Originally ye European Governments were composd but of a few people, & tho' we read of many Ks. in Italy, Germany &c. yet they contain such small extent of ground & so few subjects, yt they resemble more ye Highland Clans than Monarchies. These all fell a prey to ye Roman Eagles, & by yt means swell'd yt Empe. to so vast a magnitude, yt it contain'd almost all ye nations of ye known World; but vice kept equal pace with its Grandure, yt inabl'd Cæsar to become (what Catiline in vain attempted) ye Tyrant of his Country.

In this almost universal conquest of ye World, Germany (under which name by antient Authors most of ye Northern nations are included) retain'd its Liberty; it was divided into many petty States, whereof but two were absolute monarchies, ye rest were govern'd by Ds. ye Latin name for which Principes, down to Vespasian's time, convey'd no idea of Power, but like ye Principes Senatus, ye President of ye Senate, these had perhaps ye Disposal of trifles, but things of consequence were decided by ye voice of ye people.

ye Dominions of each People, were generally divided into parcels, calel'd Cantons, from which our Word Countie come, these were under ye inspection of ye D. with ye assistance of 100. men chosen for yt purpose. Particular portions of land were generally assign'd to each tribe or family for a year & no longer by ye D. these they gave their Slaves to cultivate, reserving to themselves a part of ye produce.

These Cantons during Peace had no superior, but in War they chose a Capt. who had power of life & death, & who drew out from ye inhabitants a certain number to attend him according to their Ranks & Tribes.

In this state of liberty, ye Northern Nations increased immensely in number, while Tyranny, Vice & Corruption thin'd ye Roman Empe.; ye little Territories of these Ps. were not sufficient to maintain these numbers; this forc'd them to frequent migrations, where besides

ye

ye Leader of each Canton, ye assembl'd army was generally under ye command of a Gen. Chose by themselves. many of these wandering Corps, attack'd ye immence, but inervated Roman Emp-e, of which ye Western parts, being less defended fell soonest under their yoke., so yt. ye Franks & Normans settl'd in France; ye Longobards, succeeded by ye Normans in Italy; ye Allans, Vandals, Suevians, & Silingians in Spain, who were again drove out by ye Goths; ye Saxons fell upon & conquer'd England.

ye Source of all ye European Governments & Feudal Laws arising from ye manner in which these people distributed their conquer'd Lands, it will be necessary to examine ye progress of yt. attentively.

It must be consider'd yt these warring colonies issuing out from ye Northern Hive, were compos'd of Free Men who serv'd at their own expence, & for their own behalf, therefore whatever conquest was made, ye land in a solemn assembly of ye People was divided to every man, according to his Tribe & Family; & as these migrations were compos'd of different People, united in ye common cause of conquest, we find yt. those who came from ye same little country or Principality generally settl'd together, & establish'd ye Laws & Customs of their Mother Country in their new acquisitions. Hence arose ye many small States, & various forms of Government yt. after ye destruction of ye Roman Emp-e. divided all Europe, few of which exist at present except in Germany & Italy.

In ye Division of these Lands, they follow'd their own method us'd in ye Cantons which was before taken notice of, yt. is they were given for a year & ye possessors let them out with a certain reserve of ye produce, hence arose ye distinction, of Dominium utile, & Dominium directum.

These Grants for years or for life, were afterwards call'd Beneficia in ye Reign of Clovis; & some with probability think they acquir'd ye names feudes in ye constitution of Charles ye Gross an. 884.

Among many opinions relating to ye derivation of ye word feude, ye most probable one is yt. of its coming from ye Teutonic words fee, as in our language fee or gift, & ot, possession.

These people naturally establish'd ye same government in their new Territories they had been us'd to at home. Their gen-s or leaders became ye temporary administrators of Justice, as their P-s. in Germany. These Officers were distinguish'd by ye Latin Authors, & by ye victorious Nations themselves by various names. ye P-s nam'd by Tacitus are call'd Graves, y^t is Judges in ye german Laws. These were generally Old Men, & were stil'd in ye beginning of ye English Saxon Government Aldermen; in France, Italy, & Spain they were denominated from ye Latin Word Seignior, which is ye root of our word us'd since ye Conquest Seignory, a synonimous term for Lordship. & in ye subdivision of this country into Tithings, Hundreds, or Towns; these districts had Judges, call'd Ledgraves, Jetgraves, Pungraves, &c. & thus in Germany ye Judges of ye Bors, & Marches, were call'd Burgraves & Margraves.

As to ye word Princeps Writers of ye middle age, make it in ye Saxon Language Alderman, after ye Conquest it comprehended Bish-s, Abbots, & Nobles, for Cadmerus in his History makes Henry I. summon, his Bish, Abbots, & P-s. of ye Kdm. to do homage to his son William.

