

THE LIVES
OF
THE CHIEF JUSTICES
OF
ENGLAND.

FROM THE NORMAN CONQUEST TILL THE DEATH
OF LORD TENTERDEN.

BY JOHN LORD CAMPBELL, LL.D., F.R.S.E.,

AUTHOR OF

'THE LIVES OF THE LORD CHANCELLORS OF ENGLAND.'

THIRD EDITION.

IN FOUR VOLUMES.—VOL. III.

LONDON:
JOHN MURRAY, ALBEMARLE STREET.
1874.

The right of Translation is reserved.

CONTENTS OF THE THIRD VOLUME.

CHAPTER XXV.

CONCLUSION OF THE LIFE OF LORD CHIEF JUSTICE HOLT.

Remainder of Holt's Judicial Career, 1. His Death, 2. His Funeral, 2. His Monument, 3. Holt's Want of Literature and Science, 4. He put an End to Trials for Witchcraft, 6. He exposes Hypocritical Pretenders to extraordinary Virtue, 7. His Detection of a False Prophet, 9. His Practice of interrogating Prisoners on Trial, 9. His supposed Opinion as to the Illegality of employing the Military to put down Civil Disturbances, 10. His trial at Bar with the Crown, Trin., 12. Holt as an Author, 13. He was married to a Shrew, 13. Conclusion, 14.

CHAPTER XXVI.

CHIEF JUSTICES FROM LORD HOLT TILL THE APPOINTMENT OF SIR DUDLEY RYDER.

SIR THOMAS PARKER, afterwards Earl of Macclesfield, Chief Justice, 15. His Life already written, 16. Vacancy in the Office of Chief Justice of the King's Bench on his Promotion to be Chancellor, 17. SIR JOHN PRATT Chief Justice, 17. His Origin and Progress at the Bar, 17. He is made a Puisne Judge, 18. Chief Justice of the King's Bench, 19. His most celebrated Judgment, 19. His Doctrine of Suspension overturned, 20. Chief Justice Pratt's Conduct in Dr. Bentley's Case, 21. He tries Laver for High Treason, 23. His Opinion respecting the Power of the King in the Marriage and Education of the Royal Family, 25. His Death, 26. LORD RAYMOND, 27. Son of Sir Thomas Raymond, 27. He is called to the Bar, 28. His Eminence as a Reporter, 28. Witchcraft put an end to by the Prosecution of an Impostor, 29. Prosecution of Beau Fielding for Bigamy, 29. Raymond is Counsel for Lindsay the Jacobite, 30. Raymond made Solicitor General by the Tories, 31. Raymond in Opposition, 31. His Speech against the Septennial Bill, 31. He joins the Whigs and is made Attorney General, 33. His Speech for

the Crown in prosecuting Laver, 33. He sinks into a Puisne Judge, 34. He is made Chief Justice of the King's Bench, 36. He is raised to the Peerage, 36. His Doctrine that the Publisher of an obscene Libel may be prosecuted for a Misdemeanor, 37. He settles the Law respecting Murder and Manslaughter, 39. Major Oneby's Case, 39. Liability of a Gaoler for Murder by Neglect, 43. Lord Raymond on the Law of Libel, 47. Lord Raymond's Nisi Prius Decisions, 49. Lord Raymond's Abstinence from Politics, 50. His Opposition to the Bill for conducting Law Proceedings in English, 50. His Death, 51. His Monument, 51. His Epitaph, 52. Panegyric upon him, 53. LORD HARDWICKE Chief Justice of the King's Bench, 53. Difficulty in filling up the Office on his Promotion to be Chancellor, 54. SIR WILLIAM LEE Chief Justice of the King's Bench, 55. His Birth, 56. Prophecy as to the Effect of Plodding and Perseverance, 56. His Passion for Special Pleading, 57. His Victory in a great Settlement Case, 58. He is Counsel in Appeal of Murder, 59. His Dislike of the House of Commons, 59. He is made a Puisne Judge, 59. His Intimacy with Lord Hardwicke, 61. He is made Chief Justice of England, 61. His increasing Popularity, 62. His Judgment in favour of the "Rights of Women," 62. Other important Points decided by him, 63. Trials of the Rebels at St. Margaret's Hill, 64. Colonel Townley's Case, 65. An Execution for High Treason, 66. M'Growther's Case, 66. The Kinlochs' Case, 68. Sir John Wedderburn's Case, 69. Signal Defeat of Chief Justice Lee in a Trial for Libel, 70. Chief Justice Lee Chancellor of the Exchequer, 72. Death of Chief Justice Lee, 73. His Diary and Almanacs, 73. Chief Justice Lee's Greatness in his own Time, 76. His *Eloge* by Sir James Burrow, 76. Chief Justice Lee's MSS., 77.

