

## THE SERJEANTS AND THEIR INNS.

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The state and degree of a serjeant-at-law seem to be reduced to a state of impending extinction, and a degree of desuetude. Since the *Consilium Regis eruditum in lege*—the King's council learned in the law—was instituted, it has gradually attracted to its ranks the best men at the bar, while the ancient state and degree of the serjeants or servants, sworn to serve the King's people in their causes, has lost its cherished privileges one by one. The last and unkindest cut of all has been that which has deprived them of their right of brotherhood with the judges of the two great courts of common law, which courts indeed are themselves things of the past. By the Judicature Act, 1873 (36 and 37 Vict. c. 66, s. 8), it is provided that no person appointed a judge of the High Court of Justice or of the Court of Appeal shall henceforth be required to take or to have taken the degree of serjeant-at-law. Consequently upon this enactment, the illustrious advocate Sir Henry Hawkins, and other judges recently created, have not forsaken their Inns of Court, and taken upon themselves the degree of serjeant, on the occasions of their becoming judges of Her Majesty's High Court of Justice. It seems to be likely that no more members of the Bar will seek for writs commanding them to take upon themselves this state and degree. Hence it has been concluded that the present members of Serjeants' Inn may be the last of the serjeants; and the kind courtesy of one of that learned body has given us the opportunity, which we gladly accept, of meeting in their hall, and laying before the Society as much as is known of the history and antiquities of the Serjeants and their Inns.

To the question, What is a serjeant-at-law? a quaint note by Thomas Gibson, probably a student (MS. Harl. 984, fo. 155), of a reading by Mr. Atkins in 1632, when Attorney-General Roy was

present, supplies an answer: "Mr. Attorney highly extolled the modesty of the ancient professors of our laws, that, whereas in our universities a short abidance there will give them the name of sophisters, four years' continuance the title of bachelors, seven years masters of arts, and some fourteen or nineteen years at the most the name of doctors, all being specious and swelling titles; in our law universities at five years we deserved the title of mootmen (that is, of those that could then, like children, begin to word it); at seven years or somewhat more, the title of barrister (a word of contempt), at twenty-seven having been single readers in an Inn of Court, the name of apprentices to the law, and afterwards, some three or four years double readings (*sic*) the name of servients to the law, never arrogating higher titles." This testimony of the slow approach to the honours of the law, and of the modesty of its successful practitioners, is confirmed by Spelman. Writing in 1625, he states that the course of study was seven or eight years in one of the four Inns of Court before the call to the bar; then, after about twelve years more, appointment as a public reader in one of the Inns of Chancery. He gives, adopting them from Fleta, the four degrees, barrister, reader, apprentice, serjeant. He compares serjeants with doctors of the civil law to the great advantage of the latter, the serjeants standing promiscuously at the bar, without any cap of honour but a thin coif, while the doctors sit in chairs below the court, and dispute with caps on. This whimsical distinction was actually raised by the doctors at the coronation of James the First, when they disputed precedence with the serjeants. They urged also, that, while a judge at common law would call a serjeant "brother," it would be an offence for a judge in the ecclesiastical court to call a doctor "frater," or anything but "dominus."

Like most other legal antiquities, the origin of the degree of serjeant is lost in mystery. Serjeants are mentioned as existing in the statute of Westminster, and Lord Coke insinuates that there must have been serjeants before the Norman Conquest. One of the earliest of our law text-books, Horne's Mirror of Justices, speaks of them in language which has been supposed, but we think incorrectly, to imply that the countors, in Latin called narratores, were a distinct class of the serjeants. "Countors" (he says) "are serjeants knowing the laws of the realm, who serve the common people to declare and defend actions in judgment for those who have need of them for their fees. Every countor is chargeable by oath that he shall not maintain or defend wrong or falsity according to his knowledge, but shall plead for his client

the best he can according to his understanding.”\* Again, “countors are necessary, who know how to advance and defend their clients’ causes according to the rules of law and the customs of the realm, and the more needful are they to defend them in indictments and appeals of felony than in venial causes.”† This necessity, as Mr. Foss remarks,‡ is perfectly obvious when it is considered that the proceedings in the Curia Regis were carried on in a foreign tongue.

Horne, however, fixes a more onerous standard of responsibility upon the serjeant than any that has prevailed in modern times. He says, “into the offence of larceny fall countors who take outrageous salaries or not deserved, or who are attainted of ill defence or of other discontinuance (*autre discontinue*).”§ The idea of being charged with larceny for taking a larger fee than he deserved would surely startle a modern serjeant. The solicitor, as a mediator between the client and the advocate, determining what the advocate’s services are worth, did not exist in Horne’s time. The moral responsibility, however, to use all his powers for the defence of his client, still weighs upon the advocate, and is, I trust, well and honourably borne without the necessity of a prosecution for larceny.

The distinctive character of the serjeant was that he was sworn to serve the King’s people in their causes, and hence (and also because real actions were tried there) the sphere of action in which he was pre-eminent, where indeed, for many centuries, he had the exclusive right to be heard, was the Court of Common Pleas. In this court, up to very recent times, no barrister under the degree of serjeant had any right to be heard. The writ calling upon a barrister to take upon himself the degree of serjeant is in the following terms:—“—— by the grace of God, &c. To our trusty and well beloved —— of —— Esquire, greeting: forasmuch as by the advice of our council we have ordained you to take upon you the state and degree of a serjeant-at-law on ——, We, strictly enjoining, command you to put in order and prepare yourself to take upon you the state and degree aforesaid in form aforesaid, and this you may in no wise omit under the pain of one thousand pounds. Witness ourself, &c.” And on the label is written, “To our trusty and well beloved —— Esq. a writ to take up the state and degree of a serjeant-at-law.” The earliest writ found by Dugdale (a Latin one, of course) was of the 6th year of Richard II.