Comes was no name of Office or dignity, till Constantine gave it to y^t of Office, & of ye same signification is ye Teutonick word Grave.

Dux was applied to ye same people as Comes, with this difference y^t one was in a Military capacity, & ye Latter in a Civil.

ye followers of these Gen-s. were call'd by ye Feudal Writers Vassals, deriv'd from ye name they had in Germany Gasell; these also had a share on ye Govern. of their conquests.

ye Custom of these Northern Invaders was to divide ye conquer'd Country into three parts, one of which they left to ye antient Possessors, who they never mix'd with their people nor suffer'd them to share in Govern. this by ye antient writers was call'd sors Gothica, for it was practic'd by ye Goths in Italy & Spain, & by ye Franks in Gaul; & ye Latin cotemporary Writers call'd ye two shares ye Franks kept to themselves terra Salica, y^t left to ye possessors allodium, which word is deriv'd from ye Teutonick word al, where a is a negative particle, & Leude signifies persons link'd in Feudal tenures. Allodarii was therefore originally a name of reproach to distinguish ye vanquish'd from ye Conquerors. & tho' at first these peoples possessions were free from service, yet for security of possession

they frequently surrender'd their Lands, to neighbouring
Lds. & to receiv'd them back under feudal tenure, &
sometimes where they kept their possessions they put themselves
under ye protection of Lds. whence came a phrase
often met with in doomsday book tenere in allodio.
as for Slaves either made by ye Conquerors, or found
so they look'd upon them as part of their substence
ye Principal if not only difference between new Govern-s.
settl'd by ye Conquerors, & ye antient one they had liv'd
under in Germany, was yt they Priest or Leader became no
longer annual as in ye Mother Country, for being in a
continual State of War, it would not have been safe
to have been often changing ye Gen.
In process of time these Leaders came to be call'd
Ks. but yt this was an innovation appears plainly from
most modern Nations deriving ye name of K. from ye Latin.
In England yt name is of Saxon origin tho' ye first
Saxon Leaders yt invaded this Country, were call'd
Hertoge, for ye old Teutonick Word Here, signifying publick
& toge, Gen., & this idea of Gen. of ye Publick, seems to be
ye only one these Nations had of a K. for ye Longobards
who gave they name to Lombardy, chang'd their P. into
Do. Ds. & yet in time of war elected one Gen. who did
not in ye least infringe ye rights of any of these Dual
Powers.
After ye assumption of a Regal title their still continued
assemblies of ye people, as in Germany, to consider of ye
common Good; these were in England & France call'd
Parl-s. in Spain Cortes, & in Germany & Poland, Diets; in
Latin Placitum, Carinda, Malleum, but more commonly
colloquium.
From what has been said of ye distribution of ye conquer'd
Lands, it must necessarily follow, yt from ye different
circumstances of ye Conquerors, several Changes must have
happen'd. time has produc'd two great one's, one in ye interest
of ye feoffees, ye other in ye ~~Hospitaliye~~ since known by
ye name of tenures.
As to ye first ye increase of ye people, ye cultivation
of ye lands, & ye great elegancy of life, yt gradually introduced
itself, made ye superiors desire to secure ye possession
of their Estates, & ye Vassals to make their settlements more durable.

These ~~tenures~~ rights therefore grew from annual to be given for life, & were enlarg'd afterwards into estates of inheritage.

This change in y^e. feoffees produc'd, two other considerable alterations in Govern. first it is y^e. foundation of y^e. Hereditary K. ships & Nobility over Europe; secondly y^e. Country being wholly appropriated, people who had not land were oblig'd for a maintenance, to invent various methods, to indulge, & support, y^e. ease & luxury of y^e. Rich; Hence arose y^e. encouragements of sciences, Arts, & Trades, followed by innumerable, Towns, Cities, & Boroughs throughout all Europe.

y^e. second great alteration we mention'd was in y^e. tenures. There were services annexed to Estates, & at first were few, but in after ages were extremly multiplied, thus as in the 1st Division of y^e. lands each private person had his share allotted by y^e. whole; so the discendants of these 1st Conquerors were undoubtedly bound to Military services in time of war, for the good of the whole Community, the greater portions, given to the Principal Persons, since call'd Counts; was bestow'd by the whole people; this again was parcell'd out by him with the Consent of the whole Nation, to individuals of his immediate tribe; as therefore the Chief of the County held his position, from the people & the Prince who conferred his was called Baron feoffee, that of his tribe to him military service, & the obligations of all to the Nation, Fealty. It is uncertain how these tenures, were at first fixt. in later ages they were annexed to the Estates; Fealty by oath, was instituted when first Feuds were made hereditary & were common in 1020.

