturers, in the way which will be explained presently, it is absolutely necessary to the existence of the halls to have tutors in addition to their principals. But besides the natural operation of these causes, there has been a piece of university legislation, by which the monopoly of the colleges has been

hitherto secured against any revival of the halls. When the all-powerful Earl of Leicester was chancellor of the university, about 1570, he obtained from the university the absolute right of nominating the principals of all halls (except St. Edmund Hall, which is attached to Queen's College), and consequently in effect a *veto* upon the institution of new halls; and this right is now vested by statute in his successors. The colleges, which had then begun to exercise great influence in the university, had clearly an interested motive in procuring this concession; and since that time no new hall has been opened.*

This review of the progress and changes of the collegiate foundations, and of other places for the residence of the students, must be considered in connexion with another point of the discipline of the university. It has long been necessary for every member of the university below the degree of master of arts to be also a member of some college or hall; and, in fact, the graduates as well as undergraduates are attached to some

* The Edinburgh Review, which has been followed in this account of the origin and progress of the collegiate foundations, and of the relative position of the colleges and halls, cites as its authorities on this point, "Wood, Hist. et Antiq. Univ. lib. ii. p. 339. Hist. and Antiq. of Coll. and Halls, p. 655; and Statuta Aularia, sect. v."

foundation.* In the earliest times the scholars lodged in the houses of the townsmen, as in Paris and Bologna, and attended such lectures as they chose. In 1231 it was ordained that "every clerk or scholar resident in Oxford must subject himself to the discipline and tuition of some master of the schools." But this seems to mean only that he must become the regular auditor of some regent master; it did not imply any domestic superintendence, and had nothing to do with residence. But in the beginning of the fifteenth century it had become the established rule that every scholar must be a member of some college or hall. The scholars who attended the public lectures of the university, without entering themselves at any college or hall, were called *chamber dekyns*, as in Paris they were called *martinets*; and frequent enactments were made against them.† In Paris, as we have seen, it was only the scholars of the

* In Cambridge, a master of arts or superior graduate, if he be resident in the town, may retain his privileges as a member of the university, although his name be not on the books of any college. The "commorantes in villa," as they are called, are generally professors or other officers of the university who are married, and who thus escape certain college payments. Their number is small, but they are remarkable as a monument of the early times, when the university was, and the colleges were not.

† Wood, Ann. 1408, 1413, 1422, 1512, &c.

faculty of arts who were compelled to enter at some college ; but in Oxford the obligation was imposed on all alike.

In connexion with this subject, we may remark a point which will seem strange to those who know only the actual state of the university. Entrance at a college or hall did not imply entrance under any particular tutor. Young students—and many in those days were mere boys—were placed by their friends under the care of tutors ; but these were private tutors ; and the university did not interfere with the private arrangement. It was not till the time when Leicester was chancellor, that the university undertook to regulate who might be tutors ; and it was not till the chancellorship of Laud, that it was made necessary to enter under a tutor resident in the same college or hall with the pupil. Laud, therefore, may be regarded as the author of the system of college tuition.*

The necessity of entering at some college or hall, and the difficulty interposed in the way of opening new halls like those of old time, are points which deserve the most attentive consideration, in connexion with the question which has been recently revived of the abolition of religious tests and subscriptions, and the admission of dissenters to the universities. The late discussions have

ib. Rev. p. 392. comparing Wood, A.D. 1581, and
at. t. iii. s. 2.

made it notorious, that at Oxford the student is required at his matriculation to subscribe the Thirty-nine Articles. This subscription was originally imposed by the Earl of Leicester. It may be removed by the authority of parliament, along with all similar subscriptions and oaths required upon taking a degree; and thus the university may be nominally opened to those who dissent from the established church: and yet it is evident that, even if this were done, the design of the legislature might be frustrated by the separate colleges. They might go so far as to require subscription from all who entered them. It is not unlikely that they would require it from members on their foundations, if something equivalent be not required already. But without putting this case, it is clear that by strictly insisting upon attendance on the prayers in the college chapel and at the administration of the holy communion, and by lectures and examinations directed to the peculiarities of the theological system of the church of England, they might deter conscientious dissenters from joining them, or render their college residence exceedingly irksome: and yet there is no access to the university but through the colleges. The colleges might thus debar the dissenters from the advantages which the legislature is supposed to have conceded to them; and at the same time they might argue plausibly that they themselves

were exempt from legislative interference. Though the universities beyond all doubt are public and national establishments, and their public character is emphatically recognised by their sending members to parliament, the colleges in both universities (with perhaps one exception) are strictly private foundations. Trinity College, Cambridge, inasmuch as it was endowed by Henry VIII. with the confiscated property of the religious houses, may perhaps be considered as a public institution ; but the other foundations, even those of royal origin, must be acknowledged to be private. Now, so long as private institutions obey the directions of their founders, and do no positive evil, it may be fairly argued that the legislature has no right to interfere with them. No doubt, if they do harm, the legislature may stop them ; but it would be a strong doctrine to argue that it may rightfully compel them to do more good than they otherwise would do. And thus the colleges might suppose that parliament would not intermeddle with their internal discipline.

If the bill which was rejected in the last session of parliament should be passed in any future session, and if any colleges should be inclined to manifest their opposition in the way supposed, it would be prudent in them to reflect, that if private institutions, by their influence in the government of a public institution, so incorporate themselves with it that no one can belong to the public insti-

tution without at the same time belonging to some one of the private institutions, the public does not become private by this union, but the private make themselves public, and in this respect may rightfully be dealt with as public bodies. But it would be wise to avoid the occasion for such exertion of authority; and I would suggest to those persons who are exerting themselves to remove the legal impediments to the admission of dissenters to the universities, that, to make their measure effectual, it will be necessary to remove the obstacle to the erection of new halls; that is, to repeal the statute by which the absolute nomination of the principal is vested in the chancellor or his deputy, and, as in old time, to allow any master or doctor to open a hall, and to become the principal of it, subject to removal only by the act of the whole university on specific cause shown against him. If the ancient system be thus revived, the dissenting students, who are desirous of entering the university, may have their independent halls: in process of time, any sect that wishes it may have a hall of its own, in which it may assemble its students for its peculiar religious exercises, and instruct them in its peculiar religious tenets. The existing colleges may thus remain seminaries of the Church of England, and be preserved from that intermixture which they deprecate as inconsistent with the discipline and the system of education which they

think themselves bound in conscience to uphold. I have addressed this suggestion in the first place to the advocates of the dissenters; but I would address it with equal earnestness to their opponents in the universities, as an easy and beneficial compromise under a pressure which it requires no spirit of prophecy to foretell that they will not long be able to resist.*

There is no reason to fear lest graduates should not be found to assume the offices of principals and tutors in the new halls. Recent events have made it manifest that at Cambridge, at least, such men might be found among the resident members of the university distinguished for ability and learning. But there is no reason why the power should be confined to the members actually resident, or even to those whose names are now on the college books. Any graduate of the university may be supposed to be equally competent, and by undertaking the office would become equally responsible.

It would be a collateral benefit arising from the growth of such institutions, that as at first they would be more scantily supplied with internal tuition than the ancient colleges, the professors and public lecturers of the universities might either be induced by self-interest, or might be called upon by authority, to resume the office of instruction

* Since this passage was written, the same suggestion has been made in the *Edinburgh Review*, No. cxxi, October, 1834.

which is imposed upon them by the ancient constitution of the university, and which now in general they have practically renounced, and suffered to slip into the hands of the college tutors.

These remarks on the mode in which the universities may best be opened to dissenters, apply equally to Oxford and Cambridge. I have thrown the discussion into the review of the history of Oxford, because there was not before me equally ample information with regard to the changes in the collegiate system of Cambridge. From the resemblance in the origin and constitution of the two universities, their resemblance in their earliest periods, and their resemblance at the present day, and from the identity of the circumstances in which they have been placed, it cannot be doubted that similar revolutions have happened in both. I shall now proceed to the history of Cambridge; and after a slight sketch of it, I shall endeavour to show how both our English universities have deviated from their original constitution in their method of instruction and in their internal government.

The traditions of the Universities of Paris and Oxford, with regard to their foundation by the famous kings Charlemagne and Alfred, are such as would tempt chroniclers to repeat them without stopping to consider the truth of them; but the tradition of the origin of the University of Cambridge is of so very unpretending a character, that

though the external evidence for it is not very strong, it may fairly be left to stand on its own probability. It is said that Joffred, Abbot of Croyland in 1109, successor of Ingulphus, "sent over to his manor of Cotenham nigh Cambridge, Gislebert, his fellow monk and professor of divinity, and three other monks who followed him into England (from Orleans). From Cotenham they daily repaired to Cambridge. There they hired a public barn, made open profession of their sciences, and in a little time drew a number of scholars together. In less than two years' time, their number increased so much, from the country as well as town, that there was never a house, barn, or church, big enough to hold them all. Upon which they dispersed themselves in different parts of the town, imitating the University of Orleans." Three of the party taught the three branches of the Trivium,—grammar, logic, and rhetoric; and Gislebert preached to the people on Sundays and holidays.*

* Peter of Blois; appendix to Ingulfus: in Camden's *Britannia*, and Gale's *Script. Angl.* vol. i. p. 114. The mention of the *University* of Orleans probably involves an anachronism, since Savigny notes nothing more of the antiquity of this school, than that it was already flourishing in 1236; and that it was not very ancient may be presumed from its not receiving the confirmation of the pope and the king of France till the beginning of the fourteenth century. It appears, however, that there was an ancient school attached to the cathedral, out of which the university grew. See below, p. 101.

An old building is pointed out at this day as the barn in which these missionaries of learning taught, or at least as retaining some portion of its walls.

Mr. Hallam thinks that the earliest mention of Cambridge as a place of learning is in the passage of Matthew of Paris, already cited, in which he relates, that in 1209 many of the students of Oxford migrated thither, in consequence of an act of severity on the part of King John. He thinks that they would not have removed themselves to a town so distant, if it had not been already a seat of academical instruction.*

Mr. Dyer states that he finds the term university applied to Cambridge in a public instrument of 1223.† According to Mr. Hallam, the date of its first incorporation is the 15th of Henry III. or 1231.‡ In Hare's Register of the Charters and other Monuments of the Liberties and Privileges of the University, which is the authority on which the university relies, there is no charter of incorporation of this year, nor indeed any of this monarch; but there are many public letters of Henry relating to the university, the earliest of which are of the date mentioned by Mr. Hallam. These fully recognize the existence of the university, and of

* State of Europe during the Middle Ages, ed. 4. vol. iii. p. 527, note.

† Priv. vol. ii. p. 412, note.

‡ As above.

its masters and chancellor; the authority of the chancellor and masters; and some customs and privileges of the university. It is probably, therefore, to these documents that Mr. Hallam refers, as implying an incorporation; or he may have been misled by an inaccurate description of them. One of the most important of these early monuments is a royal letter addressed to the sheriff of the county, (*vice-comes*,) calling upon him "to repress the insubordination of the clerks and scholars, and to compel them to obedience to the injunctions of the Bishop of Ely, either by imprisonment or banishment from the university, according to the discretion of the chancellor and masters."