\* C. 2, s. 5.    † C. 3, s. 1.    ‡ *Lives of the Judges*, i. 23.    § C. 1, s. 10.

It is recorded that in ancient times some apprentices of the law have been hardy enough to refuse obedience to this writ, though sanctioned by so heavy a penalty. In the 3 Henry V. John Martyn, William Pole, William Westbury, John Juyn (afterwards Chief Baron), and Thomas Rolfe, "five grave and famous apprentices of the law," having writs, refused to obey them; they were summoned before the House of Lords and only discharged on a promise of prompt obedience (4 Rot. Parl. 107, No. 10), and "divers of them did afterwards worthily serve the kingdom in the principal offices of the law." The oath of the serjeant is as follows:—"You shall swear well and truly to serve the King's people as one of the serjeants-at-law, and you shall truly counsel them that you be retained with after your cunning, and you shall not defer or delay their causes willingly for covetise of money or other thing that may turn you to profit, and you shall give due attendance accordingly, so help you God."

Mr. Serjeant Manning, the last of the Queen's ancient serjeants, in his learned tract "*Serviens ad Legem*," draws an analogy between the office of serjeant-at-law and the grand serjeanties, for service at coronations and the like, under which many estates were held. He argues that the dignity of serjeant-at-law was an office held by the great serjeanty of attending at the King's Court of Common Pleas to serve the King's people in their causes, just as lands are held by the grand serjeanty of service in the field or on the coronation day. It may be bold to doubt the accuracy of an inference drawn by so learned a man (in more than the conventional sense) as Serjeant Manning was, but to our mind it has not carried conviction.

It will be observed from the form of writ just quoted that a barrister is selected for promotion to the degree of serjeant by the Queen with the advice of her council, and that he is commanded to take upon himself the degree. For a very long time, however, this has been no more than a polite fiction, for the serjeants, in their petition in the year 1838, state that the degree of serjeant was then "usually applied for" by the barrister aspiring to it before the writ was issued.

Among other associations with the dignity of the coif was that of being in former times\* the only persons qualified by law to give assistance in the administration of justice in civil cases on the circuits of the judges. Hence, according to Lord Brougham, the degree of serjeant

\* By 13 and 14 Vic. c. 25 (passed 25 June, 1850), it was provided that Queen's Counsel and Barristers-at-law with patents of precedence might act as Judges or Commissioners of Assize though not of the degree of the coif.

was frequently applied for by men in his time in order to secure to them precedence on circuit.

Some of the serjeants are appointed "King's serjeants," and these had formerly the right of attending with the judges the House of Lords, and in ancient times assisted the triers of Petitions to Parliament. The King's ancient serjeant until 1814 had precedence over the attorney and solicitor general. There seems some reason to think that all the serjeants were anciently called King's serjeants; the first appointment of a serjeant as King's serjeant, found by Dugdale, was in 1310.

As already stated, the judges of the two Courts of Common Law were from the very earliest times selected from the body of serjeants, and until the abolition of these two courts by the Judicature Act of 1873, which substituted for them two branches of the High Court of Justice, every judge, not already a serjeant, had to take the coif before taking his seat on the bench. This does not apply, however, to the Barons of the Exchequer; though, as a Baron of the Exchequer, if not of the degree of the coif, could not hold assizes, it was always customary in recent times for barons as well as judges to be made serjeants. Clement Higham, chief baron in 1558, John Allen, Robert Curzon, John Danaster, William Ellis, John Pilborough, William Wotton, and others, Barons of the Exchequer about the same time, are instances in the records of Lincoln's Inn in which barons did not become serjeants. The first occasion on which the legal fiction was adopted of a barrister being made serjeant for the purpose of being made a judge immediately after, was in the case of Sir Robert Monson, made a judge of the Common Pleas in 1572. Up to that time, it was really the fact that no person was eligible to be a judge of a Court of common law who had not previously practised as a serjeant. Indeed it may be remarked that the practice of making a man a serjeant for the purpose of being immediately made a judge, was so far vicious that it involved the taking of an oath at a time he had no intention of fulfilling it. Lord Coke states also that the Chief Baron of the Exchequer was required to be of the degree of the coif; but this is open to some doubt.

A person once made a serjeant continued such whatever further promotion awaited him for the rest of his life. For example, Sir Robert Heath, after being deprived in 1634 of his office of Chief Justice of the Common Pleas, practised as a serjeant. There are two or three cases, however, where a serjeant has been discharged of his duties by patent

under the Great Seal; in one case when a serjeant was made Solicitor-General he was discharged of his degree in order to avoid any question of precedence between him and the Attorney-General, who was not a serjeant, for in ancient times the serjeants claimed precedence before both Attorney and Solicitor General.