when once Feuds became hereditary many disputes happened between the Superiors & Vassals; & between ~~the Vassals~~ themselves, this occasion'd many various rules & determinations, which collected, have taken the name of the Feudal Law, by which all disputes, of that nature were for many ages grounded. the history & changes happening in those Times would be in explaining the description of the various changes that have happened in the European countries; here then we end this general history, & after a few observations, come to the ancient state of this country.

the Contract betwixt the Governors & Governd, the power of the Magestrate, & obedience of the People, the measure of power belonging to the great Lordships of the Realm, & the Estates Lordships have all their foundation in the two following observations;

1st as the Conquerors were the Masters of the Country, no body could have possession of any peice of land, without the owners Consent, & under the terms he pleas'd to fix; hence arose a territorial Jurisdiction, & a right to Controul the actions of those who were not of the Community, as well as of those who were

2dly. as these Conquerors Nations were Voluntary Societys the Majority had the right to regulate the actions of individuals while they continued members of the Society. this appears to have been the state of the ancient Britons & Saxons with regard to ~~another People~~ superior & Vassal, & individuals with regard to the whole community, afterwards when all Fiefs were regulated by the Feudal Laws; they were explained by reciprocal oaths; 1st of which the most sacred was that taken by the Prince at his coronation, (before which he was not even after the decease of his Predecessor; call'd King,) and the oath of fealty taken by the Peers; which oath the Peers in Fee of the Fiefs, did not ~~[illegible]~~ contain to kill the King. had taken his; from hence is derived in this & most other Kingdoms the oaths of allegiance, which have of late been extended, to the successors as well as to the King himself —

ye Peers of what denomination soever, held originally of ye Publick as well as of ye K. & ow'd homage & fealty to ye community, as ye German E^rs. do at this day to ye Emp^r, not ye Emp. this will appear from ye following reasons.

1. ye armies of these conquerors were as we have seen made up of different Nations under their respective Leaders, with one Gen. commanding ye whole. ye successors

of this Gen. became K. & those of ye Leaders Nobility, or Peers.
Now as ye Gen. was only during ye war, he had no right to y^e
peoples allegiance & till he so in time of peace, for
then his power terminate.
II. Property was in ye collective body, & tho they parted
with ye Dominium Utile, they retain'd ye Dominium
Directum, to which only homage & fealty are due.
III. In Controverted Rights of Marriages &c. ye decision was
never authently claim'd by ye K. which it would have been if given by him.
IV. ye Services annex'd to Feudes, is like homage & fealty in
lieu of ye land, so y^t if ye tenure had been of ye K. ye service
would have been due to his private necessities. There are many
instances to prove this; thus no K. could oblige his Peers to serve
in wars for his own advantage; for by ye feudal Law these
services were only due, in Rebellions at home, & invasions
from abroad; thus it is in Germany at present, & when any Peer
refus'd to attend ye K. ye neglect was punishable, not by y^e
K. alone, but with his Peers.
In cases where ye B-s. assisted ye K. either voluntarily or bound
by duty, ye conduct of ye Army, was not left to his will alone
for ye vassals obey'd to orders but those of their own Chief,
who were not oblig'd to go unless he went.
Lastly these military services were solely due in time of
invasion or Rebellion.
In this free State ye German Nations continued till y^e
Civil Law long buried was reviv'd, & then mistaken Pr. made
ye Lex Regia, ye ground of a pretending despotism, & for y^t
reason introduc'd y^t law into their K^ms. It prevails tho too
much over all Europe, but has been here unsuccessfully
attempted, & therefore this Govern. comes nearest to y^e
old Saxons idea of Liberty.

Of ye Legislature of England in particular.

ye Saxons after conquering England divided it into so many Shires, as ye Gen. or L. had companions, in Latin Comites; these came later to be call'd Shires, which were societies, like ye Cantons in Germany; thus things continued till ye dissolution of ye Heptarchy in Alfred's Reign; for tho' some put y^t event to Edgar, y^t time intervening between those two Ks. was so full of confusion, there was no real settlement till Alfred. He is said by some to have been ye person who divided England, & y^t may be true as to ye present divisions, or alterations of ye old, but 'tis certain he parcell'd out ye Shires into Tythings or Laths, Hundreds or Wapentakes, & them again into Tythings, or as some call'd them of old, Boroughs, tho' y^t word is generally us'd for places y^t send members to Parl.

