

ancient mode of representing the months given by Brady, and the observations by Gough, in his description of the sculptures on the remarkable Norman door-way of St. Margaret's Church, York, given in Carter's *Specimens of Ancient Sculpture and Painting*.

In concluding these notices of the Brookland font, the following verses, from an early edition of the Sarum Missal, may be cited as aptly characterising the twelve months, almost precisely in accordance with the representations now for the first time submitted to the notice of antiquaries.

"Pocula Janus amat, et Februus algeo clamat :
Martius de vite superflua demit ; Aprilis florida prodit :
Frons et flos nemorum Maio sunt fomes amorum.
Dat Junius fena ; Julio resecur avena :
Augustus spicas, September colligit uvas.
Seminat October ; spoliat virgulta November.
Querit amare cibum porcum mactando December."

ON CERTAIN OBSCURE WORDS IN CHARTERS, RENTALS,
ACCOUNTS, ETC., OF PROPERTY IN THE WEST OF ENGLAND.

(Continued.)

ADVOCATIO ; ADVOCARII ; ADVOCARIA.—In an account of the issues of Lidford Manor and Dartmoor Forest rendered by the ministers of Earl Edmund, 25 Edward I., I find among the "*exitus forestæ*" a sum of 8*l*. "*de redditu cens' pro advocacione habendâ.*"

The word "*advocatio*" appears in our law glossaries with no other meaning attached to it than that of an advowson. It is therefore natural to suppose that certain tenants of the forest at this time held the advowson of Lidford parish (which includes the forest) at an annual census or rent, and that these are the tenants called "*censarii*"¹ in later accounts. I am satisfied that this inference would be wrong, and that nothing is less likely than that the advowson should have been let to tenants at an annual rent of 8*l*.; especially to the class of persons whose payments are usually referred to under this head of "*exitus forestæ*."

Besides the meaning of *advocatio* already noticed, the word has another familiar to pleaders. Where a landlord justifies

¹ The passage is so translated in Rowe's "*Perambulation of Dartmoor*," ed. 1848, p. 268, by a gentleman, whose contribution

to that work I feel myself peculiarly entitled to criticise without scruple.

a distress upon his tenant, he is said "advocare"—to avow it: and this use of the word may be thought to suggest a more probable explanation of the passage in the Dartmoor Compotus. But I think it will be unnecessary to rely upon mere conjecture.

Although the expression has not occurred to me in any other Devonshire instrument, it is illustrated by the language of records in other counties, and of extents and charters in the Principality and Marches of Wales.

Among the extents of alien priories in the Isle of Wight, 23 Ed. III. (Add. MSS., No. 6166, Brit. Mus.), I find, at the close of a list of tenantry in Brightestone manor, the head of "Capitagia" (called also "chevagium" in the same instrument), "ad festum S. Michaelis," followed by such entries as this: "De Johanne atte Dole et filio ejus pro advocacione habendā ad terminum vitæ suæ, un. lib. ceræ, vel 6^d."

Again, under Boucombe, 28 Ed. III.: "Richardus Lillesdone reddit per annum ad festum S. Michaelis pro advocacione habendā, 1^d."—In neither of these instances is any land referred to as held by the party.

In the Ramsey register (Harl. MSS. 445), a court roll of Cranfield enumerates certain tenants for life "quibus non licebit ponere se in advocacione alterius domini in prejudicium domini abbatis." The instruments in this register date from Rich. II. to Hen. VI.

In a charter of Llewellyn, purporting to bear date A.D. 1198,² that prince grants to the Abbey of Aberconway "quod licitè possint recipere ad habitum suum et ad famulatum suum et servitia liberos spadarios meos et homines de advocacione meā," &c. In this instance the homines de advocacione are associated with military tenants, but in other cases they seem to rank with villani, and are called *advocarii*. Thus in the Extent of North Wales,³ certain tenants "et omnes alii nativi et advocarii istius commoti, et tam villani liberorum quam nativi," &c., pay 8^l. at Easter and Michaelmas.

In another part of the same Extent⁴ we have "In villā de Llanvaylan sunt 7 tenentes qui sunt in advocariā;" and, again, in p. 98, there is a list of "villani de advocariā."

It should seem, however, that these tenants were in fact, or might be, of free condition; for to a petition to the Black

² Record of Carnarvon, p. 147, ed. 1838.