The earliest description we have of the manner of creating a serjeant is by Fortescue, who says "The Lord Chief Justice of the Common Pleas, by and with the advice and consent of all the judges, is wont to pitch upon, as often as he sees fitting, seven or eight of the discreeter persons (*de maturioribus*), such as have made the greatest proficiency in the general study of the laws, and whom they judge best qualified. The manner is to deliver in their names in writing to the Lord High Chancellor of England, through whom, by the King's warrant, the writ is issued. The writ commands each person to be before the King at a day certain to take upon him this state and degree; at which day, the parties summoned and appearing, each of them shall be sworn upon the Holy Gospel that he will be ready at a further day and place to be appointed, to take upon him the state and degree of a serjeant-at-law, and that he shall at the same time give gold, as, according to the custom of the realm, has in such cases been used and accustomed to be done. At the time and place appointed those who are so chosen hold a sumptuous feast, like that at a coronation, which is to continue for seven days together, neither shall anyone of the new created serjeants be at a less expense than 260*l*." (equivalent in purchasing power to considerably more than ten times as much of our money), "which, if eight serjeants were made at the same time, would be 3,200 marks for the whole of them. Every one makes presents of gold rings to the value at the least of 40*l*. English. My bill" Fortescue says, "for gold rings came to 50*l*. To every prince of the blood, duke, and archbishop present, to the Lord Chancellor and the Lord Treasurer, each serjeant gives a ring worth 1*l*. 6*s*. 8*d*.. To every earl and bishop, to the keeper of the privy seal, each chief justice and the chief baron, a ring worth 1*l*. To every other lord of parliament, abbot, prelate, and knight, to the master of the rolls, and every justice, a ring worth one mark. To every baron of the exchequer, chamberlain, and courtier in waiting on the King, a ring proportionate in value to the rank of the recipient. Every clerk, especially in the Court of Common Pleas, will have a ring convenient to his degree. The serjeants also present rings to their friends and acquaintances, and give liveries of cloth to friends and others."

From the rings they gave to the robes they wore is an easy transition, and these were very gorgeous. In the 39th volume of the *Archæologia* is a series of four beautiful illuminations representing the Courts of Law and Equity in the time of Henry IV. in which several serjeants are represented in their party-coloured gowns. A charge of the Lord Chief Justice to newly created serjeants in the 36th year of Queen Elizabeth has been recorded in Sir John Popham's Reports (p. 43), and acquaints us that "by the party-coloured garments being both of deep colours and such as the judges themselves in ancient time used (for so we receive it by tradition) is signified soundness and depth of judgment and ability to discern of causes what colour soever he cast over it, and under or with what veil or shadow soever it be disguised." So important were these robes considered in former times that in the reign of Charles I. (1625, Cro. Car. 6) the judges formally decided, after argument, that "the ceremony of creating serjeants ought to be performed in solemn manner, and therefore their returning in their party-coloured robes from Serjeants' Inn to Westminster is not to be dispensed with." Lord Coke (Pref. to 10 Rep.) says of the serjeants "their ancient reputation is, I assure myself, the better continued, because they without the least alteration continue the ancient habits and ornaments belonging to their state and degree; for most commonly the ancient reverence of any profession vanisheth away with change of the ancient habit, albeit the newer be more costly, courtly, or curious." How far it is to the discontinuance of the party-coloured gowns that we owe the circumstance of our meeting here to-day as guests of my learned friend Mr. Serjeant Cox, instead of the august degree of which he is an ornament, I will not presume to say, but, as I hope to show you shortly, it is a fact that the party-coloured gowns have been discontinued for something less than a hundred years.

For a picture of the serjeant in his habit as he lived, I take you instinctively to Chaucer:—

A Serjeant of Lawe, war and wys,  
 That often hadde ben atte parvyys,  
 Ther was also, ful riche of excellence,  
 Discret he was, and of gret reverence:  
 He semed such, his wordes were so wise,  
 Justice he was ful often in assize,  
 By patent, and by pleyn commission;  
 For his science, and for his heih renoun,  
 Of fees and robes had he many oon.  
 So gret a purchasour was ther nowher noon.

Al was fee symple to him in effecte,  
 His purchasyng might nought ben to him suspecte.  
 Nowher so besy a man as he ther nas,  
 And yit he semed besier than he was.  
 In termes had he cases and domes alle,  
 That fro the tyme of Kyng Will were falle.  
 Therto he couthe endite, and make a thing,  
 Ther couthe no man pynche at his writyng.  
 And every statute couthe he pleyn by roote,  
 He rood but hoonly in a medled cote,  
 Gird with a seynt of silk, with barres smale;  
 Of his array telle I no longer tale.

Of course we wish Chaucer had lingered to tell a little longer tale of the serjeants' array, but the two lines in which he describes it convey us a good deal of information. He rode, but homely, in a party-coloured garment, girded with a silken cincture with small bars, the very garment in which Mr. Justice Haugh appears in the window at Long Melford,\* and in which the serjeants are seen arrayed in Mr. Corner's illustrations. They are there represented in gowns, of which one side is blue; the other green, striped with white. In Dugdale's time, three hundred years after Chaucer, the colours were murrey and mouse-colour. In the *Vetusta Monumenta* is a view of the Court of Wards and Liveries, copied from a picture of the date (as supposed) of 1585, in which a serjeant is represented in party-coloured garments, and Vertue, the engraver, says with perfect truth that these garments were still in his time (1747) worn for one year upon taking that degree. Serjeant Atkinson (now of Bombay) seems to have said that Vertue was wrong, and that the party-coloured robes went out of use at the time of the Protectorate. The error, however, was not Vertue's. However the Puritans might have dispensed with redundancies in ordinary dress, they were too wise to lose the prestige of fine robes where ceremonial observances in connexion with the administration of the law were concerned. On the 12th October, 1648, while the King was still a prisoner, the House of Commons, upon a report from the Commissioners of the Great Seal, ordered a call of serjeants and voted the names of the persons who should be called. On the 8th October the vote was passed by the Lords. Bulstrode Whitelocke was then a Commissioner of the Great Seal, and was one of the persons proposed