Alfred's Laws all ye Inhabitants of a Tything were security for ye behaviour of one another; people run ye risk of death, who did not belong to some one of them.

ye People increasing spread themselves more & more into ye uninhabited parts of their Tythings. These new places of abode were call'd Hamlets, from ye Saxon words Ham, dwelling, & Let, to a sign.

ye Tythings were unequal, for they were founded on ye number of families & not on ye extent of ground; ye Proprietors residing on their Estates, whence afterwards they were call Manors or a manendo.

ye true meaning of Tything or ten families, is very difficult to explain; were they each of them what we call Housekeepers many Counties would not have had above 3, or 400. Houses, which is impossible. Let it be observ'd y^t ye Proprietors cultivated their Lands by slaves, whom they supply'd with victuals, for ye word Ld. is agreed by all to come from ye Saxon Hlaford, which signifies a giver of bread, now tho' these labourers might live in different Houses as may be suppos'd from ye frequent use of ye words cottari, bordarii &c. in Domesday, yet they certainly were regarded as part of their Ld. family; so y^t ten such families might make a very populous district, which is all ye sense we can give to ye word Tything from ye Saxon Tongue.

We may indeed add, yt. in all probability, several handicraft or trading people associated themselves into companies, call'd by ye. Saxon Guilds; one of these companies was reckon'd for a family; some also of ye. more eminent Merchants &c. might employ under them great numbers of Artizans & Slaves. It may therefore have often happen'd, yt. a Tything, here & there consisted, of ten towns or Boroughs.

By ye. Saxon Laws, rank was annex'd to Possession, for they according to them a Ceorl, yt. is Yeoman having 5. hides of land, a Church & a Hall, was equal to a Thane.

Again a Merchant crossing 3 times ye. Sea on his own substance was also equal to a Thane. From hence it follows yt. trading Towns, or large Societies, might very well be consider'd as possessors of Manours.

As in ye. first distribution of Counties, we find no Magistrate but ye. Alderman to preside, so in ye. further division into Tythings, there were proper Magistrates appropriated to them, & chosen by ye. Gen. voice, such as Borsh holders, Head Boroughs, Tything Men &c. Many of these Tythings had little Courts in themselves, for deciding controversies &c. These are mostly gone, but in London & some other places still subsist under ye. name of Wardmotes; from ye. Saxon Words Hus, & ting, ye. House of pleas.

All ye. Saxon Laity may be divided into Thanes, or Slaves, of ye. Higher kind, & L. Thanes holding of ye. K, under Thanes holding of ye. Subjects & Ceorls, or Yeomen.

After having mention'd ye. various divisions of ye. Country, & ye. different ranks of ye. People; it will be proper next to consider, who among them were invested with ye. Legislative power.

& 1st. from what has been said already it does not appear to have been solely in ye. Saxon Kings, & ye. greatest ticklers for ye. prerogative allow to have been in ye. K. & Nobility, tho' they exclude ye. Commons, as Dr. Brady &c. Those again who assert ye. gen. right of ye. people in Govern. as Tyrrel affirm, yt. from ye. first entrance of ye. Saxons every Landholder assisted at ye. Parls. Thus in Kent where Hengist 1st. settl'd, all ye. possessors of Land met to give their assent or dissent at ye. making of Laws. This indeed cuts out ye. Ceorls, or Yeomen from ye. Witenagemot, & even ye. Thanes, who being only tenants by Villanage, yt. is possessing Lands in lieu of wages for his service, he was only part of ye. family of some one yt. was a member

Tho' these landholders, ever retain'd ye right of being govern'd by Laws, to which their consent was necessary; yet when ye people multiply'd & expanded themselves far in ye Country, it became impossible for every one of them to attend, so y^t^ then every Tything y^t^ is Borough, chose some person to attend ye Witenagemot, to manage ye interest of his own Society.

This Witenagemot, is thought by ye Popular party to have consisted not only of E-s, Bish-s, & Abbots, but also of ye persons who presided in each community, Tything &c. which opinion seems to make ye Commons a constituent part of ye Saxon Legislature.

For ye proof of this there are several citations brought from ye Laws of ye old Saxon K-s. Thus, Ina decrees with ye Council of his Bish-s, Senators, et senioribus sapientibus populi mei.

again in ye Peace betwixt Alfred & Guthrum it is declar'd to be ye Fœdus y^t^ these K-s & all ye Wisemen of England, & every body y^t^ inhabited ye Eastern part of England made together.

& in all ye Saxon Laws ye K-s are said to have consulted with their antient or Wisemen, which those who write for ye commons affirm to have included ye Representatives of ye people.

Of Parliaments after ye Conquest.