CHAPTER XXVII.

LIFE OF CHIEF JUSTICE RYDER.

SIR DUDLEY RYDER, 78. His Origin, 78. His Education, 79. He is called to the Bar, 80. He is made Solicitor General, 81. Description of Dublin and the Irish Bar in the beginning of the 18th Century, 82. Irish Judges and Juries, 85. Sir Dudley Ryder is made Attorney General, 85. His Speech for the Bill to disfranchise the City of Edinburgh, 86. His Speech in Support of a Motion in the House of Commons for the summary Punishment of a Libeller, 87. His Speech in Favour of Impressment, 89. His Speech for attainting the Sons of the Pretender, 90. His Speech to prove the Expediency of allowing the Insurance of Enemies' Ships, 93. His Speech on the Regency Bill, 94. His Speech in Support of Lord Hardwicke's Marriage Bill, 95. His Prosecution of Colonel Townley for High Treason, 97. His Speech on the Impeachment of Lord Lovat, 98. Signal Defeat of Mr. Attorney General and of the House of Commons, 100. Irish Porter's Song on "Sir Doodley," 102. Ryder Lord Chief Justice, 103. He is about to be raised to the Peerage, 104. His sudden Death, 105. Letters of Archbishop

Ryder, 105. Expectation that Sir Dudley Ryder's Peerage would be conferred on his Son, 106. Letter on this Subject from the Honourable Charles Yorke, 106. Sir Dudley Ryder's amiable Character in Domestic Life, 108. Letters from him to Lady Ryder, 108. View of Westminster Hall, 109. The Chancellor at Drury Lane, 109. Anniversary of Sir Dudley Ryder's Wedding-Day, 110. Fashionable Gossip, 110. Perils of a married Lawyer when living *en garçon*, 111. How a Lawyer may account for a Headache got by taking too much wine, 112. Departure of the Family Coach for Bath to bring back Lady Ryder, 112. Sir Dudley's Joy at her Approach, 113. His Descendants, 114.

CHAPTER XXVIII.

LIFE OF CHIEF JUSTICE WILLES.

Two Chief Justices of the Common Pleas, 115. Origin of the WILLES's, 115. Sir John's Early Career, 116. He enters Parliament, and is made a Welsh Judge, 116. Subsequent disappointments, 117. He becomes Attorney General, 118. His Speech against the Repeal of the Septennial Act, 118. He is made Chief Justice of the Common Pleas, 120. His Disappointment on the Death of Lord Chancellor Talbot, 120. His Intrigues with Lord Carteret, 121. He is made First Lord Commissioner of the Great Seal, 122. He loses the Chancellorship by his own Mismanagement, 123. Scene between Sir John Willes and Sir Robert Henley, 125. Sir John Willes broken-hearted, 126. Death of Sir John Willes, 126. His Judicial Decisions, 126. His Conduct on the Trial of Elizabeth Canning, 128. His Private Life, 129. His Descendants, 129.

CHAPTER XXIX.

LIFE OF CHIEF JUSTICE WILMOT.