\* We give an illustration of this figure, showing the party-coloured robe and the coif. John Haugh was made Justice of the Common Pleas in 1487.



to be made serjeant. On the 18th November the other persons named in the call appeared at the Chancery Bar before him, and he addressed them in a long and learned speech, commencing as follows: "It hath pleased the Parliament, in commanding these writs to issue forth, to manifest their constant resolution to establish and maintain the old settled form of government and laws of this kingdom, and to provide for the supply of the High Courts of Justice with the usual number of judges, and to manifest their respect to our profession, and likewise to bestow a particular mark of favour upon you as eminent members of it. I should be unwilling to see the solemnity of this general call diminished, and am the rather persuaded to supply my present duty for several respects; first, for the honour of that authority which commands your attendance and my services on this occasion; secondly, for the honour of this Court, which challengeth a great share in this work, your writs issuing from hence, your appearance here recorded, and your oath is here to be taken; thirdly, the honour and particular respect which I have of you that are called to this degree; fourthly, and lastly, out of my own affection to the degree, being myself the son of a serjeant, and having the honour to be one of your number in this call, and I do acknowledge that both in my descent and fortune I am a great debtor to the law."

I will not inflict upon you any more of Mr. Bulstrode Whitelocke's eloquence, having only quoted so much in order to establish my point that the Great Rebellion had no effect in diminishing the splendour of the serjeants' robes. On the 21st November of the same year the Commissioners of the Great Seal sat in Chancery, and the new serjeants came in their party-coloured robes, and counted and delivered rings in due form and with great solemnity.

No general call took place while Cromwell was actually Protector, but in 1658 he created Serjeant Maynard "His Highness's Serjeant-at-Law," apparently as an equivalent to the office of King's Serjeant, and Richard Cromwell, on the 27th November in the same year, created Mr. Archer a serjeant. In the short interval between the removal of Richard Cromwell and the restoration of monarchy, Tyrell, Fountain, and others were ordered to be made serjeants by a vote of the House of Commons.

All the creations of serjeants during the interregnum were at the Restoration declared to be invalid, and the surviving serjeants were recalled by writ of Charles II. and again sworn and re-admitted. The first creation of new serjeants after the Restoration took place in 1660,

when fourteen serjeants were called, and the opportunity was taken for a great display of legal splendour. Among the reforms which Cromwell had effected was the abolition of the monstrous jargon called Law French; the Restoration galvanized it into fresh life. Accordingly we get our account of the proceedings on this occasion from Siderfin's reports in that strange dialect: "Touts ceux le tierce jour de cest Terme count in le Inner Temple Hall (pur ceo que les Chiefe Justices fueront de ceste meason) et de ceo lieu ils fueront accompany al Common Bank (lou le Chancellor et touts les Justices et Barons fueront adonque seant en cest Court) ove plusors de touts les Inns de Court et Chancery la vaant devant eux, circa 200 servants en party coloured liveries, et tous les officers des Courts et les Butlers des Societies en party coloured gowns, et puis le gent', et immediatement devant les novel serjeants la vaeront trois Chivalers en party coloured gowns, videlicet, Sir — Carew marshall de lour feast, Sir Francis Clarke, steward, et Sir John Maynard, controuler." (1 Sid. 4). At their feast in Middle Temple Hall there were present the Lord Chancellor, the Lords of the Council, with many nobles, all the judges and old serjeants in scarlet, the mayor and aldermen of London, and many others. Their rings bore the inscription "a Dest CaroLVs MagnVs," in which the Roman numerals for the year (D. C. L. V.·M. V.) were engraved in capital letters.

In 1671 the City of London entertained the King on Lord Mayor's day, when "the Lord Chief Justices, Lord Chief Baron, Mr. Attorney, and Mr. Solicitor-General, the rest of the justices of both Benches, the Barons of the Exchequer, and all the Serjeants-at-Law, habited in their scarlet gowns," dined in the old council chamber. (Fairholt, *Lord Mayor's Pageants*, ii. 205.)

Lancaster Herald's account of the coronation of James II. in 1687, illustrated by drawings of the procession, shows that the King's serjeant-at-law gave precedence to the King's solicitor and the King's attorney, who in their turn gave precedence to the King's ancient serjeants. The serjeants all wear a coif covered with a black cap, carry black square caps in their hands, and wear scarlet gowns. The same precedence was observed (according to Ogilvy, a contemporary chronicler) on the occasion of the coronation of Charles II. At James II.'s coronation five King's serjeants were absent, but Sir C. Nevill, Sir T. Jenner (Recorder of London), Sir J. Shaw, Sir T. Holt, and Sir T. Stringer attended. Sir J. Maynard, King's ancient serjeant, was absent; but his colleague Sir G. Stroud was present.