A singular mixture of jurisdictions is implied in this letter. The authority of the Bishop of Ely in the University is distinctly recognized; but the contumacious who resist it are in fact to be tried and judged by the chancellor and masters, and the civil power of the sheriff is called in to execute their sentence. In like manner there is a royal letter addressed to the sheriff in the twenty-sixth of Henry III. which Dyer has given at full length.* In this letter it is ordered, that when "any clerk of the university of scholars studying at Cambridge" has been guilty of any misdemeanour, and has been convicted by the university, and sentenced to imprisonment, if the burgesses of the

* Privileges, vol. i. p. 62.

town are negligent in executing the sentence or unable to do so, the sheriff, upon the warrant of the chancellor of the university, is to cause such malefactor to be apprehended and committed to prison, and kept in safe custody, until the chancellor demand his liberation ; and upon the demand of the chancellor he is to be liberated. We see, therefore, that the university in its early days enjoyed a plenitude of jurisdiction, and received a support from the civil power, which seem not to have been accorded to the universities on the Continent. There is another royal enactment of the forty-fifth of Henry III. in which the privileges of the university are still more distinctly recognized : " That the king's justices are not to interfere in hearing and determining offences between the scholars and laymen ;" the latter term meaning those who were not scholars. Another most significant document of the earliest date, that is, of the fifteenth of Henry III. is a royal letter, which provides that lodgings or hostels (*hospitia*) shall be taxed (*i. e.* valued) "*according to the custom of the university*, namely, by two masters and two respectable and lawful men of the town, and let to the scholars according to their valuation." This order was repeated in letters patent of the fiftieth of the same king, with the addition that the valuation was to be repeated every five years : we have seen the same privilege in force at Oxford.

These and the other documents are prefaced in Hare's collection by the letters of invitation, which have been mentioned already, addressed to the scholars of the University of Paris two years before, viz. in 1229. It would appear, therefore, that this protection accorded by the king to the hitherto unnoticed school of Cambridge arose out of the circumstances which caused the scholars of Paris to quit their university and seek instruction in England.

Many of the royal letters of this and the following reigns relate to disputes between the university and the corporation of the town about their respective privileges ; and a frequent cause of complaint is the remissness of the magistrates of the town in executing the sentences of the chancellor. The jurisdiction of the university in all cases, whether civil or criminal, except those of felony and mayhem, in which one of the parties was a master or scholar, is repeatedly confirmed : nor was this privilege questioned in the king's courts. In consequence of a suit for false imprisonment instituted by a scholar against the chancellor of the university, which seems to have been pending more than three years, and in the course of which the chancellor was committed to Newgate, the chancellor and his successors were ultimately secured by an act of parliament against any such action for

any exercise of their jurisdiction.* The court of Chancery, however, appears to have exercised a power of supervision, or possibly was a court of appeal.†

Another fruitful subject of royal letters is the supply of provisions, and the controul exercised over victuallers of all sorts, and the regulations which the wisdom of our ancestors propounded against *forestallors* and *regraters*. The whole power in such matters was finally vested in the chancellor, to the exclusion of the town magistrates, in consequence of a great riot, in which the townspeople had carried away and burned the charters and other muniments of the university.‡

The first formal charter which is extant was granted by Edward I. in the twentieth year of his reign. Charters more and more ample were granted by Edward II. Edward III. Richard II. and Henry IV. in the very beginning of their reigns, as we have observed to be the case with the Oxford charters. These charters were confirmed by Edward IV. Edward VI. and Elizabeth; and they were finally ratified by the act of parliament for the incorporation of the two universities, in the

* Edward III. Ann. Reg. 9, 10, 11, 12; Dyer's Privileges, pp. 16, 17.

† Richard II. A.R. 15; Dyer's Priv. p. 28, No. 54.

‡ Richard II. A.R. 5; Dyer, p. 23.

thirteenth of Elizabeth.* The statutes, which are the basis of the actual laws of the university, and of which by far the greater part, although practically obsolete, are still nominally binding, had been given by Elizabeth in the preceding year, An. Reg. 12, A.D. 1570; and it may be assumed that they were considered as confirmed by the subsequent act of parliament as well as the grants and charters.†

In Hare's Collection there are comparatively but few bulls or papal rescripts. In the reign of Henry VIII. the university and colleges were required to send in their grants, charters, statutes, bulls, &c.; and though the charters, &c. were restored, it seems doubtful whether the bulls were ever returned.‡ We are not certain, therefore, whether we possess the most ancient documents of this kind. There is a rescript of Gregory IX. (1227-1241), addressed to the Prior of Barnwell, and the *chancellor of the university*, the existence of which, under its proper head, must have been thus recognized. When Hugh Balsham, Bishop of Ely, founded St. Peter's college, he obtained a royal charter from Edward I. in 1274, and a confirmation from the pope. We find no papal bull relating to the university in the

* 13 Eliz. ch. 29.

† Dyer doubts the virtual confirmation; Hist. of Univ. of Cambridge, and Privileges, vol. i. pp. 158, 447: but Serjeant Miller's opinion seems sound.

‡ Dyer's Privil. vol. i. p. 394.

time of Edward I. yet it is not unlikely that one was issued in confirmation of the charter granted by him in the twentieth year of his reign; at least, we find it mentioned by an old writer, Robert de Remington, that in this reign Cambridge from a *studium* was made a *university*, such as there was at Oxford, by the court of Rome.* It is observable, however, that in the constitution of Clement V. relating to the universities of Europe, issued in 1311, although Oxford is mentioned, Cambridge is not named. Mr. Dyer thinks that it was not officially known to the pope as a university.† Edward II. in the tenth year of his reign (A.D. 1316–1317), granted a charter to the university, confirming the charter which he had granted before, and adding some new privileges: at the same time he sought a confirmation of the privileges of the university from the papal see; and a bull was issued accordingly by John XXII., which is given at length by Dyer.‡ It was issued at Avignon, in the second year of his pontificate,

* “De Studio *Grantbrig* facta est Universitas, sicut est Oxoniæ, per Curiam Romanam;” Conring. Diss. ii. s. 7, from Arnold Wion.

† Privil. vol. i. p. 414.

‡ Privileges, vol. i. p. 60. The king's letter to the pope, and the pope's bull, are registered in their proper places in the Index to Hare's Collection, under Edward II. Nos. 13 and 14. But elsewhere the bull is absurdly described as a bull of John X. and referred to the time of Edward the Elder, son of Alfred. See Dyer, vol. i. p. 410.

(1217-1218.) It mentions privileges conferred by former popes as well as by former kings, and confirms them all. It ordains that there shall be thenceforth at Cambridge a *studium generale*, and that every faculty shall be maintained there; and that the college of masters and scholars of the said *studium* shall be accounted a university, and enjoy all rights which any university whatsoever lawfully established can and ought to enjoy. From this document we may learn, that those writers are mistaken who affirm that *studium* or *studium generale* is synonymous with *universitas*; and that the technical use of the German academicians of later times, by which a *studium* was distinguished from a university only as not conferring degrees, was equally a departure from the ancient and proper use of the terms. *Studium* is a place of study. A *studium generale* is a place where all branches of learning are taught; the very meaning which by an erroneous etymology has been fastened on the word university: a university is a corporation of persons.* From the date of this bull Cambridge was recognized among the universities of Christendom.

As far as our records enable us to judge, Cambridge was not much troubled by papal bulls or rescripts; and it was singularly free from ecclesiastical interference at home. In all universities the chancellor was the "fountain of honour," the officer by whose authority degrees were conferred; and

* So Savigny.

this dignity gave considerable power. In France and Italy, where schools had been attached to collegiate churches, there was usually a member of the college or chapter who was called *scholasticus*; originally, we may suppose, the schoolmaster: and where universities grew out of such schools, the *scholasticus* not unfrequently became the chancellor. Thus the chancellor of the University of Orleans was the *scholasticus* of the cathedral.* The bishop of the diocese was very often the chancellor, especially where the university was placed in an episcopal city; and if not the bishop, some other ecclesiastical dignitary. Thus we have seen that at Paris the bishop was the chancellor of the faculty of theology; the chancellor of St. Geneviève of the rest of the university: at Bologna, the archdeacon was the chancellor of the lawyers, physicians, and artistæ; the bishop, of the theologians. In the German universities the chancellor was generally the bishop.†

In England it happened fortunately for the universities that neither Oxford nor Cambridge was a

* Savigny. About the *scholastic canons*, or scholarchæ, see Conring. Diss. iii. ss. 5 and 16, and Suppl. xliii. s. 2.

† See a list of universities, with their chancellors, in Itter, cap. v. s. 6. Itter, who is a protestant, and leans to the imperial side in disputed questions of jurisdiction, stoutly resists the inference that universities are ecclesiastical corporations. Conringius, who inclines to the papal side, affirms boldly—
“Accedit, quod omnis graduum collatio olim facta fuerit, et

those at Avignon; and to this circumstance probably it owed this extension of its privileges and independence. In 1430, Pope Martin V. who was a great patron of universities, commissioned certain delegates to inquire whether the university by grant or custom were subject to the ecclesiastical jurisdiction of their chancellor, and exempt from that of *all others*; empowering his delegates, if they should find it so, to confirm by his authority that jurisdiction and exemption, which was accordingly done; and in 1433, Eugenius IV. issued a bull to confirm the sentence of the delegates.*

It would seem that this exemption finally relieved the university from the jurisdiction not only of the bishop of the diocese, but of the archbishop of the province. The Archbishop of Canterbury visited the university in 1309, the second or third of Edward II.; and in the second of Henry IV. A.D. 1401, the archbishop visited the university and the separate colleges. But these are the only examples which we find of metropolitan visitation;† and

* See Dyer's *Privil.* vol. i. p. 445.

† Mr. Dyer shows that the former of these visitations was undertaken by the authority of letters patent from the king the proceedings of the latter were confirmed by act of parliament. *Privil.* vol. i. p. 468. Mr. Dyer's second *English Dissertation*, in vol. i. and the latter part of the *Latin Dissertation*, in vol. ii. are chiefly about the right of visitation. If we understand him rightly, he seems to hold, that the right of visitation and inspection resides in the king; but that new

in the reign of Edward VI. 1548 and 1549, the university was subjected to a very thorough royal visitation.

There is not before us such ample information with regard to the collegiate foundations of Cambridge and other houses for the residence of students, as the Edinburgh reviewer found in Wood about those of Oxford. The *hospitia*, which were taxed according to the custom mentioned above, might in some cases be lodgings in the houses of the townspeople: there can be no doubt that this was the way of living in the earliest times; but they were mostly separate houses, occupied only by students. In the composition between the scholars and the burgesses, sanctioned by royal authority in the fifty-fourth of Henry III., it was agreed that certain masters should be elected annually, who should keep a list of all principals and every house, and all scholars dwelling in the said houses; and an oath was to be exacted from the principals, that they would not knowingly receive in their *hospitia* any disturber of the public peace. This process implies that there was a large number of such *hospitia* with their principals, and that they were liable to fluctuation and change.*

statutes can be given, or old ones abrogated, only by the supreme legislature.