Singular Characteristic of Lord Chief Justice WILMOT, 131. His Birth and Education, 131. Johnson and Garrick his Schoolfellows, 132. He is called to the Bar, 133. His Dread of being known or employed, 133. He becomes "Devil" to the Attorney General, 134. He refuses a Silk Gown, the Appointment of King's Serjeant, and a Seat in Parliament, 134. He is Counsel for the Defendant in a *Crim. Con.* Cause, 135. He retires into the Country as a provincial Counsel, 136. He is appointed a Puisne Judge of the King's Bench, 137. He is a Commissioner of the Great Seal, 139. His first Refusal to be Chancellor, 140. His Escape at the Worcester Assizes, 140. Offer made to him to become Chief Justice of the Common Pleas, 141. Letter from his Brother to persuade him to accept, 142. How he became a Chief Justice by Duress, 143. Letter of Congratulation from Mr. Justice Yates, 143. From Judge Blackstone, 144. He again refuses the Great Seal, 145. He resigns Justiceship, 145. Wilmot in Retirement, 146. His Death, 147. His Judicial

Character, 147. Actionable to state in Writing that a Person has the Itch, 148. Meaning, in a Policy, of "usurped Power," 148. Qu. whether an Action lies by a Lady against a Gentleman on a Covenant to marry no one but her, 150. Power of the Solicitor General when the Office of Attorney General is vacant, 151. Power of the Superior Courts to punish Contempts, 152. Satire on Chief Justice Wilmot by Horace Walpole, 153. Character of Chief Justice Wilmot by his Son, 153. Censure on his Want of Ambition, 155.

CHAPTER XXX.

LIFE OF LORD MANSFIELD FROM HIS BIRTH TILL HE WAS CALLED TO THE BAR.

Qu. how far LORD MANSFIELD's Career a fit Subject for Biography? 157. Sources of Interest to the Author of this Memoir in composing it, 159. Lord Mansfield's illustrious Descent, 159. Founder of the Stormont-Murrays, 160. David, 1st Viscount Stormont, 160. 5th Viscount Stormont, 162. Birth of William Murray, afterwards Earl of Mansfield, 163. Refutation of the oft-told Tale that he was removed to England in his Infancy, 163. Words which he could never learn to pronounce like an Englishman, 164. Fable of his having been educated at Lichfield, 164. Willie Murray at Perth School, 165. Items in Family Accounts for Books, &c., for him while he was a Schoolboy, 167. Deliberations respecting his further Education and his Profession, 168. His Brother James created by the Pretender Earl of Dunbar, 168. He advises that Willie should be sent to Westminster, 169. Willie to ride thither on a Pony, 170. He bids Adieu to his Native Country, 170. His Journey, 171. His Arrival in London, 172. Received and taken care of by a Scotch Apothecary, 172. Items of Disbursements for him, 173. William Murray at Westminster, 173. Letter from the kind Apothecary to his Mother respecting him, 174. Anecdote of him while at Westminster, 175. He is elected a Scholar of Christ Church, and goes to Oxford, 176. His Destination changed from the Church to the Bar, 177. Assistance afforded him by the first Lord Foley, 178. While at Oxford he is entered of Lincoln's Inn, 178. His Studies at Oxford, 179. He devotes himself to the Art of Oratory, 180. His Latin Essay criticising Demosthenes, 180. He gains the Latin Prize Poem on the Death of George I., 183. Origin of the Rivalry between him and the elder Pitt, 185. Murray at Lincoln's Inn, 185. He attends a Debating Society, 188. He "drinks Champagne with the Wits," 189. His Intimacy with Pope, 189. His Excursion to France and Italy, 191. He is called to the Bar, 191. His Accomplishments as an Advocate, 192.

CHAPTER XXXI.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL HE WAS
MADE SOLICITOR GENERAL AND ENTERED THE HOUSE OF COMMONS.