I shall not weary you with details of all the creations of serjeants, or the other state occasions on which they figured, but may venture to cite an elaborate account of the manner of creating serjeants in the year 1700 given by Serjeant Sir Henry Chauncy in his "Historical Antiquities of Hertfordshire." Speaking of the Grange of Bradfeld or the Fryers near Risenden, in the hundred of Odsey, as having been sold to John Stone, Esq. who was made a serjeant-at-law in 1640, he takes the opportunity of making a long and learned digression relative to this state and degree. On the day fixed for the return of the writ, he tells us, the serjeant-elect appears in Westminster Hall, whence two benchers of his Inn of Court lead him to the Chancery Bar, clothed with a black robe, where every serjeant elect is placed according to his ancients; the eldest serjeant standing in the middle of the bar first delivers his writ into Court, moves it may be read, that done, prays his appearance may be recorded; all the other serjeants having done the like in their order the clerk of the Crown administers the oath. When all the serjeants are sworn, the ancientest serjeant addresses himself to the Lord Chancellor or Lord Keeper in a short speech, desiring his lordship would be pleased to present their most humble duty and thanks to His Majesty for the great honour which he hath granted to them, with a ring in token of their gratitude to him, and kissing the ring sends it to the Lord Chancellor or Lord Keeper, who receiving the ring kisses it again, promises to present it to the King and to perform their desires. Then the Lord Chancellor or Lord Keeper makes a speech, wherein he gives an encomium of the law, commends the profession, magnifies the King's favour and the honour of this degree, concluding with his advice how they are to demean themselves in their profession. This done, he adjourneth them to appear in the Court of Common Pleas upon some convenient day which he appoints and they return to their chambers. In the meanwhile they treat all the old serjeants with a supper, who instruct them what they must do, and the Lord Chief Justice of the Common Pleas appoints a day and place where all the new serjeants shall recite their counts and pleadings in French before his lordship and the judges of that Court. When the day is come, all the gentlemen of every Inn of Court where there are any such new serjeants assemble together, the treasurer whereof attends them at their chamber and conducts them to the hall, where he makes a speech to them, wherein he condoles the loss of their company, commends their learning, acknowledges their preferment to be an honour to the

Society, makes every of them a present, and concludes with a prayer that upon their advancement they will take that house into their protection. Then the ancientest serjeant of that Society in the behalf of himself and his brethren acknowledges the goodness of the Society to them, returns thanks for all their favour, prays a continuation of their acquaintance, and that they will retain the memory of their relation to them. Which done, the new serjeants treat them in the council chamber with burnt wine, brew'd beer, sugar cakes, macaroons, and biscates, after the manner and solemnity of a funeral. This past, the treasurer and gentlemen of the Society attend them to a place appointed by the Lord Chief Justice of the King's Bench, where they meet in a chamber, thence walk in their brown blew gowns, one of each of their chief clerks bearing their scarlet hood upon both his arms, the tail thereof hanging upon his right shoulder, and the coif lying upon the middle of the hood, following his master—the warden of the Fleet with his men and tipstaves, the marshall of the common place with his cryers, the steward and the comptroller going before them into the hall where all the judges sit at the upper end in their scarlet robes—the Chief Justice of the King's Bench in the middle, the Chief Justice of the Common Pleas on his right, the Chief Barón of the Exchequer on his left, and every other justice and baron in the same form according to their ancienty; the eldest old serjeant standing at the right hand of the justices and the steward and the chief prothonotary by him, and the other old serjeants standing in like order, some at the one end some at the other, and the ancient new serjeant standing before the Chief Justice of England in the middle of his brethren over against the other justices about two yards distant, the Chief Justice of England makes—the inevitable speech. And so it goes on with infinite pomp and ceremony, of which what you have already heard may serve as sufficient specimen. The ceremony of “counting” (which of course has nothing to do with arithmetic, but signifies the declaration made in a real action, whence the serjeants derived their ancient name of “countors”) was performed as follows: Two old serjeants having taken the new serjeant between them to the middle of the bar, he saith after this manner, “May it please you, my Lord (naming the Lord Chief Justice of the Common Pleas), *J. S. ad sue cy devaunt vous un Bre, &c. envers C. D. et pria que il soit demanda.*” To this the chief prothonotary says, “*Cy per son attourn.*” Then the new serjeant counts upon the writ, that ended, one of the

old serjeants imparles. Then ensues the ceremony of presenting the rings to the judges by the "colt," who kisses each ring, and makes a respectful speech as he hands it to the recipient.

The robes of serjeants worn in his days are thus described by Chauncy: "The first year after their creation every serjeant shall wear his party-coloured robe of purple and murrey, with a hood of the same close over his neck, the tip hanging back and down behind, every day at Westminster and in their circuits. When they walk to church or to dinner in their hall they wear black. The King's serjeants and serjeants of a year's standing or more wear purple gowns with scarlet hoods when on circuit, but in term time, and whenever the judges sit in scarlet, purple with purple hoods. Upon grand days, when they dine with the Lord Mayor or Sheriffs, or at the Inns of Court, they wear scarlet gowns and hoods."

Mr. Corner (in the paper already referred to) attributed to the late Sir Frederick Pollock, who was for more than a quarter of a century Chief Baron of the Exchequer, a saying that the whole bar went into mourning in the time of Queen Anne, and are said never to have come out again, but to have mourned ever since; from which it was wrongly inferred that about that time the serjeants left off wearing their party-coloured robes. I am fortunate in possessing in the venerated Chief Baron's own handwriting a correction of this inference. In a letter addressed to me from "Hatton, Hounslow, 14 November, 1867," when he was considerably over 80 years of age, Sir Frederick Pollock writes:—"What I said related to the Bar only, and not at all to judges or serjeants. I have always been told that formerly the Bar wore, in *Court*, coats, &c. of any colour under the gown, which also need not have been black; but that on the death of Queen Anne the Bar went into mourning, and since then every barrister has generally worn *black* . . . but I apprehend mourning does not affect any *robe of office* or *dress of ceremony*; the heralds and kings of arms, the nobles, the army and navy, and the judges do not change their official costume—stuff may be substituted for silk, &c., but it is substantially the same in or out of mourning." Great interest attaches to these remarks on the present occasion as proceeding from one of the most distinguished men who ever belonged to Serjeants' Inn.