* Dyer's Privil. vol. i. p. 66, where the composition is given in full. The words *domus* and *hospitium* are both

These elective chancellors held their office only for a short period; at Cambridge, for two years. The division of the scholars into *nations*, which prevailed in all the universities of the Continent, was unknown in England; probably because our insular situation prevented the influx of foreign students.* There was a tendency at one time at Oxford to establish a similar distinction between the natives of the counties north and south of Trent. For some time the proctors were chosen, one from each division; but the schism was healed.† At Cambridge, by the composition between the scholars and the burgesses, in the fifty-fourth of Henry III. conservators of the peace were to be elected annually at the beginning of the academical year, twenty-three in number (the original number of a jury), ten from the town, and thirteen from the university; and of these latter, five were to be English, three Scotch, two Welsh, and three Irish. This arrangement might easily have given rise to a division of the scholars into nations, each choosing its own conservators; but it was not attended by any such consequence.

* We have noticed this division at Paris and Bologna. The Universities of Vicenza and Vercelli were each divided into four nations; Montpellier into three; Orleans into ten; Vienna into four; and this was the most usual number.

† Edinb. Rev. No. cvi. p. 407. The Irish students at one time were a marked body, and a turbulent one; but they never attained any distinct privileges.

The chief peculiarity, however, which distinguished the English universities, was the early establishment of hostels, halls, and colleges, and the part which was taken by the principals or heads of these establishments in maintaining the discipline of the younger scholars. The prevalence of collegiate foundations has continued to affect them in every age, and their influence has continually increased. Not only have the universities, like all other human institutions, settled in the course of time into an arrangement very different from their original form; but within a comparatively short period they have departed from those bodies of statutes which were intended to perpetuate their legitimate constitution; and they have become unlike every other institution in Europe which bears the same name. I propose to trace these changes in the two lines in which they have developed themselves most prominently,—in the mode of communicating instruction, and in the internal government of the universities.

It will be necessary, in the first place, to give a slight sketch of those changes which were wrought by the natural course of events in all the older universities, and to indicate the points in which later foundations differed from the ancient schools. The terms master and doctor, as we had repeatedly occasion to caution the reader in the commencement of our dissertation, were not originally

titles conferred by authority after a prescribed course of study or a formal examination, but were merely appellations given according to their common meaning to persons engaged in teaching. The term professor, though less frequent in early times, had the same signification: it meant a person who professed to teach any particular subject. In the *Authentic* of Frederic Barbarossa, so often mentioned, the teachers of law are called professors. When the teachers of different schools made regulations among themselves, which were subsequently confirmed by public authority, to prevent unqualified persons from assuming their office; or when similar regulations were enforced by the ecclesiastical dignitaries who had the charge of such schools; the terms master, doctor, and professor, became titles, signifying a certain rank, and conveying certain powers in the scholastic body; but still they were given only to persons who were admitted by competent authority to the office of teachers. The appellations master and doctor were at first used synonymously; and it was only in process of time that the name master came to be restricted more peculiarly to the teachers of the liberal arts, and the title of doctor to be assumed as a distinction by the teachers of theology and law, and subsequently of medicine.* We read of masters of theology at Paris, of masters of

* Itter De Grad. Acad. c. ii. s. 6, and elsewhere.

law at Bologna,* of masters of medicine at Salerno.† There is a letter addressed by Robert Grostest, Bishop of Lincoln, in 1237, “Magistris Oxoniæ in Theologia Regentibus:”‡ and in some universities the title of master of theology remained in use, as in those of Sweden.§ Master was a general title; doctor, a special: all doctors were accounted masters, though all masters were not doctors. The phrase “masters and scholars,” is the general description, or corporate name, in which all members of the university are included, whether at Paris, or Oxford, or Cambridge. When the titles of doctor and master were distinguished, and more especially when an earlier stage in the probation was marked by the name of bachelor, these successive designations were called *steps* (gradus) or degrees. By a gradual change, which we shall presently trace more particularly, they ceased to imply actual teaching, and became at last mere titles of honour.

The term professor has continued in common language to be applied only to those who are actually engaged in teaching, or at least whose official duty it is to teach; for the course of time has generated sinecure professorships. But that it was

* In the Authentic, *Habita*, and elsewhere, see above, p. 49.

† See above, p. 67.

‡ Wood, *Hist. et Antiq. lib. i. p. 24*; in Itter, c. iv. s. 22.

§ Itter. c. ii. ss. 6, 7.

originally synonymous with the other academical degrees appears clearly from this circumstance, that in our English universities (and possibly elsewhere) the Latin designation of a doctor of divinity is “*sanctæ theologiæ professor.*” The modern use of the word is so different, that Itter speaks of professors in the German universities, who had not attained to the degree of masters, or who had even not taken any degree at all.*

A degree, therefore, originally was a licence to teach; afterwards it implied an obligation to teach. Even the bachelor was obliged to give proof of his ability in teaching by reading a short course of lectures under the superintendence of his faculty.† The inceptor, or commencing master, *began* of course to teach. At Cambridge, for example, he had the last term of the academical year, before his full creation, to make his first experiment as an independent teacher. The technical term signifying to teach in the public schools was *regere*; and the master of arts, or the doctor of any faculty, upon his creation, necessarily became a *regent*—that is, a teacher in the schools. This is the mode in which instruction was given in the earliest age of universities. Out of this number of rival teachers the students made their choice; but

* c. viii. s. 2; c. ix. s. 2.

† Edinb. Rev. No. cvi. p. 388. See above the account of the University of Bologna, p. 61.

they were expected to attach themselves to some one in particular, as is implied in the *Authentic* of Frederic I. and is expressly enacted in the Oxford statute of 1231, noticed above. Of course, it was not supposed that all who took degrees, and began to teach, would continue teaching all their lives; and the more numerous they became, the less reason was there to prolong the obligation. A period, therefore, of *necessary regency* was generally established, different in different universities, during which the graduates were bound to teach, and after which they might, if they chose, become *non-regents*. As the want of teachers was less felt, this period was shortened by successive enactments; and as many graduates were found who were willing to devote themselves to teaching as a profession, and to support themselves by the fees which all teachers might collect from their pupils, it became easy for those to whom the obligation of teaching was a burthen, to obtain a dispensation, even during the period of necessary regency. The students naturally preferred experienced teachers.

We have seen how at Paris the lectures of the regent masters in the public schools were supplanted by the lectures of the regents permanently attached to the great colleges. At Bologna they were superseded by the lectures of the salaried professors. The change at Oxford and Cambridge appears to have proceeded more slowly. At Paris

there was an impediment for want of room ; a difficulty in finding schools wherein the regents might lecture ; which was a cause of dispensations from the duty. Oxford was better provided in this respect in proportion to its numbers. It is said that forty sets of schools are still known by name, which were anciently open in *School-street* ; and these were buildings each containing from four to sixteen lecture-rooms.* However, upon the establishment of public and salaried professors, the revolution took place in the English universities as well as in those of the Continent. At last, a tacit exemption was accorded to all who chose to avail themselves of it ; and a degree ceased in general to impose any obligation. Nevertheless, there was nothing to debar the regent from exercising his ancient function, and lecturing in the public schools. A lecturer might continue to teach as a *voluntary regent*, when his period of *necessary* regency had expired ; or he might resume his regency at pleasure. At length some restrictions seem to have been imposed ; partly by the necessity of the case, partly from other motives. Thus, in Paris, the masters who were desirous of lecturing petitioned their faculty *pro regentia et scholis* ; and

* Edinb. Rev. No. cvi. p. 388, note. How it may be at Oxford, I know not ; but Cambridge at this day has not public lecture-rooms sufficient for the professors who are desirous of lecturing.

schools, as they fell vacant, were granted to them by their nations in order of seniority.* At Cambridge, on account of the express limitation of the period of regency, a non-regent master could not resume his regency without a grace of the senate;† and it may be assumed that a similar regulation was in force at Oxford. At Cambridge the period of regency was limited to five years for masters, and to two years for doctors. The proctors and some other officers resume their regency by virtue of their office. At Oxford, the period of *necessary* regency was finally limited to one year; but the masters were allowed to remain *voluntary* regents (regents *ad placitum*) for two years. Now that the sole effect of regency is to make the master a member of the house of congregation, all remain regents for two years. The original signification of the term is so far preserved, that all professors and public lecturers, the masters of the schools, and public examiners, are regents. All resident doctors are regents—which was a usurpation of the title; and so are all heads of houses, and the deans of colleges.

Thus the early universities, in their earliest period, were taught by their graduates at large; and it was only by a slow change that this practice fell into disuse. The chief cause of its discon-

* Edinb. Rev. No. cvi. p. 388, note.

† Stat. Eliz. c. vii.

tinuance and final cessation was the general appointment of public and authorized professors and lecturers. These were sometimes appointed by the government, sometimes by the university itself: sometimes they were elected annually; sometimes they held their offices at the pleasure of their faculty, sometimes for life: sometimes they were left, like other teachers, to collect fees from their pupils; more commonly they received a fixed salary on condition of their teaching gratuitously: sometimes they were paid by the government; sometimes they owed their endowments to private munificence. But under some or other of these modifications this method of providing public teachers became general in all the universities of Europe. A detailed account of its introduction and establishment in the several universities would be a valuable chapter in academical history: but this, even if my limits would allow me, I have not the means of presenting. I have given a slight outline of its origin and progress at Paris and Bologna, and I shall mention presently the institutions of our own universities. At this point it is more to our purpose to remark, that in those universities which were founded by sovereigns and governments, after the first age of such institutions was gone by, the business of instruction was from the beginning committed to a body of professors,

as in almost all the universities of Germany;* and in those of Scotland the case was much the same.

So entirely was the right of teaching reserved to the regular and authorized professors in the German universities, that although in conferring degrees the ancient formula is retained, by which the graduate receives the power "*legendi, docendi, interpretandi, et glossandi*," and of exercising all the functions of a professor, the German writers on academical law are careful to explain, that this is only a declaration of competence, not a licence to act; and that "*promoti doctores facultatem habent legendi, &c. si modo ad ejusmodi munus rite vocentur*."†

However, in most of the German universities there are facilities by which a graduate who wishes it is enabled to lecture as an extraordinary or temporary professor. In this way teachers are exercised and trained to fill the regular chairs; and the ordinary professors are not left to slumber in the secure possession of a monopoly.

* The University of Göttingen is comparatively a recent institution; but its form is a fair specimen of the general form of the German universities. Its constitution will be found in the *Privilegia Acad. Gotting.*; that is, the imperial and electoral ordinances to which it owes its existence, which are appended to Heumann's edition of Conringius' *Dissertations* printed at Göttingen in 1739.

† See Itter and his authorities, cap. xvi. s. 6.