³ Ibid. 25. See also, *ibid.* 35.

⁴ Ibid. 97; see also, p. 99. In p. 171

VOL. VI.

they are called "homines avowariæ Domini Principis." The printed copy has it "avowarie."

Prince complaining of a disseisin by the sheriff of certain *nativi*, of whom the petitioner had been immemorially possessed, the answer was :—"Testatum est quod clamant esse liberae conditionis, eo quod antecessores sui fuerunt adventicii de Hibernia et gratis posuerunt se in advocaria domini. Se si poterit eos in Curia domini Principis disrationare pro villanis suis, amoveantur de advocaria."⁵

In another document, cited by Sir H. Ellis in his Introduction to the Record of Carnarvon,⁶ from the Lansd. MS., it is stated to be the duty of the Raglot of the advowry (*advocariae*) of Bromfield and Yale to receive "*adventivos et forinsecos homines qui sponte . . . in advocariam domini devenire voluerint*," during good behaviour, for a certain annual payment as agreed upon in form accustomed; to present and enrol them in the steward's court; "*eosque et alios ejusdem tenurae manutenere et defendere secundum legem et consuetudinem patriae in omnibus causis in curia domini ad sectam partium*"⁷ *quarumcunque forinsecè motam vel movendam, si praedicti tenentes advocarii . . . stare voluerint recto in Curia domini; sin autem*,⁸ *infra diem et annum duplicabunt advocariam suam*," &c. Any "*adventicius*" who remains three days and nights within the lordship without becoming an *advocarius*, "*minimè in advocaria existens*," forfeits his goods.

The above extracts warrant us in considering *advocatio* as equivalent to *protection*, and in describing the *advocarii*, in some instances at least, as *villans adventive*, a species of relation not unknown to our old law; compatible with the personal freedom of the tenant, yet liable to the incidents of servile tenure. They were settlers and strangers from another territory or demesne, who entitled themselves to the protection of the lord of the land, and to the liberties enjoyed by his original or native tenants, by becoming enrolled in the list of his *avowed men*, and submitting to certain dues ascertained by the lord's officers or by local custom.

In these *advocarii* or *adventive* tenantry we discern, without much difficulty, traces of a head of local or customary law familiar to the customals of France,—the *droit de*

⁵ Record of Carnarvon, p. 216.

⁶ Page xi.

⁷ "*Ad sectam pertin'*" in the printed copies: a clear error.

⁸ "*Sinantem*" in the printed copy. There seems to be a good deal of confusion and error in the punctuation throughout; but I presume that the original MS. is in fault.

nouvel adveu. Ragueau describes it thus :—"C'est le pouvoir qu' un seigneur a de recevoir le serment de fidelité des aubains qui viennent demeurer dans sa terre, et de les acquerir par ce moyen. . . . Les aubains sont acquis homes francs ou serfs aux seigneurs selon les différentes coutumes." The learning on this subject will be found under the heads of *Advena*, *Albani*, *Hospes*, and *Tensamentum*, in Ducange. It is remarkable that in this, and other cases, our own early text writers should be profoundly silent on the rights and relations of whole classes of our fellow-countrymen, whose existence is attested by numerous records ! But, in truth, those writers concern themselves with little except the general law and customs of the realm and the procedure of the superior courts. The greater prevalence of local jurisprudence, and the large share of independent judicial power exercised by territorial lords in France and some other parts of the continent, have led foreign jurists to pay more attention to local customs than they have met with among us. Yet, even from them, how little we can learn of the social or legal position of those who must have constituted the majority of the inhabitants of the land !⁹

I find the advocarii constantly noticed in charters relating to the boroughs and lordships in the Welsh Marches. Thus, in the charter granted to Neath by the Le Despensers in the fourteenth century, the burgesses are made free "de redditu advocacionis, et quod omnes alii tenentes nostri de eadem habeant libertatem." Cart. 33 Ed. III. In a compotus of the same borough, the borough-reeve answers for 4s. 6d., "de advocacione et chensario diversorum tam in burgo quam extra." The two last documents are printed in Mr. Francis's interesting collection on the history of Neath. We find a parallel case in a charter of William, Earl of Flanders, granted to the town of St. Omer, in 1127 :—"Omnes qui infra murum S. Audomari habitant et sunt habitaturi liberos à cavagio, hoc est, à capitali censu et de advocacionibus, constituo."¹

In the charter of Llantrissant there is a like grant to the burgesses of certain forest and common rights,—"*absque tal-lagio et redditu advoc' nobis portando.*"

⁹ Hüllmann thus speaks of the unfree peasants of Germany : "Der Staat nahm keine kenntniss von ihnen ; irhe abgeharteten unterdrücker waren ja zugleich ihre

gerichtsherrn." — *Ursprung der Stünde*, p. 467.