We have, however, more direct evidence on this point. The last of the great general calls of serjeants took place in 1736. There have

been a few creations since then, under peculiar circumstances, of several serjeants together, but no general call on the same scale has taken place since that of 1736. It is commemorated by the following lines :—

Dame Law, to maintain a more flourishing state,  
 Having happily compassed the mortmain of late,  
 As erst she called over her word-selling crew,  
 Cries, "The harvest is great, but the lab'ers are few;  
 Then courage, my sons! here is work for you all;"  
 And fourteen new serjeants stept out at the call.

[Gent. Mag. vol. vi.]

One of the serjeants created at this call was Mr. Serjeant Wynne, who left behind him, among other learned law tracts printed privately by his son in 1765, one intituled "Observations touching the Antiquity and Dignity of the Degree of Serjeant-at-Law, with Reasons against laying open the Court of Common Pleas, as was proposed at the time of writing these observations." He gives in it a full description of the proceedings on the occasion of his own call. On Friday morning, the 3rd of June, having taken leave of their several societies, and received their usual payment of ten guineas in crowns and half-crowns in a purse, presented to them by the treasurer, after a short speech, they went with the benchers to Westminster, and were conducted to the Chancery Bar according to their time of entry in the several societies, Mr. Parker, who had a warrant to be King's serjeant, being first, when similar proceedings took place to those already described from Chauncy's narration. The next day, Saturday, Lord Hardwicke, Chief Justice of the King's Bench, appointed them to meet at the Middle Temple Hall about 9 o'clock; and accordingly he and all the rest of the judges met in the Parliament Chamber in their scarlet, the chief having their gold collars, and the ancient serjeants their purple robes, and the benchers their bar-gowns, where biscuits and mulled wine were prepared, the ancients of the several Inns of Chancery and other barristers attending in their gowns. The new serjeants appeared in their bar-gowns and full-bottomed wigs, and then the judges being conducted by the steward and the comptroller, with their white staves and in black flowered damask gowns, went into the hall and sat in chairs, where Lord Hardwicke made a speech to them (though a peer) by the name of brethren, telling them that the profession of the common law "had often stood in the gap in times of danger and

difficulty, and been often instrumental in rescuing the constitution from tyranny and oppression, and that the constitution never shined more than when the law flourished." The new serjeants then counted and severally kneeled down on curtains, and the judges put on [them] their white coifs of linen, and pinned their scarlet hoods on their shoulders over the bar gown, and then the judges and ancient serjeants were conducted to their coaches and so to Westminster Hall. The new serjeants meanwhile retired to the Parliament Chamber and put on their party-coloured robes and the tabard over them, and put on their full-bottomed wigs and their linen cap upon it, but left off the scarlet tippetts, and so walked to Westminster Hall, accompanied by the benchers and the ancient serjeants of the Inns of Chancery, with their respective officers in party-coloured jackets.

At Westminster their colts delivered the rings to the Lord Chancellor (who wore his gold tufted gown), to the judges, barons, ancient serjeants, and *prothonotaries*. The rings bore the motto, "*Nunquam libertas gratum;*" and three finely polished, with the motto enamelled, were presented to Speaker Onslow and Justice Denton in the name of the call, to be presented to Her Majesty and the Prince and Princess of Wales respectively, five similar ones being reserved to be presented to the Duke and four princesses when Mr. Parker should kiss hands as King's serjeant. The dinner took place at Middle Temple Hall. Two fine sideboards of gilt plate belonging to the City were lent, as was usual on those occasions. A baron of cold beef was on a table by itself, with a standard of the King's arms stuck in it, which ought to have been carried in the procession, but was forgot.

The expenses of the call were:—

	£
To the robe-maker . . . . .	360
To the cook . . . . .	315
For rings (1,409 in number) . . . . .	773
Besides what every serjeant had made on his private account.	
For wine . . . . .	334
For the use of Serjeants' Inn . . . . .	500
Biscuits 40 ; Music 30 ; Fees 140 . . . . .	210

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In all about . . . £2,496

To meet these expenses each serjeant had deposited at the bank of

Sir Francis Child and Company a sum of 200*l.* out of which he received a small dividend, but he had in addition to pay his personal expenses for gifts of rings to his friends, &c.

At the creation of a serjeant in 1762 (the second year of George III.) party-coloured robes were worn.

From that period the decline in the ancient observances connected with the creation of serjeants was rapid. First, the great feasts were discontinued, a sign of declension which should serve as a warning to every festive body. Then, in 1787, rings ceased to be given to the judges, the bar, and the attorneys.

In 1799 an Act was passed (39 Geo. III. cc. 67, 113), enabling the Crown to make judges during vacation, and for that purpose to call them previously to the degree of serjeant without any ceremony except their appearing before the Lord Chancellor and taking the oaths. Up to this time, however, no one had been profane enough to suggest that a person could be made judge until he had first been made serjeant.

In 1755, it is true, Chief Justice Willis had suggested that the Court of Common Pleas should be thrown open to the whole Bar, and had induced Chief Justice Ryder to call a meeting of the judges to consider the suggestion. No record of their deliberations remains, but the suggestion was emphatically rejected by them.