The government of the ancient universities of the Parisian model was naturally vested in their teachers. When regular degrees were conferred, it was the business of the regent masters. In the early state of the universities there was little inducement for non-regent graduates to remain resident in them, or to interfere in their concerns. In those universities in which, after a time, the growth of collegiate foundations, or other causes, induced graduates to reside who were not actually engaged in teaching, in the first place, the nominal regents, whose duty as public lecturers was dispensed with, still retained their powers as members of the governing body; an abuse, or at least a violation of ancient custom, which brought others in its train; for, in the next place, all resident doctors, though not actually teaching, came to be considered as regents, and the same privilege was extended to all heads of colleges; and, lastly, the resident non-regents, whose advice in ancient times was only requested on extraordinary occasions, came to take a part in the ordinary government of the university. On the other hand, in those universities in which the business of tuition fell into the hands of a body of authorized professors, and no motive was presented for the continued residence of other graduates, the government of the university fell likewise into the hands of the professors: and in the universities of later foundation, where the tuition is expressly

and exclusively committed to the professors, the government also is entrusted to them; and the supreme authority of the university is generally a *Senatus Academicus*, which is the united body of professors.

At Oxford, some time before the present statutes were digested under the authority of Archbishop Laud, there were, besides the professors of the superior faculties, ten professors or public readers of the seven arts and the three philosophies. They were appointed by the house of congregation, that is, by the regents; and attendance on their lectures was enforced by statute. In the time of Laud, six of these enjoyed a permanent endowment: four were paid, partly by the fees of their pupils, partly by fines levied on the regents whom they relieved from teaching. After the final collection of the statutes, A.D. 1636, by which the university is still nominally governed, we find eleven professors or readers in the faculty of arts. They lectured on grammar, rhetoric, and logic, the three branches of the ancient trivium. Of the quadrivium, geometry and astronomy had their professors endowed by the munificence of Sir Henry Saville, in 1619. Provision was made by royal endowment for teaching the Greek and Hebrew languages: and there were also professors of natural and of moral philosophy, of metaphysics, and of history. Music had its professor; but it was now separated from the

faculty of arts. There were also two professors of divinity, a professor of civil law, a professor of medicine, and a prælector in anatomy, who ministered instruction in the higher faculties.* The regius professorships of Greek, Hebrew, divinity, civil law, and medicine, were endowed by Henry VIII. in the years 1535 and 1540. The Margaret professorship of divinity was of older date.

Notwithstanding this array of professorships, which were now the chief instruments by which the university fulfilled its function as a teaching body, the right was expressly reserved by statute to every doctor and master of lecturing in the public schools on any subject pertaining to his faculty; and the exercise of the right was still not unusual.† It is almost unnecessary to observe, that several professorships have been founded since the date of the statutes.

At Cambridge, as far as we can gather from Dyer's Privileges of the University, the earliest professorship which appears upon record is the professorship of divinity, founded by Lady Margaret Countess of Richmond, mother of Henry VII. A.D. 1502. The professor was to be elected by the vice-chancellor and the graduates in divinity, and to hold his office two years. In 1524, Sir Robert

* Edinburgh Rev. No. cvi. pp. 389-391.

† Corp. Stat. t. iv. s. 1; in Edinb. Rev. p. 392. See also p. 390.

Read made an endowment for three lecturers, who are called "*the three readers of ordinaries*," and who were "to read the accustomed lectures in humanity (rhetoric), logic, and philosophy." These readers were to be elected annually,* and were "to be chosen after the laudable custom and usage of the university." Whether there were public readers appointed by the university before this time, and these words refer specially to the way in which they were elected, or whether they refer to the general mode of electing the officers of the university, does not clearly appear. The intention of the founder was to secure gratuitous instruction to the students, and he clogged his foundation with the condition that "no money was to be paid for *ordinaries* for the future;" but as the endowment for each reader was four pounds per annum, the offices in no long space of time were made sinecures. The same has been the fate of a lectureship on mathematics, which was soon after added to the foundation. However, in Queen Elizabeth's statutes we find these four lecturers recognised as the regular and efficient instructors of the students of arts.†

In 1535, when Thomas Cromwell, the king's

* They are chosen on the 10th of June, the day before St. Barnabas' day, and hence are commonly called the Barnaby lecturers.

† Stat. c. iii. See also c. vi.

commissioner for visiting all ecclesiastical establishments, was chancellor of the university, the university was directed by a royal injunction to found a Greek and Latin lecture at its own expense. The Latin lectureship became extinct,—probably from the want of an endowment. But in 1540 the king endowed the regius professorships of Greek and Hebrew, of theology, civil law, and medicine, as at Oxford. The original endowment of these professorships was 40*l.* per annum, and the stipend of the Greek and Hebrew professors has never been in any way augmented. These are all the professorships which are recognised in the Elizabethan statutes. The more bountiful provision of public lecturers at Oxford was no doubt the cause of the greater abbreviation of the period of regency. It would seem that at Cambridge the lectures of the regent masters must have been almost necessary to the efficiency of the university. As there was not more than one professor of any one subject except divinity, and as it was expressly enacted by the statutes that all lectures on one and the same branch of learning should be delivered at one and the same hour,* it follows that there were other lectures besides those of the professors; and that these were not college lectures appears from another statute to be mentioned presently.

At the time, therefore, when the universities

* Stat. Eliz. c. iv. *in fine*.

received their respective statutes, and when the authority of the crown was last exerted in regulating their general system, the instruction which they afforded was as wide or wider in its range than it had ever been before, (except that lectures and degrees in the canon law were prohibited after the Reformation,) and in their method of communicating it they had not departed from the ancient customs of universities further than the other great academies of Europe. At Cambridge the professors were all strictly bound to lecture at least four times a week;* and the same had been the custom at Oxford, or even daily lectures were required, till the time of Laud's statutes, which demanded lectures only twice a week.† This relaxation was a symptom of the change which was approaching. As yet, however, at both universities, heavy pecuniary penalties were exacted for any negligence, whether of teachers or pupils. For every separate degree a continued residence in the university was required, an assiduous attendance on the lectures pertaining to the faculty, and a scrupulous performance of the public acts or disputations, which were still esteemed the most effectual means of proving the attainments of the candidates, and the most beneficial mode of guiding the studies of others engaged in the same course, whose

* Stat. c. iii.

† Edinb. Rev. No. cvi. pp. 391, 392.

presence at the disputations the statutes rigidly enforced. Thus, at Oxford, not only were the courses of lectures strictly determined, which the scholar was to attend in each of the four years, before he could be admitted as a bachelor of arts; but the lectures to be attended in each of the three succeeding years, before he could proceed to the degree of master of arts, were prescribed with equal precision.* At Cambridge, the course of the first four years was traced out in like manner. The lectures to be attended by bachelors of arts are also specified, but not the order of attendance. Moreover, five public disputations are required, and attendance on *all* the disputations of the masters.† The lectures to be attended, and the exercises to be performed, by candidates for degrees in the superior faculties, are prescribed with the same rigour. The Cambridge statute, with regard to masters of arts who are proceeding to the degree of bachelor of divinity, will serve as a specimen. “A master of arts shall be a sedulous hearer of theology, and a *daily* hearer of the Hebrew lecture; to which subjects he shall apply himself seven years: in which time he shall dispute twice against a bachelor of theology; once after his fourth year he shall respond in theology; he shall preach in the university church once in Latin and once in English And if in this time he shall have

* Edinb. Rev. p. 391.

† Stat. Eliz. cc. vi. vii.

profited in theology, after seven years complete, and not before, let him become a bachelor by solemn inauguration."* It might seem superfluous to observe, that daily or sedulous attendance upon lectures implied residence in the university, if it were not for the ingenuity which the universities have shown in interpreting their statutes.

The revolution which has taken place at Oxford we shall describe in the words of the Edinburgh Reviewer. This description comes from an unfavourable observer; and I should be glad to separate the statement of facts from the tone of accusation in which it is conveyed, and in which I am by no means disposed altogether to concur. But I think it safer on the whole to borrow this account, after guarding it by this preface, than to run the risk of the errors which might be committed, even in interpreting evidence, by one who has not been a resident in the university.

"The university is in abeyance. In none of the faculties is it supposed that the professors any longer furnish the instruction necessary for a degree. Some chairs are even nominally extinct, where an endowment has not perpetuated the sinecure; and the others betray, in general, their existence only through the calendar. If the silence of the schools be occasionally broken by a formal

* Stat. Eliz. cap. viii. With regard to Oxford, see Edinb. Rev. as before mentioned.

lecture, or if on some popular subjects (fees being now permitted) a short course be usually delivered, attendance on these is not more required or expected than attendance in the music-room. For every degree in every faculty above bachelor of arts, standing on the books is allowed to count for residence in the university and attendance on the public courses; and though under these circumstances examinations be more imperatively necessary, a real examination only exists for the elementary degree, of which residence is also a condition. It is thus not even pretended that Oxford now supplies more than the preliminary of an academical education. Even this is not afforded by the university, but abandoned to the colleges and halls."*

This description is true, in a great measure, of Cambridge also; but there the collapse of the university has not been so deathlike. The picture would have been more like some few years ago; but recently a spirit of life and activity has been roused in the university. More than one professor, whose chair had been suffered to become silent, has broken through the prescriptive example of his predecessors; and others, placed in stations in which some formal and ceremonial duties were still performed, have exerted themselves to make their offices efficient. Nevertheless, with two or three exceptions, it is generally true, that the professors

* Edinb. Rev. for June 1831, No. cvi. pp. 393, 394.

who lecture most zealously are not the professors of subjects included in the ancient and regular studies of the university, but of branches of learning or science of more recent growth. Attendance on their lectures is in no way required, nor does the university take cognizance of it. The regular and substantial education is supposed to be given in the colleges by the college tutors and lecturers; and the instruction which is gathered from the professors is regarded as an ornamental addition. The most popular professors are chiefly attended by those who are characterised as *non-reading* men.

If we descend to particulars, we shall find that in the faculty of arts residence is not required after the degree of bachelor. For proceeding to a higher degree, it is not even necessary, as at Oxford, for the bachelor to keep his name upon the books. He may take it off, and put it on again shortly before he presents himself for his master's degree. For this degree there is no examination whatsoever; and the public disputations are reduced to a mere empty form, which in most cases is omitted with impunity.

If we look to the faculty of theology, we find that the two degrees in arts are required as preliminary to a degree in theology, according to the statutes; but no attendance upon lectures nor any further residence is demanded; so that a person may become a doctor of divinity who has spent

but a few days in the university since he was admitted as a bachelor of arts. For some years past, the two ancient professors of divinity have not lectured regularly. The Lady Margaret's professor, when his age enabled him to perform in any way the duties of his office, made occasional and rare sermons in the university church a substitute for the lectures required by his foundation. The late regius professor of divinity, the very learned Bishop of Lincoln, delivered two most judicious courses of lectures on the writings of some of the ancient fathers of the church : but neither he nor any other person in the university dreamed that attendance on these lectures was necessary for a candidate for theological degrees. A professor on a more recent foundation, the Norrisian professor of divinity, delivers a regular course of lectures every year ; but attendance on these is required, not by the university, but by the bishops, who generally make it a condition of ordination. They are most frequently attended by under-graduates in their second or third year, or by bachelors of arts, and stand in no relation to the theological degrees. The present Professor of Hebrew lectures regularly and zealously, and in consequence of the foundation of Hebrew scholarships, is able to collect a small class : but these lectures also have now no connexion with degrees in theology. The late professor of Hebrew never came near the university. The sermons

required from aspirants in theology are duly delivered. The public exercises or disputations have become little more than a ceremony; but it is a ceremony performed gravely and decorously. They are made an efficient instrument of examination only in the case of a particular class of candidates, who, being twenty-four years of age and already in holy orders when they enter the university, are enabled by Elizabeth's statutes to proceed to the degree of bachelor of divinity without taking degrees in arts; and from whom, by the prevalent abuse in interpreting the statutes, residence is required only for one year, although their names must stand on the books for ten. Even these less favoured candidates find the examination not very searching.