No subject has been more debated, than Williams, call'd mostly ye Conqueror's right to England; some affirming y^t^ having conquer'd ye Country, he rejected ye Old Laws, & had a just right, to establish arbitrary power. others deny ye conquest & consequently his right to despotism, but then they generally attempt to prove it, by denying y^t^ he did commit arbitrary acts; but ye important question whether he had a right to do them, is seldom touch'd, now if it can be prov'd y^t^ it was not conquest, & y^t^ he had no right to arbitrary power, his actions may indeed prove him to be a Tyrant but cannot invalidate ye right of ye people y^t^ however invaded by him, might be lawfully recover'd & exercis'd when opportunity should offer, for ye recovery of their Lawful rights. for there can be no prescription against liberty or illegal acts!

To prove this let us examine two things, 1st ye power ye Norman had in his own Country, & 2. ye Causes y^t brought him to England.

As to ye 1st Rollo ye Dane William's Ancestor, conquer'd Austria with an army of Danes, Norwegians, & Swedes. who all went under ye name of Normans, which they gave to their new conquest. Rollo ye Leader of this confederacy of different Nations, could have no pretence to power except what was given him by their own consent. ye new conquest was divided, & Govern. establish'd with ye opinion & consent of all ye Chiefs, & Rollo's legitimate Issue failing, in our William's father, he was elected by ye Bs. to succeed him, & consequently had no right but what was conferr'd on him voluntarily, & to shew y^t William had no right over ye very Army he led into England, we read in Hist. y^t ye Norman Bs. refus'd at first to attend him, not being oblig'd by their allegiance to serve in foreign Wars, & tho' they at last agreed to it yet one of ye principal Normans persisted in his refusal, therefore ye Chiefs of his Army were partners not servants in ye Expedition. & y^t this idea remain'd in ye reign of William's successors appears by ye famous answer E. Warren made, when question'd about ye title to his Estate, for he drawing an old sword declar'd y^t his Ancestors had obtain'd their Lands by ye sword, & with it he would defend them. From all this it appears plainly y^t ye Normans led by William were a free People.

As to ye second thing, ye Causes of ye invasion, we shall observe y^t ye Normans & English had no difference, but liv'd in a friendly intercourse & William pretended a Right to ye Crown, therefore ye war wag'd was against Harold ye Possessor & not ye Nation; & so William understood it, offering to decide it by single combat. so y^t when he routed Harold he certainly could have no more power over ye English, than ye Person he claim'd under had; & of what extent y^t was, we have seen before, in treating of ye Saxon Govern.

There are two reasons asserted for William's Right of arbitrary power, one by Salmasius, which is ye addition of Dei gratia, taken to ye Regal title. In answer to this let us observe y^t Pere Mabillon tells us y^t Pepin ye 1st King in Europe y^t took y^t addition to his title chosen from having no other right to ye Crown, having acquir'd it by usurpation; & several of our 1st Clergy as Langfranck Archb. of Canterbury, & ever since ye Restoration ye Saxon is still Archb. of Canterbury Dei Gratia.

ye other reason is more specious, for ye lovers of Tyranny affirm y^t at ye conquest ye Govern. was military, ye military tenants in effect composing a standing army.

In answer to this we shall find yt not one in 15. were under William's command, perhaps to one in 30. against military tenants possess'd ye greatest part of ye K-m & perform'd their services, by virtue of their Knights fees, which at ye lowest estimation is suppos'd to have 20 L. per an. this has been prov'd to have been equivalent to 440 L. 200 years ago, & at ye time of ye conquest may very reasonably be put at 500; it is we can hardly imagine an army compos'd of men of such fortunes would be ye base instruments of ye Normans tyranny.

Having thus examin'd what William could do lawfully; we are next to see ye manner in which he did really exert his Power, which will in some measure be ye subject of what follows.

As ye Saxons & Normans enter'd England with different views, so they acted in a very different manner, ye 1st exterminated ye old inhabitants, & settl'd in their Room, ye latter only asserting their Rt. right to ye throne, purposd ye Ruling, not ye destroying ye people William indeed after his victory deprivd all those yt resisted him of their Lands, & gave them to his followers, which supposing his right Lawful, he could do with Justice; as to ye rest of ye inhabitants yt stood neuter, they continued in possession of their lands, but then they had Norman Chiefs, instead of their Gate fas put over everything, & these superiorities were made Hereditary, & not elective as among ye Saxons; these Chiefs ye Normans call'd B-s & Seigniors, by contraction Sires, & their Estates B-ies or Honours but this must not be understood of those by things ye consisted of trading persons, for ye Normans, out of a contempt to Trade & Manual arts left them almost universally in their original State, retaining in some to this day ye Saxon Officers, names, & Courts, & consequently ye equality which was formerly ye Character & Spirit of ye Saxon Govern.