At some time between 1762 and 1809 the wearing of party-coloured robes was discontinued. In 1809, Mr. Peckwill and Mr. Frere were created serjeants; the lamented Mr. Foss kindly supplied me some years ago with a copy of their robe-maker's bill, and it contained no item for a party-coloured gown. I sought information from Ede and Hunter, the robe-makers, but without success, and I cannot say who was the last serjeant who wore this distinguishing garment.\* The party-coloured robe, it will be seen, was the garment appropriate to a serjeant as such. The only cases in modern times where judges have worn party-coloured robes are those where they were made judges and serjeants at the same time. Thus in 23 Car. II. Sir Robert Atkins, after being made successively serjeant and judge, sat in his party-coloured robe and tabard.† So also Sir Francis North, Attorney-General, made serjeant-at-law in 26 Car. II. in order to be made Chief Justice, sat in his party-coloured robe and tabard.‡ The same evening he

\* Mr. Santell informs me that Serjeant Kinglake, on his call in 1844, endeavoured to revive the wearing of party-coloured robes.

† Wynne, 300.

‡ Wynne, 302.



held a feast in Serjeants' Inn, Chancery Lane, where we now meet, and entertained the Lord Keeper, the nobility, the judges, and the serjeants.

The purple robes of serjeants, however, survive to our own day. It was this Tyrian dye which inspired the "facetious Jekyll" to say:

The serjeants are a grateful race,  
Their robes and speeches show it,  
Their purple robes do come from Tyre,  
Their arguments go to it.\*

The coif is an article of dress that has passed through several stages. Originally it would seem to have been merely a cap of fine linen, cut straight and fitting close to the head. (*See the illustration.*)

The theory that it was made to hide the tonsure, or, as T. Gibson put it (MS. Harl. 980, p. 5), "le inception del wearing del coifes p' le seruients al ley fuit quia in initio fueront fryers, et p' ceo fuit a couer lour bald pates," appears to be a mere guess of Spelman, based on some ambiguous words in Matthew Paris and not well founded. By Fortescue's time the coif had come to be made of white silk. The next freak of fashion was to cover it with a black skull-cap. Then in course of time, when the wearing of wigs became universal, the weight and heat of a full-bottomed wig with a white silk coif on the top of that, and a black skull-cap on the top of that, became too much for a human head to endure, and accordingly the skull-cap became a black patch of about two inches diameter, and the coif became a little frill of white silk round it, both being fastened on to the crown of the wig. The story goes, that, when Sir Fitzroy Kelly was sworn serjeant in order to become Lord Chief Baron, the robe-maker had sent no coif, and that in the emergency the Lord Chancellor pinned his penwiper on Sir Fitzroy's wig! Daines Barrington (on the Statutes of 14 Edw. III. p. 254) starts the odd theory that the coif was originally an iron plate or skull-cap worn by knights; but as serjeants and knights have nothing to do with each other this ingenious speculation may be dismissed, though it has been said that "the coyf is in similitud of a galeat or headpiece, signifying that as galeated soldiers ought to be bold in warre so ought they in their client's cause."

Indeed, in 9 Hen. VI.† it was a sufficient excuse from knighthood for a serjeant to plead his serjeanty; and the first occasion on which a serjeant consented to be knighted was in 26 Hen. VIII.

\* Archæol. xxxix. 363.

† So Dugdale: but see "Feudal and Obligatory Knighthood" by F. M. Nichols in Archæol. xxxix. 226, n.



The power to create serjeants during vacation, without any public ceremony, given by the Act of 1799 in the case of those intended to be made judges, was made general by an Act passed in 1825 (6 Geo. IV. c. 95).

In 1834 a Bill for establishing the Central Criminal Court contained a clause (which however was ultimately withdrawn) for abolishing the exclusive rights of serjeants.

On the 25th April, 1836, a mandate under the King's sign manual was issued, commanding the judges of the Common Pleas to open their Court to all barristers. This was acquiesced in for some time, but in 1838 several serjeants presented a petition to the Queen, which came on for hearing before the Privy Council on 10th January, 1839. The Queen was advised that the mandate was invalid, but shortly afterwards a statute was passed finally depriving the serjeants of their right of sole audience in the Common Pleas.

So the case stood until by the passing of the Judicature Act as already mentioned it was rendered unnecessary that future judges should first be made serjeants. On this point I shall ask leave to use the forcible argument of my friend Mr. W. F. Littledale, in deprecating in 1859 a similar arrangement affecting the Bar of Ireland.

"In England, the judges, on their election to the Bench, cease to belong to their former Inn and go to Serjeants' Inn, and are then ex-officio visitors of the Inns of Court. We read of Lord Keeper North (Life, i. 67), that in 1668 the rulers of the Society of Middle Temple, called Benchers, refused to call him after he was King's counsel to the Bench. He waited upon the several chief justices and complained, and the very next day at Westminster Hall when any of the benchers appeared at the Courts they received a reprimand from the judges for their insolence, and were dismissed unheard, with a declaration that until they had done their duty in calling Mr. North to the Bench they must not expect to be heard as counsel in any of His Majesty's Courts. The judges are thus in a position to exercise with impartiality the supreme controlling and directing power."

This clause in the Act was challenged by an honourable Member and a division was taken in a thin House in the Commons, but it is very doubtful whether much consideration was given to the matter, and as one of the rank and file of the Bar I confess I think it would be worth the consideration of our rulers whether the custom of a Queen's counsel retiring from his Inn of Court on being promoted to higher

office might not be maintained. I am aware that it never affected the *Chancery Judges* but only the judges of the courts of common law, the reason being, of course, that with them alone rests the visitatorial power.