In civil law and in medicine no residence is required for the doctor's degree: a bachelor proceeds to the doctorate at the proper time as a matter of course. No residence is required for the bachelor's degree, if the student be already a bachelor of arts; but if he desire a degree in either of these faculties without proceeding through arts, residence is required, not for the period determined by statute, viz. six years, but for half the time.

The statute requires from students of civil law an attendance of five years upon the lectures of the professor. How entirely the statutes, and the course of study which they direct, had fallen into

disuse, may be estimated from this circumstance, that in 1768 the senate found it necessary to enact, that no one should be admitted to the degree of B.C.L. without producing a certificate of his having attended the lectures in civil law for three terms, that is, for one year. Not many years ago the nominal study of law was frequently chosen, as the easiest mode of obtaining a degree, by students whose reasoning powers did not enable them to undergo the examination in arts. The present professor has laboured to do away this kind of preference for his faculty, and besides exacting a regular attendance upon his lectures, and a strict performance of the public disputations, he has instituted an examination of the candidates, and added the stimulus of a classification in the order of merit. But I apprehend that even the learned professor himself would admit that his pupils do not attain to a knowledge of more than the elements of his science.

In the faculty of medicine an annual course of lectures is delivered by the regius professor, attendance on which is required from all candidates for the degree of bachelor of medicine. It is true that the statutes require attendance for *six* years, whereas the university is now content with one; but, as the calendar gravely informs us that “the *present* professor has *instituted* a course of lectures on the principles of pathology and the practice of physic,” we may guess that the condition of the

faculty is much improved under his auspices. The professor likewise examines the candidates. They are required to produce certificates of examination by the professors of anatomy, chemistry, and botany ; and they are required to attend the lectures of these professors, provided they deliver courses of a certain length : but the university does not enforce the delivery of these courses, but leaves this important point to the discretion of the professors. The present professors have exerted themselves most zealously and most honourably to give every possible advantage to the medical students ; and I believe that the medical school of Cambridge is as efficient a school as could be formed in a town of moderate size, and with a very small number of pupils. The professors have not necessarily an official connexion with the hospital ; but the present regius professor is a physician of the hospital, and delivers some clinical lectures.

It appears, therefore, that in every faculty the course of real study terminates with the first degree ; and that the academical studies of the graduate in theology terminate with his first degree in arts, if he have proceeded by the regular and usual course. The number of graduates in civil law and medicine is very small in comparison with the number of graduates in arts. It follows that the education which is afforded within the precincts of the university is almost entirely a prepa-

ration, either for the degree of bachelor of arts, or for certain prizes and distinctions offered to the competition of undergraduates or commencing bachelors.

Of the two examinations through which the student must pass before he can attain the degree of B.A. the previous examination requires a very moderate amount of classical knowledge, an acquaintance with one of the historical books of the New Testament in the original language, and with Paley's *Evidences of Christianity*. In the final examination, those who do not aspire to honours are examined in Homer and Virgil, in Paley's *Evidences* and *Moral Philosophy*, in Locke's *Essay on the Human Understanding*, and in the elements of mathematics. The candidates for honours undergo an examination, which is in reality exclusively mathematical, although one day is nominally assigned to metaphysical subjects. The prizes and distinctions, the examinations for which are not compulsory, are for the most part to be attained by superiority in classical knowledge.

The university performs the function of examiner. The examinations are careful, strict, and perfectly impartial; and they are conducted in a very judicious manner. The highest honours conferred are tests of very high attainments; and the standard of the ordinary degrees has been considerably raised within a few years.

But this is the only function which is fulfilled by the university. Of course the examinations of the university determine the general direction of the studies of the place, and the extent to which they are carried. In many of these (though not in the examinations for the first degree in arts) certain professors examine by virtue of their office ; but the university does not by its proper organs, professors or other public lecturers, afford the instruction by which students are prepared to encounter these examinations. This office, the office for which the university was originally established, it has almost entirely resigned ; and the business of education is devolved upon the tutors of the several colleges. It is true that the present professor of Greek has lectured annually, and his course is generally attended by students who aspire to classical honours ; but, in the first place, his lectures are not a means of preparation for any compulsory examination of the university ; and, in the second place, attendance upon them is entirely voluntary, and the university takes no cognizance of it. The lectures of the Plumian professor of astronomy and experimental philosophy are attended by those who are ambitious of the highest mathematical honours, as well as by gentlemen who have already graduated, and who are engaged in scientific investigations. With these exceptions, the instruction which the academic youth receive

is given by the college tutors and lecturers. It seems to have been always the duty of the college tutor to instruct his pupils; but in former times this instruction was merely subservient to the public teaching of the professors of the university. The professor carried forward his hearers in a general and regular course; the tutor explained the particular difficulties which occurred to individuals: his tuition, in short, was domestic and private. How little it was intended that this domestic tuition should be vicarious of the public instruction of the professors, may be seen from the statute which strictly forbids any domestic or college lectures being given at the same hours as the public lectures of the university.

It is true that the college tutors are generally competent teachers, and sometimes very eminent men. As the reputation of a college depends upon the reputation of its tutors, it follows, at least of late years, that the most able men that the college can furnish are appointed to the office. The larger colleges are not likely to be at a loss for able tutors; and in the smaller colleges it happens not unfrequently, that if the college cannot supply a person of sufficient eminence and ability, a gentleman from another college is invited to assume the office. It might be argued that these tutors only exercise the function which in old times was open to every regent: but they do not adequately

supply the place of public professors, or even of the regents of the early age. In the first place, their appointment is private, and depends solely upon the pleasure of the master of the college. They do not therefore carry with them the warrant which is attached to the character of a professor appointed by the common voice of the university. It is true that the masters generally appoint the most able members of their college; but this has not always been the case, and private partiality or prejudice may operate without public question; and besides, the field of choice is limited. The colleges which sometimes find it necessary to look for tutors beyond their own body, are not those which can offer high inducements to strangers. In the second place, the lectures of the college tutors are not public, but confined to the members of their own college. In colleges of which the superintendence is divided between two or more tutors, a pupil entered on one *side* cannot even attend the lectures of the tutor of the other *side*. The tutors and college lecturers therefore are not exposed to the observation of any except of those over whom they exercise the fullest official authority. The attendance, likewise, is not sufficiently numerous to produce upon the pupils the stirring effect of a public lecture. In the great colleges, Trinity and St. John's, the numbers assembled in one lecture-room are perhaps sufficiently large to excite an honourable emulation among the

pupils, and to enable them to judge with tolerable correctness of their own relative proficiency ; but the numbers might be much greater without detriment to the individuals : and in the smaller colleges it would be a very great benefit to the pupils, as well as a saving of labour to their teachers, if the pupils of several colleges were collected in the room of one professor. If, as I have ventured to suggest, the ancient halls should be revived, it will be a necessary consequence that the business of instruction must be resumed by the public organs of the university.

But the method of instruction at Cambridge has undergone another change, and a system has been silently and gradually introduced, which has in some measure supplanted the college tuition, as the college tuition supplanted the professorial instruction. The students very generally seek instruction from private tutors, selected and paid by themselves. This mode of private instruction is supposed to be, and in many cases really is, subsidiary to the college lectures : but not unfrequently a student is diligent in his attendance on his private tutor, who is irregular in his attendance in the lecture-room. Where these private tutors receive several pupils of the same standing, and collect them at one time, and examine them together, they bear no distant analogy to the primitive teachers of universities in what may be called their *voluntary* stage, before they

received their organization and form ; and the method of instruction appears to have revolved through a cycle, and returned to the point from which it started. Where private tuition is generally preferred, it may be presumed that there is some defect in the public instruction ; but in Cambridge this defect in general arises, not so much from the insufficiency of the teachers, as from a difficulty inherent in the very nature of mathematical reasoning, which is the main study of the place—the difficulty of carrying forward a large number of pupils at once, where the omission of any one step by an individual is an impediment to his particular progress.

I believe that the University of Oxford has experienced but few symptoms of that revival which has been manifested at Cambridge ; but even if we suppose the universities to be equally active, it is clear that in the business of education both have in a great measure foregone their proper functions, and departed widely from their legal constitution, and that the nature of this change has been mainly determined by the collegiate foundations. We should take too limited a view of their influence, if we said merely that the instruction in the faculty of arts had passed into the hands of the tutors. Though the neglect of the peculiar education designed in the higher faculties has arisen in a great measure from the altered circumstances of society, yet much, no doubt, is to

be attributed to the habits of the student in his earlier academical years, which lead him to regard the public professorships as parts of an obsolete institution, and to look for no instruction beyond the walls of his college.

The collegiate foundations have likewise modified the government of the universities. Their chief effect is operated in precisely the same manner in both Oxford and Cambridge. Their ample endowments, and the conveniences which they minister to those who have the right and the inclination to profit by them, retain many graduates in residence who are neither actually nor nominally engaged in the duties of academical instruction. But these graduates have not renounced their right to take part in the government of the university. In the ancient form of universities, when the graduates were the teachers, the power which was naturally vested in the teachers was vested in the graduates. In universities of more recent foundation, in which there are no endowments to perpetuate the residence of graduates who discharge no function in the academical body, the professors who are the teachers are also the governors. In Oxford and Cambridge the professors have never, as such, possessed any power beyond other graduates.

In Cambridge the colleges have not in any more direct way modified the legislative power of the university. The senate is composed of two houses,

the regent and the non-regent house, the qualifications for which have been already mentioned. It is to be observed, with reference to the superiority enjoyed in old times by the regents or actual teachers, that the regent house, although it is composed of junior members, is called the upper house. Any member of the senate may propose a grace for enactment. The proposition is submitted first to the *caput*—a select council of six members including the vice-chancellor, any one of whom can stop any measure,—and then to the non-regent and regent house in order. As every person is held to be a member of the university who keeps his name upon the college books, graduates who are not resident may come to give their votes on special occasions. This is certainly an abuse of the letter of ancient institutions; and such interference in the ordinary business of the university is an usurpation on the part of the non-resident graduates. On occasions of public and political interest, such as the election of members of parliament, when it is desirable to ascertain the sentiments of the greatest number of educated men that can be collected, the concourse of non-residents may be viewed in a different light.