For securing these new acquisitions, William introduc'd ye Norman tenures, & by yt settl'd military services, in cases of invasion or rebellion fixing ye number of soldiers each Chief should bring to ye field, from which ye Ecclesiastics were not excepted; & ye trading communities were oblig'd instead of men to furnish money, under ye name of fee-Farm Rents.

ye Tenure of Grand Serjeanty also took place, which arose from Lands given to ye Steward, Constable, Chamberlain or Marshal of England; but whereas these names were used only to offices in ye K. Household they did not create tenures of ye Publick, but tenures of what was call'd Petty-Serjeanty.

As ye number of ye victors were much inferior to ye English, William to destroy distinctions, & to unite them to ye Norman into one people, introduced Wardships & Marriages, & tho' he left many of ye Counties, under ye administration of Saxons E-s, yet he destroy'd their power, by making ye B-s. under them, hold immediately from ye Crown.

K. William gave part of ye Land he kept to himself, amongst his immediate followers, reserving Military service; his Confederates follow'd his example, ye Lands so given were call'd Knights fees, & as they then amounted to above 60000. it's probable they forc'd many of ye English, to hold their estates by ye same tenure, y^t part of their inheritance, which they kept in their own power, they like ye Saxons gave it to Husbandmen to manure, reserving a proportion of ye produce themselves, these were call'd Tenants in socage, a word signifying ye service of ye Plough; that they continued till H. II. time when money becoming more plenty, ye tenants, paid in lieu of part of it a Rent, & ye residue was left to ye bondmen, or lying neglected was call'd ye waste.

All these Tenures subsisted till ye 12. of Ch. II. when ye military tenures were entirely abolish'd, socage still subsists, & so does ye bondmen's whose successors are ye Copy Holders, these retaining to this day, marks of their original servitude, for as bondmen were formerly excluded from any share in ye Legislature, neither do ye Copy Holders give any right to vote at Elections.

From this account of tenures, it appears y^t there were two sorts of tenants, those y^t held of ye K. as chief of some manor, whose services he could transfer, to any subject, & those who held of him as chief of ye great Ld-s of ye K-m. these were call'd tenants in chief, or tenants of ye crown, & were not transferable.

Thus far we have seen, how every body consented from their different situations to assist & support Govern^n. but as nothing more could be demanded than ye services before mention'd from ye People, ye exigence of State, requir'd other methods of support, as taxes &c. which only ye free will of ye People could give, & all authors agree y^t this was settl'd in assemblies or conventions of ye B-s. tho' various are ye opinions who were these B-s at this epoch

some affirming yt they were all ye 1st Nobility, with ye Bish-s, & chit'd Abbots, others yt ye 1st included every tenant in chief of ye Crown, by whatever tenure he held. We shall at present consider ye various allegations, for & against these interpretations.

ye difference in tenures, is created by ye difference of ye services ye tenant is bound to perform, so yt if a B-ny was a different tenure from others, they were oblig'd to perform different services, which we have no account of.

ye 2 difference of ye Great Ld-p. of ye K-m, was only in extent & greatness, not in constitution from ye lesser Ld-ps. Now we know ye immediate tenants of the lesser Ld-ps were chit'd B-s & ow'd attendance as part of service they held their Land by; these consisted of military persons, Officers of ye Seigniorie tenants yielding profit instead of military service; from hence it seems to follow, yt ye Gard. consisted of ye like orders of men, whose attendance was equally necessary at ye High Court of ye Great Seigniory of ye K-m.

again ye tenants by Grand Serjeanty are said by ye advocates of ye People to have been B-s, & yt Bleuse Richardt. in directing ye levying a tax on ye B-s. excepts ye tenants by serjeanty, as also yt all lands hetherto known to be held by Grand Serjeanty was in ye Hands of ye B-s.

ye Popular Writers also observe, yt all ye immediate tenants of ye Crown were call'd B-s. till after Ch. Ch. these have been divided into 3 classes, E-s, B-s, & Tenants by knight service, but this distinction seems but ill founded.

1st as to E-s & B-s they are by many good Authors affirm'd to be ye same.