A few words as to the Inns of the serjeants may not be out of place. There were three, and the one in which we have now the privilege of meeting is the last of them. Scroope's Inn was situate in Holborn, opposite St. Andrew's church, and its situation was marked by Scroope's Court till recently. Its hall was probably not of great magnitude, as the serjeants' feasts were usually held in Ely House. This was the case with the great feasts recorded in 11 Henry VII. 2 Henry VIII. and 22 Henry VIII. In Coke's time there were two Inns, that in Fleet Street and that in Chancery Lane. The first is said to have been purchased by the serjeants from the Dean and Chapter of York in the time of Henry VIII. Its arms were, in the quaint heraldry of old time, "Mars, 2 galbes in saltire solis, bands jovis." It seems to have been acquired some time in the last century by the Amicable Society for a perpetual assurance office, established 1706, and now itself a thing of the past. The Amicable Society's emblem of a dove and serpent appears in several parts of the buildings. In a window of the chapel were, among others, the arms of Serjeant Bendloes, who "*anno Reginæ Mariæ ultimo et Elisabethæ Reginae primo superfruit et claruit solus*," the only man who ever was sole serjeant-at-law, a circumstance the more remarkable that a few years before, in Henry VIII.'s time, serjeants were so numerous that twenty-eight were knighted on a single occasion.

The third Inn, formerly called Faryngdon Inn, after the person who gave his name to the ward of *Farringdon* and to *Farringdon Street*, is the one in which we meet. It was demised in 1416 to Justices Horton and Cheney and Serjeant Askham, and has ever since been an Inn for judges and serjeants. Under date 1503 we find an entry in the books of the Worshipful Company of Carpenters "of xx pence received of a foreign carpenter to have license to set up a house within the Serjeant Inn in Chauncelor Lane." In 1678 the hall was rebuilt. Its arms are, Or, a stork (or ibis) proper. In 1724 (*Mag. Brit.*) it was stated that the chambers in this Inn were, most of them, newly erected. The room in which we meet was formerly adorned with pictures of distinguished members of the Inn, among which were Chief Justices Crewe, Denman, Holt, Lyndhurst, and Tenterden, and Serjeant Higham.

In 1730, the serjeants removed to this Inn from that in Fleet Street. It was called Serjeants' Inn in 1508. The Inn was held from the Bishops of Ely at a rent-charge of 180*l*.

Higham was made serjeant in 1494. Crewe was son of a tanner at Nantwich, and ancestor of the Lords Crewe of Crewe. He furnished one of the many instances of noble integrity which have adorned the English bench, for he was discharged from his office of Chief Justice for refusing to admit the legality of a forced loan to the King.

The collection of portraits which has been removed from this hall and the chapel adjoining was very large. A catalogue has been prepared by Serjeant Bain. They are now in the National Portrait Gallery.

The bust above us and the window surrounding it, together with several of the coats of arms in the opposite window, are from the old hall. It was restored, as an inscription on the window facing me states, in 1838. The windows to my right are of modern glass.

The adjoining "chapel" which we shall presently visit has long been used for secular purposes. It was the ordinary dining-room of the serjeants, except on the first day of term, when the accession to their ranks of the judges and the judges' clerks rendered the use of this hall necessary for dinner. It contained a handsome sideboard, made up partly of some of the carvings which adorned it as a chapel. Escutcheons of the serjeants on small panels are attached to the walls. The windows are remarkably brilliant, and are filled like those in this hall with arms of eminent serjeants.

To your imagination I must leave the scenes which these rooms have witnessed. The feast of reason and flow of soul when those who have spent the day on the judgment seat or in the heat of forensic contest meet to relax and unbend, is best, perhaps, left to the fancy of those who have not shared it; and the solemn inquiries which have here taken place upon appeals by barristers against the domestic discipline of their Inns are matters of confidence into which we need not seek too curiously to inquire. Enough for us that for the first time we meet as archæologists in a room so full of interest.

As yet I have but crossed the threshold of a deeply interesting subject. If I were to attempt to enumerate the illustrious names which shine on the roll of the serjeants I should keep you here all day. Fortescue, Gascoyne, Hale, Coke, and all the glorious line of Chief Justices, down to him who so worthily now ends the list, amid a chorus of the admiring voices of his countrymen, were all members

of Serjeants Inn. The thousands of less distinguished names represent learning, virtue, and public spirit such as probably no other society in the world could rival. But it does not rest with me here to sound their praises.

Nor shall I venture to trespass upon you with any remarks, such as this subject might well inspire, on the glorious traditions of the profession of the law, the high principles of justice and equity it implants and enforces, its province as the embodiment of sound common sense, and its exalted mission of ascertaining and declaring the true application of the principles of right and wrong. All these have been the high claims of the law of England from the earliest times; and if it be that the times have called for change in some of the outward circumstances, some of the names and dignities, which surround the law and its professors, I am confident, as you all are confident, that these principles which have actuated will continue to actuate them to the end of time. Serjeant, or Baron, or Justice, venerable though the names are, are but names. I confess I am one of those who think that even names, when venerable for their antiquity and their associations, should not lightly be cast aside. But the law and the lawyers remain, however the names which distinguish them may be changed. It may be that some day the four great houses of Court may follow the Inns of Chancery and the Inns of the Serjeants, and may be diverted to alien uses or left to oblivion. I hope that time may not come, but if it should come the great fabric of the law would still exist. It may be that the High Court of Justice and the Court of Appeal, which have now taken the place of our ancient Courts, may some day follow those Courts into history, but the fabric of the law is independent of its local habitation. The Inner Temple and the Middle Temple may cease to be, but the great temple of the law will still rise proudly to heaven, subject only to such changes as may enhance its decorations and increase its gorgeousness, or may, on the other hand, more and more reveal the grandeur of its proud simplicity, as the thoughts of men are widened with the progress of the suns.

That temple will still stand, and from age to age be served by a never-ending succession of faithful and learned ministrants. In that sense the race of "servients to the law" will never die out.