The influence of the colleges is more visible in the appointment of the executive authorities of the university. The office of vice-chancellor was anciently open to all graduates of a certain standing;

but, by a regulation of 1587, the vice-chancellor must be the head of a college, and succession according to a regular cycle has been substituted for the ancient mode of appointment by election. The proctors anciently were elected by the regents; but now, by statute, they are nominated by the colleges in turn. The *caput*, the singular powers of which we have noticed, is nominally elected by the heads of colleges and doctors from three lists submitted by the vice-chancellor and the two proctors; but in practice the list of the vice-chancellor is generally adopted. The heads have also great power in the appointment of several professors, either by immediate election, or by previous nomination. When summoned by the vice-chancellor, they constitute a court of discipline,—an office which is more within their proper functions.

The constitution of Oxford has been much more completely changed by the undue preponderance of the collegiate foundations. The house of congregation is composed of the regents—(the Oxford qualifications for regency have been described above, p. 115); the house of convocation, of the regents and non-regents together. Anciently all business was submitted for the previous discussion of the house of congregation; and measures approved there, were then laid before the house of convocation. This free and salutary constitution

was broken up by the Earl of Leicester, who compelled the regents to surrender their right of previous discussion, and transferred it to what would seem a more venerable body, composed of the vice-chancellor, the proctors, the heads of houses, and all doctors;* thus excluding, together with the youthful regents, the professors and public lecturers of the university. Laud excluded the doctors, and constituted the hebdomadal meeting of the vice-chancellor and other heads of colleges and halls, and of the two proctors. This body meets weekly, as its name implies; and from possessing the right of previous deliberation upon all business to be submitted to the university, it has in fact usurped the initiative power, and no measure is proposed to the university which does not emanate from the hebdomadal meeting. All its propositions are *promulgated*, according to ancient form, in the house of congregation; but the acceptance or rejection of them depends upon the votes of the house of convocation. Nothing is left to the disposal of the house of congregation but the routine business of passing dispensations and conferring degrees. The vice-chancellor singly, and the two proctors jointly, possess a prohibitive voice upon all measures; but the constitution of the hebdomadal meeting has made this prerogative obsolete.† The power of the colleges in the appointment of

* Wood, An. 1569. † Edin. Rev. No. cvi. pp. 413, 414.

the officers and dignitaries of the university is much the same as at Cambridge.

It will be observed that I have made frequent use of the authority of the writer of a learned article in the Edinburgh Review for June 1831, on the Universities of England, and specially on Oxford; but I trust that it will be observed also that we are actuated by very different motives. The writer in the Review denounces every departure of the university from its statutable form as a corruption and abuse, and stigmatizes the collegiate heads, under whose influence the change which he describes was gradually wrought, with the guilt of perjury, fraud, and wilful betrayal of trust. I, on the other hand, am willing to admit that much of the change is due to the altered circumstances of society, and was operated by a force to which the universities might have yielded in a different way, but which they could not altogether resist: and though in some points I should be glad to see their ancient constitution restored, with such modifications only as the state of society may manifestly require, yet in other points, and especially in the examinations for the first degree, it is impossible to deny that most essential and vital improvements have been effected. And least of all do I desire to sit in judgment upon those under whose authority the revolution was effected. My purpose is altoge-

ther different. I wish merely to show that the English universities in their present state are very different from their original form—very different from the form in which they were ultimately established by their statutes—and very different from all other universities in Europe; and hence to refute the argument which has been too hastily drawn, that the UNIVERSITY OF LONDON is not composed of the essential elements of a university, and is not of the form of a legitimate university, merely because it differs from the present form of Oxford and Cambridge.

If I am not mistaken, it appears from the foregoing sketch, that the University of London, in its actual state, as a voluntary association of teachers and learners, with its plan of self-government and internal discipline, is a counterpart of the most ancient universities in their early stage; and that it differs from them only in this point, that whereas the teachers of the early universities were obliged to find for themselves such scanty and insufficient accommodation as they could, for the University of London a spacious and convenient building (besides libraries and museums) has been provided by the munificence of founders, who retain a voice in the disposal of its property. Even if of its own authority it should confer titles of honour on its successful students, it would only be following the example of the earliest universities; and it

might trust to their being at length similarly recognized by society and the state. But if it should be incorporated by public authority, and its tuition and discipline legally committed to the body of professors, it would then resemble in all its most important features the universities of Scotland and Germany, and those of Italy in their present form. The only point in which it would differ from similar institutions is this,—that in other cases, where an endowment has been bestowed by the private munificence of princes or nobles, a power of visitation and control has been reserved to the founders and their heirs for ever: in the University of London a similar power is vested in a numerous body, who, although they are called proprietors, are in reality the founders and endowers of this seat of learning.

The reader who is conversant only with Oxford and Cambridge will be able to form a more comprehensive notion of academical establishments, if he will consider the origin and changes and actual state of the Scottish universities. With regard to these we have full information in the Report of the Royal Commission of Enquiry into the State of the Universities of Scotland, printed by order of the House of Commons in 1831.

In the three most ancient places of study, St. Andrew's, Glasgow, and Aberdeen, the original universities have been superseded by colleges. But there is a very great difference between the

original foundations of these colleges and those of the colleges in Oxford and Cambridge, and a very great difference in their operation upon the universities. In England, the college endowments provided for the maintenance of a number of graduates, under the name of fellows, who were not in any way engaged in the public teaching of the university. It was indeed the general intention of the founders that the fellowships should be a provision for students in theology—or, in some cases, in the other faculties; but as they were tenable for life, the majority of the fellows at all times must have ceased to be students; and as the statutes are satisfied by the fellows' entering into holy orders, or proceeding to a higher degree, which has long become a mere formality, none of them now can be considered as students. In the university, therefore, they are, as fellows, neither teachers nor learners. The tuition within the colleges was originally domestic or private, and not of the same kind as the public teaching of the university professors; and now that it has approached more nearly to it in kind, it is still restricted in each case to the members of the particular college. Each college and hall, of the twenty-four at Oxford and the seventeen at Cambridge, has separately supplanted the university, so far as the education of its own pupils is concerned. In the Scottish universities, the colleges were endowed for the habitation and

maintenance of regents or professors, who taught the university at large. There were in all cases endowments for a small number of poor scholars, students in arts and philosophy; and sometimes for a few graduates in arts, who were students of theology. But these latter endowments could be held only for a short period, so that they never assumed the character of the English fellowships; and the only permanent and governing members of the colleges were the regents or professors. From the small number and the general poverty of the students who resorted to the universities, the ordinary graduates, who might, as in other universities, have lectured and taken fees from their pupils, found little temptation to engage in so unprofitable an employment; and the whole business of teaching and the government of the students were speedily left in the hands of the salaried professors of the colleges. Indeed, in each university it seems to have been felt almost from the beginning that a stipend was necessary to secure teachers; and this was the chief motive for the collegiate foundations. Thus, at Oxford and Cambridge, establishments different from the university have stepped into the place of the university. In Scotland, certain parts of the university have become the whole university by the voluntary renunciation and disappearance of the rest. The consequence is, that in modern times, and for many years past, the distinction be-

tween university and college has been obliterated and almost forgotten, and the words are used synonymously even in public documents. The royal commissioners, although they are aware of the difference, and in many passages of their report draw the distinction rightly, yet in other passages not only confound the terms, but have been betrayed into the vulgar confusion of ideas. This renders their sketches of the early history of these institutions somewhat less clear than they might have been; but we shall be able to present such a brief view as is necessary for our purpose.

The University of St. Andrew's was founded by Henry Wardlaw, bishop of the diocese, in 1411. The king, James I. of Scotland, the bishop, and the heads of the Augustinian priory at St. Andrew's, requested the papal sanction; and accordingly a bull was issued in 1413, by Benedict XIII. by which it was made a university, and a general study for all the faculties. It received other benefactions from the church, which were ratified by the king in 1432; and he at the same time granted to all its members an exemption from taxes,—a privilege confirmed by his successors.

The bishop of the see was always chancellor of the university. All the members, whether students or graduates, were distributed into four nations. The rector of the university was chosen by the votes of the nations: probably in old times he

was elected immediately by them. According to the present custom, each nation elects an intrant; and these intrants are not merely the vehicles of the votes of the nations, as at Glasgow, but independent electors; and if the votes of the intrants be equally divided, the preceding rector has a casting vote. The office of rector by the foundation charter was open to all graduates. By subsequent statute, there are only four persons eligible. The rector, with the advice of his assessors, now nominated by himself, is still the supreme authority of the university, and over the students has the power of expulsion. There is a dean of the faculty of arts, the only faculty which in early times flourished in the university. We may conclude by analogy that he was originally elected by all the graduates of arts. He is now elected annually by the principal and professors of the united college.

The University of St. Andrew's suffered great inconvenience during the first twenty years of its existence from the want of public buildings; and its schools were held in the religious houses. In 1430, a *pædagogium* was built for the schools of the faculties of arts, and even, it is said, for chambers for students of that faculty; but the schools of the faculties of theology and law were provided as before. The congregations of the university

were held for at least one hundred and thirty years in the Augustinian priory.*

James Kennedy, bishop of the see, founded the college of St. Salvator, which was confirmed by the king, and by the Popes Nicolas V. and Pius II. in 1455 and 1458. It was endowed for three graduates in theology; a master in theology, who was to be provost; a licentiate, and a bachelor, each of whom was to lecture; four clerical masters of arts, two of whom were to be annually nominated by the theological professors as regents or lecturers; and six poor scholars, students of philosophy. The provost or principal had the chief authority within the college; but the rector of the university was its official visitor, and, with the advice of his four assessors, might correct all abuses, whether in the head or the members. About 1468, Pope Paul II. granted by bull to the *college* the power of conferring degrees in theology and arts; and by this anomalous grant erected, in fact, a university within the university.

In 1512, Alexander Stuart, archbishop of St. Andrew's, and John Hepburn, prior of the cathedral, founded St. Leonard's college, which was confirmed by royal charter. It was endowed for a principal master, who was always to be nominated by the prior out of the canons of the chapter,

* Report, p. 214.

and who was to be the professor of divinity; for four chaplains, two of whom were to be regents, as at St. Salvator's; six graduates of arts, who were to be diligent students of theology; and twenty scholars, students of philosophy. All elections were reserved to the principal and the prior; and a commission of annual visitation was appointed.

St. Mary's college was founded in 1537, by Archbishop James Beatoun, and confirmed by Paul III. It was founded for all the faculties, and empowered to confer degrees in them; thus presenting the same anomaly as St. Salvator's. In 1553, Archbishop Hamilton, with the sanction of a papal bull, gave a new constitution to the college. It was to consist of a præfect, or principal, who was to be a doctor or licentiate in theology; of two other professors of theology, one a licentiate, the other a bachelor; of a professor of the canon law; of eight clerical students of theology, who were not only diligently to attend the theological lectures, but also to lecture themselves, and whose appointments were tenable for six years; of five regents, masters of arts,—that is, three professors of philosophy, one of rhetoric, and one of grammar; and of sixteen poor scholars, students of philosophy; besides certain college servants. A voice was given to the rector of the university in the election of the præfect and the chief professors of

the college; and the rector was empowered to visit the college annually. We perceive, therefore, that here, as at St. Salvator's, the supremacy of the original university was maintained. In all these foundations lodgings were provided for all the members within the college buildings: they were required to take their meals in common, and to wear an academical dress.