At first without Business, 193. His Attachment to his Profession, 193. He takes Chambers in King's Bench Walk, where he is visited by Pope, 194. His Letters "on the Study of Ancient and Modern History," 195. He prospers at the Bar of the House of Lords, 196. He is Counsel against the Bill for Disfranchising the City of Edinburgh for the Murder of Captain Porteus, 199. He is crossed in Love, 201. Comforted by Pope, 201. Cured by Business, 203. He is placed at the Head of the Bar by his Speech in a *Crim. Con.* Cause, 203. No Truth in the vulgar Story of his being suddenly required to speak on his Leader being taken ill, 203. Sarah, Duchess of Marlborough, his Client, 205. He appears at the Bar of the House of Commons on the Petition for a War with Spain, 206. His Marriage, 207. After the Fall of Sir Robert Walpole he attaches himself to the Pelhams, 209. He is made Solicitor General, 209. His Private Life, 211. His friendly Letter to Booth the Conveyancer, 211. Letters from him to Lord Milton, the Scotch Judge, 212. Regret of Pope that Murray had abandoned the Muses for Law and Politics, 214. Verses written by Pope in Murray's Chambers, 215. Their last Meeting, 215.

CHAPTER XXXII.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL HE WAS
MADE ATTORNEY GENERAL.

Murray's brilliant Success in the House of Commons, 217. Pitt his Rival, 217. Murray's Speech on the employment of Hanoverian Troops, 219. Murray the Prop of the Administration in the House of Commons, 220. Rebellion of 1745, 222. Suspension of the Habeas Corpus Act, 223. Murray prosecutes the rebel Lords, 224. Trial of Lord Balmerino, 224. Trial of Lord Lovat, 226. Lord Lovat's Compliment to Mr. Murray, 229. Libels upon him indiscreetly answered, 230. Murray an ultra Free Trader, 231. His Speech in Defence of the Treaty of Aix-la-Chapelle, 233. Interval of Quiet to Murray in the House of Commons while Pitt was in Office, 234. Death of Frederick, Prince of Wales, 234. The Regency Bill, 235. Charge against Murray that he drank the Health of the Pretender, 236. Hearing of the Charge before the Privy Council, 240. Murray's Speech in his own Defence, 241. He is acquitted, but suspected, 242. Pitt's Attack upon him as a Jacobite, 243. Murray's celebrated Vindication of our Naval Rights, 244. His Private Life, 245. His Enjoyment of Lassitude, 246. His Patronage of Blackstone, 246. Death of Mr. Pelham, 248. Murray declines the situation of Prime Minister, 248. Duke of Newcastle Prime Minister, 249. Murray Attorney General, 249.

CHAPTER XXXIII.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL HE WAS
MADE LORD CHIEF JUSTICE OF THE KING'S BENCH.

Murray refuses the Rolls, 251. Passages of Arms between Murray and Pitt, 251. Letter to Lord Milton announcing his Appointment as Lord Justice Clerk, 254. Disagreeable and apparently desperate Position in which Murray found himself, 254. Sudden Death of Sir Dudley Ryder, 255. Murray claims the office of Chief Justice of the King's Bench, 255. Vain efforts of the Duke of Newcastle to induce him to remain in the House of Commons, 255. Murray Chief Justice of the King's Bench, 258. The Appointment generally approved of, 259. His Farewell Address on taking leave of Lincoln's Inn, 260.

CHAPTER XXXIV.

VIEW OF LORD MANSFIELD'S JUDICIAL CHARACTER AND OF HIS
DECISIONS.

He takes his Seat in the Court of King's Bench, 263. Necessity for a Review of Lord Mansfield's Judgments, 263. Was he a great Judge? 264. His unparalleled Ascendancy in Westminster Hall, 265. His passionate Love of the Duties of a Judge, 268. Reforms of Procedure introduced by him, 269. Improvements, founded on Principle, which he contemplated, 274. Panegyric upon Lord Mansfield by Buller, 276. His Treatment of the Law of Insurance, 278. Bills of Exchange, 280. Right to Freight, 281. Employment of "Puffers" at an Auction, 282. His Colonial Law, 283. *Campbell v. Hall*, 283. Legality of Ransom Bills, 286. Remedy against the Governor of a Foreign Possession, 287. *Fabrigas v. Mostyn*, 287. Lord Mansfield's Respect for the Jurisdiction of other Courts, 289. Right to Wreck, 291. *Somerset's Case*: a Slave becomes free in England, 291. Legality of Pressing Seamen, 293. Wagers, 293. On the Result of an Appeal to the House of Lords, 294. Two Heirs "running their Fathers," 294. On the Sex of the Chevalier D'Eon, 296. Conspiracy to corrupt a young Female indictable, 298. *Lord Grosvenor v. Duke of Cumberland*, 299. Literary Property, 301. Lord Mansfield's Decisions on the Law of Evidence, 304. Famous Case of *Perrin v. Blake*, 305. Controversy respecting the contradictory Opinions given by Lord Mansfield, 309. Charge of Junius against Lord Mansfield for trying to subvert the Common Law, 313. Censure of him by Lord Redesdale, 313. Vindication of Lord Mansfield, 314. His supposed Preference for the Civil Law, 314. His supposed Neglect of established Forms and former Decisions, 314. His supposed Confounding of Legal and Equitable Jurisdiction, 315. His real Love for Common-Law Modes of Proceeding, 319. Lord Mansfield as a Criminal Judge, 320. Lord Mansfield's Merits in deciding Scotch Appeals in the House of Lords, 321. The Douglas Cause; Explanation of Lord Mansfield's bad Speech upon it, 321.