¹ Warnkoenig's "Flanders," vol. ii., p. 411, as edited by Gheldolf.

As late as 11 Henry VI., the inquisition post mortem on the decease of the Duke of Norfolk contains, among the rents of the manors of Galsheria de Suprabosco and Subbosco, and of Pennand, all members of the Lordship Marcher of Gower, the "*redditus advocar*.'" ² How late the expression continued in such records, I know not, but it probably long survived the thing originally signified by it.

The instance of the protection rent first above cited from the Dartmoor Compotus is the only one which I have as yet found in the forest records, and the entry disappears from the later accounts. In the subsequent accounts, the reeve or forester accounts for payment of *census* only; (Compot. 28—29 Ed. III.); or, as it is sometimes expressed, "*respondet de denariis provenientibus de censar[ia] hominum commorantium infra precinctum dominii (or, infra forestam) pro libertate ejus habenda,*" &c. The payment of any "*census*," at least under that name, has ceased long ago, and I am not aware of any class of inhabitants of the moor now called "*censers*;" yet, we owe it to the mechanical habits generated in public offices, that the *name* is still regularly inserted in the warrants yearly issued for the purpose of clearing the forest of stray cattle. It should, however, be observed that, although the *censarii* here referred to may represent the persons who paid *census* for advowry or protection, tempore Edward I., the name is so often applied in rentals and accounts to those who paid *census* on other grounds, that I will not undertake positively to identify the two classes of inhabitants.

Before I close these remarks, let me bring under the notice of the reader two records, which appear to me closely connected with the subject, and to throw additional light on it.

In an award or agreement between the Abbot of Fecamp, and Philip de Braiosa, made A.D. 1103 at Salisbury, the abbot is stated to have enfeoffed Philip of certain lands and a warren at Steyning in Sussex, reserving a right to take hares in the latter. The grant was on condition that, if any "*homines*" of the abbey were found trespassing in the warren, the right to do justice on them, and receive the forfeiture, should belong to the monks:—"Si vero externus ibi inventus fuerit, qui tamen

² This common contraction in Welsh charters may be expanded with equal plausibility into *advocaria*, or *advocarium*. I prefer the latter; but I would

counsel record-agents to write the word as they find it, and certainly not to attempt to translate it, as is sometimes rashly done.

advocatum sibi monachum dicat, adducetur ad eum ; quem si pro suo cognoverit, accipiet de eo rectum ; sin autem, faciat Philippo quod de externo et forisfacto.”³ This passage I interpret thus :—If a stranger or foreigner, found in the warren, claims to be an advocarius, or homo de advocacione monachi (that is, of the Prior of Steyning, a cell of Fecamp), then the grantee of the fief shall not treat the stranger as such, or enforce any forfeiture against him, until he has been brought before the prior to see whether the prior avows him as his own ; in which case the jurisdiction of the lord is to be superseded by that of the monastery. This provision is strictly agreeable to the French rule of customary law, “*L’Adveu emporte l’homme.*”

In the Hundred Rolls, under Lincolnshire (vol. i., p. 381), among the articles of inquiry exhibited to the jury is one “De protectione hominum forinsecorum qui non sunt de homagio ?” The answer of the jury is :—“Dicunt quod comes Lincoln’ habet hujusmodi protectiones de alienis.” This is, in substance, a claim by a great lord of the very *Droit de nouvel adveu*, which has already been referred to.

It is worth while to notice a fact suggested by this extract from the Hundred Rolls,—that the enumeration of articles of inquiry contained in the introductory part of that publication, does not truly or completely represent all the subjects upon which the hundred inquests were interrogated. Each answer is commonly preceded by the question, or a mutilated part of the question, to which it applies ; and a comparison of these with the list of articles in the Introduction will easily satisfy any one that the inquiry assumed a wider range than the list would lead us to suppose.

E. SMIRKE.

³ Cart. Antiq. S. n°. 4. 6 Dugd. Monast., p. 1083, new ed.