The colleges remained without further change till the period of the Reformation, except that a professor of humanity was added to each of the colleges of St. Salvator and St. Leonard, answering to the grammatical professor at St. Mary's. In 1579 their constitutions were entirely changed by the king and parliament, at the instance of the general assembly of the church. St. Mary's, with five masters, was made a theological school only; and St. Salvator's and St. Leonard's were restricted to humanity and philosophy, each with a principal and four professors. But in 1621 the regulations of the original foundations were restored, except that St. Mary's was still to remain exclusively a theological school. It appears that in practice the other colleges continued to be schools of arts. Professorships of mathematics and of medicine were added in 1668 and 1721.

An important change was made in 1747, which was conceived and carried into effect with great judgment. St. Salvator's and St. Leonard's, find-

ing their separate revenues insufficient for the maintenance of their professors, united themselves into one college. By this union they were enabled, where there were duplicate offices, to retrench one of them, and either to consolidate the endowments, or to provide instruction in some new branch of learning. The united college consists of a principal and eight professors, all of whom, with the exception perhaps of the professor of medicine, may be considered as belonging to a faculty of arts. The medical professor lectures on chemistry and chemical pharmacy. St. Mary's college remains distinct, and consists of the principal, and three professors, of divinity, of church history, and Hebrew.

The two principals and the professors now constitute the whole *senatus academicus*, which is the governing body of the university. Since the abolition of episcopacy, they elect their chancellor. We have described the mode of electing the rector, who must be one of the two principals, or one of the professors of divinity and ecclesiastical history. The colleges in their present form bear a resemblance to the colleges of the faculties at Bologna. The members have long ceased to live in common. The bursaries still exist, that is, stipends are paid to certain poor scholars; but they have no longer chambers in the college buildings, nor live at any college table. The profes-

sors of the united college now receive fees from their pupils ; but the professors of St. Mary's have no remuneration but their salaries by endowment, and a small grant of public money. In all the Scotch universities the theological professors abstain from taking fees.

The University of Glasgow was established in 1450, by a bull of Pope Nicolas V. issued at the request of James II. Authority was given for the institution of a general study for all faculties, and the university was empowered to grant degrees which should be valid throughout Christendom. The members of it were endowed with "all the liberties, immunities, and honours enjoyed by the masters, doctors, and students of the University of Bologna." The effect of this bull was to make the constitution of the university the same as that of Bologna, so far as circumstances would allow. In 1453 a royal charter was granted by James II. with an exemption from taxes and all civil burthens ; and certain local privileges, of a similar nature, by the bishop of the diocese.

The Archbishop of Glasgow was the chancellor of the university, and by his authority all its honours were to be conferred. The *supposts*, a term which included all the members of the university, whether scholars or graduates, were distributed into four nations. The constitution of Bologna was imitated in the distinguishing character in which it

differed from the Parisian model : the supreme power of the university was vested in the assembly of all its members,—that is, of all the scholars who had been matriculated, and whose names remained upon the album. In these general meetings, called *comitia*, or congregations, the statutes were enacted, amended, or repealed. Each nation had its procurator, whom it elected annually; and the procurators were officers of considerable trust and power. The rector, likewise, was elected by the supposts assembled in their nations; and this mode of appointment is still in use. Four deutes were elected at the same time, like the four assessors at St. Andrew's, to form the council of the rector. The rector, acting with the advice of the deutes, exercised supreme judicial and executive power over all the members of the university: he was invested with jurisdiction in all civil cases, and in lighter criminal causes, in which any suppost was concerned; graver offences were reserved for the jurisdiction of the bishop. According to the privilege granted to the scholars of Bologna by the Authentic of the Emperor Frederic Barbarossa, the supposts had the option of bringing their causes before the rector or the bishop: the magistrates of the town took a yearly oath to observe and defend the privileges of the university. In 1461 an ecclesiastical jurisdiction was conceded by the bishop to the rector; a

concession which implies that the rector was always to be a person in holy orders.

The university was entirely unendowed, and destitute of public buildings. Its meetings were held in the chapter-house of the Black Friars, or in the cathedral. The teachers obtained schools for their lectures in the religious houses. One of the very earliest entries in the archives of the faculty of arts is a payment for repairs of a school in the monastery of the Black Friars. The students lodged in the houses of the citizens. It was regulated, as at Bologna, Paris, and Cambridge, that lodgings should be let according to the arbitration of certain sworn umpires, consisting of an equal number of supposts and citizens; and no student was to be disturbed in the possession of his lodgings so long as he paid his rent, and lived in an orderly manner.

Some efforts were made soon after the erection of the university to teach the civil and canon law, and we find mention occasionally of professors of theology; but till the Reformation there seems to have been no regular course of instruction except in the faculty of arts. This faculty assumed a regular form under its proper dean, and had its peculiar statutes. Its archives are preserved from the very commencement of the university, beginning with the year 1451. The title prefixed to them is, "*Annales Collegii Facultatis Artium* in

Universitate Glasguensi." If this title is as old as the records themselves, the corporate faculty called itself a college; and possibly the college after a time became a select body, which assumed the government of the whole faculty, like the colleges of faculties at Bologna. The exact imitation of all the customs of Bologna makes this supposition probable. At all events, at that early period the term college had no reference to a building for common habitation, or an endowment for common maintenance.

The faculty, as we have mentioned, had its first school in the house of the Black Friars. In 1458 it appears to have undertaken the building of a *pædagogium*, at the expense of its common purse: but this design was set aside by the munificence of the first Lord Hamilton, who conveyed to the principal regent and other regents in trust, for the use of the faculty, certain buildings in the High Street of Glasgow, and some land in the neighbourhood. The body thus endowed he called *his* college, and ordained the commemoration of himself and his wife as the founders.

In this state the university remained for about a hundred years. By this time it appears, from the language of certain grants, that the university and the college of the faculty of arts were confounded in common parlance. Two years before the Reformation, in 1557, Archbishop James Bea-

toun conveyed an ecclesiastical benefice to the *pædagogium* or *university* of Glasgow, and to the masters and regents in the same. Though the *pædagogium* was mentioned, it is manifest that this was a gift to the whole university, and not to the exclusive college; for the principal was restrained from granting leases of the property without the leave of the rector and dean of faculty, and of the other masters, as well as the regents. In 1563, Queen Mary gave lands and other property for the benefit of the *college and university*, and specially for the maintenance of five bursars. The grant recites, "that a college and university was devised to be had in the city of Glasgow; but that part of the schools and chambers being built, the rest, as well dwellings as provisions for the poor bursars and masters to teach, ceased; so that the same appeared rather to be the decay of a university, than to be reckoned an established foundation."

Hitherto the form of the college had been determined only by its own regulations, or the enactments of the faculty at large. In 1572 the magistrates of the town conveyed to the college certain church property which had been granted to them, but at the same time made a special foundation; and this endowment and foundation were confirmed by act of parliament. In 1577, James VI. added largely to the endowments, and erected the college

anew. The charter then granted is the basis of the present constitution. The college was to consist of the principal, three permanent regents, four poor scholars, a house steward and other servants. The principal was to be nominated by the crown : but if the crown neglected to appoint within thirty days, the nomination devolved upon the chancellor, rector, dean of faculty, and the ministers of Glasgow and four other places. The rector, the dean of faculty, and the principal were to elect the regents. The same officers had a visitorial power over the regents, and might remove them. On the other hand, the rector, the dean of faculty, and the regents, might visit and admonish the principal ; but he could be removed only by those electors to whom the right of appointment lapsed in case of failure by the crown. The rector, the dean of faculty, and the minister of Glasgow, were to inspect and audit the college accounts every quarter, and to direct the application of the surplus revenues for the benefit of the college. It is manifest that the intention of the charter was to place the college under the effectual superintendence of the university. A few years afterwards, an additional endowment was given by the archbishop, by which a fourth regent was supported, who was professor of Greek. About the same time statutes were given by royal authority, which regulate both the university and college.

A commission of visitation, appointed by the general assembly of the church of Scotland in 1639, and renewed in subsequent years, recognised the existence of a professorship of humanity, and instituted two professors of theology besides the principal. It appears that a professorship of medicine existed at that time.

In 1727 a royal visitation made several important regulations; and especially, it sanctioned certain powers which had been assumed by the faculty meetings in contradiction to the statutes, and which by this time had passed into usages. As the meetings of the faculty were now composed only of the professors, this interpretation tended to give the college greater power of self-government, and to remove it from the control of the officers of the university.

The rights of the college and the university were submitted to the adjudication of the court of session in the years 1771 and 1772. The court declared, that the property and revenues of the college belonged to the principal and masters, and that the university court of the rector and his assessors had no power over them. This determination was in conformity with the charter, except that the rights of the foundation bursars and servants seemed to be overlooked. At the same time it fully recognised, according to the charter, the right of the rector, the dean of faculty,

and the minister of Glasgow, to audit the college accounts, and to direct the expenditure of the surplus revenue. It recognised the visitorial power of the rector and the dean of faculty; but, in contradiction to the express terms of the charter, it declared the concurrence of the professors as well as the principal to be necessary for the censure of any professor. In like contradiction, it determined the right of election to the professorships, which the charter entrusted to the rector, the dean of faculty, and the principal, to be in the rector, the dean, and the faculty meeting,—that is, the professors themselves; and, in fact, gave the chief power to the faculty meeting, so that they might proceed to election without the presence of the two chief officers of the university. The faculty meeting was defined according to the statutes of 1727.

The college profited by this determination of the right of election; but the right of visitation in respect of its pecuniary affairs and other matters, though thus fully recognised, has never been exerted.

There seems to have been a constant tendency on the part of the college from the time of its foundation to withdraw itself from external authority and superintendence. After the abolition of episcopacy, lay chancellors were appointed by the king; but by the new statutes an oath was prescribed to the chancellor, in which a clause was

inserted debarring him from making any change in the university without the consent of its chief officers and the masters (that is, in practice, the regents of the college). In 1642 advantage was taken of the weak state of the royal prerogative to elect a chancellor; and the office has continued elective ever since. The principal of the college is usually nominated as vice-chancellor. The rector anciently was necessarily an ecclesiastical person, and the same practice continued after the Reformation. The first lay rector was elected in 1630; but a minister was more frequently appointed, till, in 1717, a commission of royal visitation made the wholesome regulation that the rector should hold no other office in the university, but at the same time enacted that no minister should be elected. The most certain mode of securing the personal performance of the duties of the office would have been to elect a minister of a neighbouring parish. Now it has become the custom to elect persons of rank who are non-resident; and a vice-rector is deputed, who is generally a professor. The dean of faculty is elected by the senate; and they generally elect a non-resident person. The power of visitation has thus become obsolete; and even the inspection of the college accounts is performed very irregularly. At the date of the report of the last commission, the

principal of the college was himself minister of Glasgow.