We have already observ'd yt E-s & B-s antiently in Europe held of ye K-m. not of ye K. only. We must now prove it was so in the K-m. at ye Norman invasion. 1st many of ye persons who came over with William, had no dependence on him. ye Norman B-s. yt held of ye Community in their own Country would hardly have submitted to be on ye same footing with his Vassals; not one of ye Norman K-s. tho with high notions of prerogative, ever assum'd ye power

of depriving a B. of his B-y without Parl; many disclaim'd it even, & some have in such cases demanded ye judgement of ye Peers; add to this y^t in all old tracts, as in ye Registers &c they call'd ye B-y, Baronia Regni, not Regis.

y^t ye Power of ye B-s over their Vasals may be proved several ways, to be equal to what ye K. had over his.

1°. by their origin which has been already mention'd

2°. by their names, which in Old writers are Princes, Reguliks & Reges.

3°. by ye form of making them, which in y^t of Hugh Lupus E. of Chester, we find these words, terendum ita libere et gladium, sicut ipse Rex tenebat Regnum Anglie

4°. by ye Power they exercis'd, for they receiv'd homage in fealty, they made laws in their courts, & judg'd there & by a Law of H. II. his expressly provided y^t ye B-s Vasals, shall not be forc'd to abide by ye determination of ye K. court; they gave Boroughs a Right to send Members to Parl; they coin'd money to Steven's time, & their vasals yielded them ye same aids, tallages, & services, ye K. had of his, nor were these Vasals liable to ye K. In ye famous Act of ye 25th of Ed. III. killing K. or Ld. goes under ye Common name of treason. ye attendance of Vasals at Court leets is in old books call'd suit real, from ye French word Royal.

II: As to tenants by Knight's service

This subdivision arose from ignorance of antiquity; if by Knight's service, or military Tenant, we are to understand one who held immediately of ye Crown, for leading a number of men they were then no doubt E-s. or B-s. y^t if it meant nothing but a Person's own service without followers, there was no such holding of the Crown some time after William. But tho certain, y^t all who held then of ye Crown were B-s. for all tenants of ye Crown paid relief to him; & y^t all these B-s. had some military tenants, call'd vavasors, who paid relief to them. ye word B. also comprehended Burghers, who held their Boroughs from ye Crown.

All Boroughs may be divided into those originally so, & those y^t in time became so.

ye manner of making a Borough, seems to have been, ye selecting a place in any manour, either belonging to K. or Peer, inhabited by Freemen, this was let by Ld. or K. to ye inhabitants in fee farm or perpetuity.

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We have seen yt. ye. Parl. consisted of Ls, who presided in ye. County Courts; Bs. yt. were chief in ye. Court Bs. & representatives of ye. Burboughs, where ye. communities judg'd. Here then appears ye. reason, why writs of Error lay from these lesser courts to Parl., & why therefore Parl. was ye. supreme Court of Judicature, since it was most just, for an appeal to be made from an inferior Court, to one yt. contain'd ye. Representatives of the whole Nation; but ye. short time of ye. sitting of Parl. being insufficient from ye. number of controversies cognizable there, this occasion'd the appointing ye. Comcs. one for State affairs, from whence came ye. Privy Council; another for criminal matters, which produc'd ye. K. Bench, & third to regulate ye. receipts & perhaps disburgements of ye. Publick money, which we now call ye. Exchequer,

all other dukes of services, relea'd Lords, seperate from ye Seignory, y^t ye inhabitants had no superior but K. & Parl. & so without any particular Grant in their Charter in consequence of their infranchisment, came to have a right in ye legislature, just as a Copyholder now a days infranchis'd has a right of voting.

Writers for absolute Monarchy, assert on ye contrary y^t this right is ye pure grace of ye superior, this is attempted to be prov'd by producing Charters, where ye confirmation of this Right is found.

But ye Popular Writers affirm y^t ye oldest Charter with such a clause is in Ed. IV. time, therefore, if Boroughs have ye right only by Charter, all those who have charters before it having no such clause, cannot send Representatives, which is absurd.

In these Boroughs ye community exercis'd ye same powers, y^t ye C^ties or B^ts did, but many falling into decay, these powers are lost, in many they still subsist as in London, tho' number of them are not exerted.

In William's time we meet with several instances of ye Burghers in Towns being call'd B^ts in Doomsday ye Burghers of London & Warwick are call'd B^ts.

ye Inhabitants of ye Cinque Ports, keep ye old appellation of B^ts to this day, & they like ye City of London, hold from ye Crown by Grand Serjeanty, & in consequence carry ye Canopy at a Coronation, as ye Mayor of London does ye Cap.

ye Popular Writers affirm from all y^t has been said, y^t ye word B^t denotes all ye immediate Tenants of ye Crown, y^t is besides ye Ecclesiastics, C^ties, B^ts, & Burghers, & y^t as ye Parl. in William was compos'd of B^ts under y^t word was comprehended ye three above mention'd ranks of Laymen.