CHAPTER XXXV.

CONTINUATION OF THE LIFE OF LORD MANSFIELD FROM HIS BEING
MADE CHIEF JUSTICE TILL THE ACCESSION OF GEORGE III.

Offer to Lord Mansfield of the Great Seal, 323. He takes his Seat in the House of Peers, 324. His Maiden Speech there, 325. Lord Mansfield Chancellor of the Exchequer, 326. Intrigues for the Formation of a new Ministry, 326. Lord Chatham's first Government, 328. Lord Mansfield again refuses the Great Seal, 328. He is a Member of the Cabinet, 328. He throws out the Habeas Corpus Amendment Bill, 331. Trial of De Hensey for High Treason, 332. End of the reign of George II., 333.

CHAPTER XXXVI.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL THE DIS-
APPEARANCE OF JUNIUS.

Accession of George III., 335. Lord Mansfield reappointed Chief Justice, 335. Liaison between Lord Mansfield and Lord Bute, 336. Resignation of Lord Chatham, 336. Prudent Advice given by Lord Mansfield to Lord Bute, 337. Rumour that Lord Mansfield wished to be Chancellor, 337. Lord Bute's Differences with Lord Mansfield, and subsequent Imprudence, 339. Lord Bute resigns, 340. Lord Mansfield continues a Member of the Cabinet, 340. General Warrants, 341. Wilkes's Outlawry, 342. Lord Mansfield's Judgment reversing the Outlawry, 344. Lord Mansfield retires from the Cabinet, 347. Disputes with America, 347. Lord Mansfield again refuses the Great Seal, 350. Question respecting the Middlesex Election, 351. Lord Chatham's Attack on Lord Mansfield, 352. Lord Mansfield quails under the Infliction, 354. Lord Chatham's Blunder about "an Action for Damages against the House of Commons," 355. Lord Mansfield's Speech against Lord Chatham's Bill to reverse the Decision of the House of Commons in the Middlesex Election Case, 357. Junius's Letter to the King, 358. *Rex v. Almon*, 359. *Rex v. Woodfall*, 360. *Rex v. Miller*, 362. Junius's first Letter to Lord Mansfield, 364. Attacks upon Lord Mansfield in Parliament, 367. His successful Defence of himself, 368. Lord Mansfield's subsequent Indiscretion and Cowardice in his Contest with Lord Camden, 370. Lord Mansfield gives the Great Seal to Lord Bathurst, 373. New Attacks on Lord Mansfield by Junius, 374. Junius at last silenced, 376.

CHAPTER XXXVII.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL THE DEATH
OF LORD CHATHAM.

Lord Mansfield visits Paris, 377. Progress of the Disputes with America, 378. Lord Mansfield's Speech for a vigorous Prosecution of the War, 379. Specimen of the Manners of the House of Lords in

the Reign of George III., 380. Supposed Consequences of the Independence of America, 383. Trial of the Duchess of Kingston for Bigamy, 384. Lord Mansfield created an Earl, 385. Trial of John Horne Tooke for a Libel, 387. Disasters in America, 388. Death of Lord Chatham, 390. Lord Mansfield's Behaviour on this Occasion, 390.