The distinction between the university and the college was finally drawn in a suit which arose in 1807, out of the institution by royal mandate of a professorship of natural history in the university, and the appointment of Mr. Muirhead to the office. Mr. Muirhead claimed a right to participate in all the powers and privileges of the faculty, and to be a member of the college. The college denied the right of the crown to add to their corporation without their consent. The court of session adjudged, that Mr. Muirhead was a professor of the University of Glasgow, and entitled to vote in the comitia and the senate; but that he was not a member of the college, and not entitled to participate in the enjoyment of its property, nor to vote in meetings of the faculty, nor in any meetings of the principal and masters. The report of the late commission of visitation impugns this judgment, and proceeds to argue against the pretensions of the college, on the ground that professorships instituted since the original charter have been considered as pertaining to the college, and especially that the professor of astronomy, appointed in 1760, was allowed to be a member of the faculty and college.

As the college is a royal foundation, and has always been subject to royal visitation and control,

the assertion that the crown cannot add to its corporation seems indeed absurd and untenable; but the court of session was not the less right in determining that an appointment to a professorship in the university did not of itself convey incorporation with the college. The determination that the new professor was not a member of the faculty, by which a distinction was made for the first time between the faculty—that is, *the college of the faculty*—and the whole body of actual teachers, seems much more questionable: but as it depends upon the acts of the royal commission of visitation in 1727, by which faculty meetings were defined, and which are not given in the report, I cannot give a decided opinion upon it. Whether the professor of astronomy was allowed by error to become a member of the college, or whether the college was expressly mentioned in the institution of the professorship, does not appear in the report.

None of the parties to this suit, not even those who ought to have been best informed, seem to have understood their true position. Immediately after its commencement, the lord advocate was elected rector of the university, and conceived himself obliged to appear in the anomalous predicament of opposing the claim which Mr. Muirhead rested upon a grant from the crown. But the opposition was solely on the part of the *college*, of which the rector is not a member. He has con-

trol over it as a visitor, but is in no way bound to uphold its privileges, and least of all against another member of the university.

Since this decision, four other regius professors have been added to the university, for classes of surgery, midwifery, chemistry, and botany; and restrictions have been introduced in their appointments, which were intended to be in conformity with the judgment of the court of session. — 1. They are not to participate in the funds or privileges of the college. The crown thus declines interference with the existing corporation.—2. They are to have no vote in the election of a professor. This point depends upon the powers and constitution of the faculty meeting. The decisions of the court of session, by which the right of election, instead of being confined to the rector, dean, and principal, was extended to the faculty meeting, and by which the faculty meeting was limited to the members of the college, are both of questionable validity. — 3. They are to take no part in the examination of candidates for medical degrees, nor receive any part of the fees paid for them.* This is an absurd restriction, and proceeds upon the inveterate misapprehension and confusion of the pro-

* The main object of the restriction is pointed out in the last clause. These professors have been invited by the college, to examine, and as members of the senate they assist in the ceremony of conferring the degrees.

vinces of the college and the university. The college never had the power of granting degrees; they are conferred by the university, and all the members of the academical senate ought to take part in bestowing them.

Under the present practical constitution of the university and college, the comitia, or general congregations of the university, are held only for the election of the rector, and for some other public and formal acts. The government of the university is administered by the *senatus academicus*, which consists of the rector and the dean of faculty, who are seldom present, the principal and thirteen professors of the college, and the five *regius* professors of the university. The affairs of the college are administered by the faculty meeting, which is composed of the principal and college professors. The ordinary academical discipline is managed by a court composed of the principal and the five professors whose chairs are of oldest foundation. This is a matter of usage, which seems to have arisen from a reluctance, like that manifested in the case of Mr. Muirhead, to allow new professors to share the powers of the older members of the corporation. However, the arrangement is convenient, inasmuch as the classes of these professors are those which are most frequented by the younger pupils.

The students of these same classes wear an aca-

demie dress: the bursars receive their stipends, but neither lodge nor board within the college.

The University of Old Aberdeen was founded in 1494, according to the models of Paris and Bologna. The example of Paris seems to have been mainly followed. The supposts were divided into four nations, who seem to have elected their procurators; but they took no further part in elections, or in the government of the university, the procurators acting as their representatives. The turbulence incident to the general congregations of Bologna and Glasgow was thus avoided. The college was founded in 1505, and new-modelled in 1531. In its constitution it closely resembled the colleges of St. Andrew's and Glasgow, especially St. Mary's college at St. Andrew's. The relation between the college and the university is distinctly marked in the foundation charter, in which it is recommended that the permanent and higher offices of the college should be supplied from the inferior members of it, if they be qualified; if not, from members of the University of Aberdeen; and if none of them be qualified, from members of other universities. The rector and his assessors were empowered to visit the college annually. As elsewhere, however, the university has disappeared, except the incorporated and endowed college. The college is as extensive as the university; or rather, the university is limited to the extent of the college; nor is any distinction

preserved, as at Glasgow. The university and college are governed by the *senatus academicus*.

Marischal college in New Aberdeen, which claims to be a separate university, was founded in 1593. It was a college from the beginning, with endowments for certain members. The founder, William Earl Marischal, directed the principal to confer the degree of master of arts upon students who deserved it; and as the deed of foundation has been confirmed by more than one act of parliament, the college is an authorised university. It now confers degrees in all the faculties—by what authority is not stated: probably the clause in the first act of confirmation, which grants to it all liberties which are known to pertain to any *college* within the realm, was supposed to warrant this practice. It is likely that *college* was taken at that time as synonymous with *university*: or if the power of granting degrees, bestowed by the popes on the colleges of St. Salvator and St. Mary at St. Andrew's, was recognised in law and practice, the literal interpretation of the statute would convey the right.

The College or University of Edinburgh deserves particular notice, for its celebrity as a place of education, and for its singular constitution. In 1582, James VI. empowered the provost and town-council of Edinburgh to repair and build houses for the reception and habitation of professors of all

the faculties and of *any other* liberal sciences, and schools for teaching the students. The council is invested with the right of appointing the professors, "*with the advice of the ministers*," and with the right of removing them if it sees cause. The town-council proceeded to act upon this licence, and opened an academy, at first under a single regent, augmenting the number of teachers from time to time, according to the increase in the number of students. In 1584 the king granted property, not to the college, but to the magistrates and town-council for the benefit of the college; and in 1612 he gave a charter confirming all that they had done. In 1621 an act of parliament was passed, ratifying the royal endowments and the erection of the college as a college for the profession of theology, philosophy, and humanity, and granting "in favour of the burgh of Edinburgh, patron of the said college, and of the regents and students in the same, all liberties and privileges pertaining to any college within the realm." It is probably on this authority that it confers degrees.

The college is in every respect subject to the magistrates and town-council. No constitution was given to it like those of other universities. It has no chancellor. A rector is not named in the early deeds or charters, or the act of confirmation, in such a way as to be distinguished from the principal of the college. Rectors were nominated occa-

sionally by the council, but not regularly, till, in the year 1640, they resolved to elect a rector annually, with six assessors,—two of the council, two ministers, and two members of the college. But in the beginning of the next century the office of rector was permanently annexed to that of lord provost; and as the provost, as the head and organ of the council, had already all the authority which could be deputed to the rector, the office has become obsolete even in name.

The town-council are the absolute patrons of the professorships of their own institution, and of the office of principal. The clause in the original charter, which directs them to elect “with the advice of the ministers,” is ineffectual as a legal obligation. They generally request such advice for their private guidance in the appointment of a professor of divinity. The college consists at present of twenty-six professors, of whom twelve are appointed by the town-council, and eight by the crown. The professor of botany holds commissions from both, and in fact unites two professorships in his own person. The appointments to the remaining five are of a mixed nature, but the town-council has a voice in all. The *senatus academicus* consists of the principal and all the professors. This body is not legally constituted by any of the original deeds, but takes upon itself to act only by usage. The pretensions of the *senatus* to act with

an independent authority were brought to a legal decision in 1825 and 1826, when the court of session determined, that the sole government of the university in all points, even in regulating the conditions of graduation, the course of study, and method of instruction, is vested in the town-council. Nevertheless, the senate has been accustomed from time to time to make regulations in minor matters, and especially in points connected with education, for the guidance of the professors and students: and these are considered as valid, unless they are disallowed by the council; but the council can rescind them at any time. There is no legal establishment of faculties. In early times the whole body of teachers was called "the faculty," the professors then probably all belonging to the faculty of arts. Afterwards the faculty of arts and the faculty of theology were distinguished by usage; and faculties of law and medicine have assumed a form more recently. There are some professorships not assigned to any faculty. The distribution of the professorships into faculties depends either upon the faculties themselves, or the senate, to which they are altogether subordinate. The faculties hold meetings, especially on matters of graduation; but they merely prepare business for the senate, without the sanction of which none of their propositions have any force. The principal

convenes the faculty of theology : the other faculties elect their own deans or conveners.

By the entire subjection of the University of Edinburgh to the town-council, the professors are relieved from all care of financial concerns, and of lands and buildings. It might be supposed, antecedently to experience, that such matters would not be well managed by bodies of literary men ; and the experience of the other universities, as developed in the report, amply confirms the supposition. The council not only fills the vacant chairs, and thus preserves the university from the abuses of a self-elected corporation, but it can at any time institute any new professorship which it thinks to be for the advantage of science and general education ; nor can the existing professors maintain any monopoly of teaching, or close their society against the new member. The council has the discretion to leave matters of discipline and ordinary detail to the principal and professors, while by its superintending power it can effectually check any such practices as self-governed corporations are apt to fall into, tending to the present benefit of the individual members rather than to the permanent benefit of the whole body. Such an external governing body may extend its views still further, and look not only to the permanent advantage of the university, but to the wants and

interests of society at large: a comprehensive view, which even if the members of an academic body desired to take, their habits would probably render them unable to rise to a sufficient height above their ordinary sphere of vision.

Such are some of the manifest advantages of lodging the supreme power of the university in a body distinct from the academic senate; and much of the utility and success of the University of Edinburgh may be fairly ascribed to this peculiarity in its constitution. But though the theory in its general form is good, it is obvious that a town-council is not the best governing body for a university; and one very great objection is, that the government of the university is very far from being its chief care. At Edinburgh, moreover, too little authority seems to be given to the academic body. But if we were to imagine a university, in which the ordinary discipline, and the details inseparable from the business of education, should be entrusted to the body of professors; in which they should be entitled to tender their advice upon the election to vacant chairs, the institution of new professorships, and other graver matters, but without a final voice; in which all financial business, and the supreme government of the university, and the administration of its patronage, should be committed to a body of gentlemen chosen expressly and solely for that purpose, responsible for the due discharge

of their functions, and bound to make an annual report of their management; we should form the idea of a well-balanced academic constitution, and of such an university as would be likely to be an effective instrument for the diffusion of education and the advancement of science. This constitution is realized in the University of London.

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