Most of our best Writers allow y^t Citizens & Burgesses sate long in Parl. before Knights of ye Shire, & y^t both B^ts sate originally together. We have seen y^t Boroughs were vested with this right in ye Saxon time, a thing most agreable to their notions & to common sense for according to them, Freedom consisted in a person being subject to no Law but those to which he himself consents, so y^t ye Boroughs could not have been call'd free without a share in ye legislature, consequently a Representative in Parl.

Govern. remain'd in this situation till Stephen's time, who to preserve his usurpt possession, alter'd ye constitution in two considerable branches, Civ^l & Military B^ts of ye 1st he made several without Counties appropriated to them.

As to ye B^ts many of their B^ties being forfeited by ye civil wars between Stephen, Maud, & H. II. these B^ts to reduce ye B^ts power, split ye escheats into several small tenancies in Chief, y^t held immediately of ye Crown, & from thence probably arose

ye distinction of greater & lesser B-s,
H. II. annull'd all ye E-doms made without Counties.

But with regard to ye B-s he continued dividing them into small fees, ye Service reserv'd by this A. being only 5. knights.

As these numerous Crown Tenants, could only be jdg'd in Parl. & y^t y^t sate seldom long enough to decide all controversies, they were oblig'd in these times, to institute itinerant Justices, which is remarkable, as it is ye 1st or 2d. instance, of ye Legislative & Judicial Powers being seperated, & was then thought a grievance.

Things continued in ye same way under Rich^d. but K. John in creating E-s. instead of allowing them ye profit of ye County which was gen^l by a third, he gave them a small pension, & reserv'd ye rest for himself.

ye Profits of ye E-doms being thus taken away, they gave themselves little trouble about ye County Courts, & these declining, occasion'd ye erection of ye Common Pleas; by this means they also lost ye influence in their Counties, which gav'd y^e for Lds. Lieut^s who were 1st appointed in Ed. II. time.

About this time we first hear of E-s. appointed by Patent, at 1st they were Elective, & how they were made afterwards does not appear, till this Era. There is however a great dispute, whether these Patents, were act^s of Royal power, or of Parl.

But we shall not touch upon y^t at present, as it is a dubious case, & more speculative than practical.

This increase of Tenants in chief produc'd a very unequal Representation of ye C-m. & became so great a grievance, y^t it is remidied by a particular clause in ye M. Ch. by this there is a distinction made, between ye Greater & lesser B-s. ye 1st were to be severally summon'd to Parl. as to this day, ye lesser B-s. were summon'd in gen^l & being excluded from sitting singly in Parl. they were to send Representatives for their body & they now begun to cease being call'd B-s. but receiv'd ye name of military tenants; & ye Representative was call'd Knights, which was borrow'd from ye Saxon, it signifies military tenants, & as they Represented whole Counties, were call'd Knights of ye Shires, & as ye persons title of E. Bish. &c. usd to be inserted in Deeds, now ye Great B-s. began to write B-s of their chief Castles.

This clause in M. Ch. directs a summons for these lesser B-s. to be in 40. days as there is always one County Court held in y^t time, to this none, but these tenants of ye Crown came, & had a right of voting, till by ye 8th of H. VI. this right was extended to 40s. freehold.

ye number of these Representatives doe's seem to have been at first settl'd; but it was not long, before it was fix'd in ye manner it now stands.

We have no Records of ye Members receiving Wages till Ed. I. time.

ye success of ye Bs. against K. John restor'd ye ancient constitution, yt of H. III. over ye E. of Leicester, a great deviation from it, for tis said yt he obtain'd an Act of Parl. impowering him to summon whom he pleas'd out of ye Bs. to Parl. without which summons none were to attend. 'Tis however uncertain whether this Act had ever ye sanction of a legal Parl. & it is much to be doubted whether ye Representatives of ye People, have it in their power to give away their Liberties & properties; according to a wise maxim of Tacitus yt. apud sapientes casa habebantur quæ neque dari, neque accipi salva Republica poterant; some have said yt this clause introduc'd a new species of Bs. viz. by Writ but yt a mistake, for ye Writs were certainly directed, to those who were Bs. before.

In times of confusion ye Crown under colour of this Law sent writs sometimes to some Bs. & sometimes to others, according as ye rage party prevail'd. But as tranquility was restor'd this practice was disus'd, & ye method first us'd in R. II. time has been since adopted, of making Bs. with a right to set in Parl. by Patent.

From all which it appears plainly yt. ye freedom yt our Saxon ancestors brought with them from Germany, of assenting, or dissenting to all laws has been preserved under ye Norman Line, & continues so in its full rigour unto this day.

Finis.