CHAPTER XXXVIII.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL THE CONCLUSION OF THE TRIAL OF LORD GEORGE GORDON.

Decline of Lord Mansfield's Political Importance after the Death of Lord Chatham, 394. He recommends a Coalition of Parties, 395. Lord George Gordon's Riots, 396. Lord Mansfield's Love of Religious Toleration, 396. Remedy to Dissenting Ministers, 396. Evidence of a Quaker admitted in an Action for Bribery, 397. A Dissenter not liable to a Penalty for not accepting an Office requiring Conformity to the Established Church, 398. Acquittal of a Roman Catholic Priest charged with the Crime of saying Mass, 400. Bill to mitigate the Penal Laws against Catholics, 401. Anti-Popery Riots and Petitions, 402. Violent Speech of Lord George Gordon in the House of Commons, 402. Monster Petition from the Protestant Association to the House of Commons, 403. Meeting in St. George's Fields, 403. Assault on the Peers, 404. Great courage displayed by Lord Mansfield, 406. He is deserted by all his Brother Peers, 408. He gets home in Safety, 409. His House is burnt down by the Mob, 411. Stanzas by Cowper on the Burning of Lord Mansfield's Library, 412. The Riots are at last quelled, 414. Lord Mansfield's Speech vindicating the Employment of the Military for that purpose, 415. He presides at the Trial of Lord George Gordon, 419. Erskine's Allusion to the Burning of Lord Mansfield's House, 420. Lord Mansfield's Exposition of the Law of High Treason, 420. Lord George Gordon is acquitted, 421.

CHAPTER XXXIX.

CONTINUATION OF THE LIFE OF LORD MANSFIELD TILL HE RESIGNED THE OFFICE OF CHIEF JUSTICE.

Lord Mansfield takes no part in Politics during the Administrations of Lord Rockingham and Lord Shelburne, 422. He joins the Coalition, 424. Fox's India Bill in the House of Lords, 425. Mr. Pitt Prime Minister, 426. Lord Mansfield's last Speech in Parliament, 427. Close of Lord Mansfield's Political Career, 429. Dean of St. Asaph's Case: Rights of Juries in Cases of Libel, 430. Progress of Opinion respecting the Law of Libel, 434. Action by Mr. Pitt for a Libel accusing him of gambling in the Funds, 436. Lord Mansfield's Visit to Tunbridge Wells, 437. Interview between Lord Mansfield and Lord George Sackville, 438. Lord Mansfield, unable to sit in Court, retains his Office, 440. He resigns the Office of Chief Justice, 441. Address to him by the King's Bench Bar, 442. His Answer, 442.

LIVES

OF THE

CHIEF JUSTICES OF ENGLAND.

CHAPTER XXV.

CONCLUSION OF THE LIFE OF LORD CHIEF JUSTICE HOLT.

HOLT survived this controversy nearly five years, and continued to discharge his judicial duties with undiminished ability and credit; but no other case of great permanent interest arose before him, and he was not in any way mixed up with the important political events which render the latter portion of the reign of Queen Anne so interesting. He adhered steadily to the Whig party, without incurring the slightest suspicion of partiality while presiding on the bench, and he steered clear of all the intrigues by which they rose or fell. From his manly good sense, he must have sadly lamented their imprudent impeachment of Sacheverell; but he was snatched away before their ruin was consummated by this irreparable blunder. Having been summoned to attend the trial with the other Judges in the House of Lords,—when it was about to commence he was

Remainder
of Holt's
judicial
career.

A.D. 1710.

struck with a mortal disorder. The last day that he ever sat in court was the 9th of February, 1710, and at three o'clock in the afternoon of the 5th day of March

His death. following he expired, at his house in Bedford Row*, in the sixty-eighth year of his age.

Notwithstanding the factious excitement which then prevailed, the death of this great magistrate produced a deep sensation in the public mind, and the regret of the Tories was embittered by seeing his office given as a reward for the violence with which Serjeant Parker had assailed Dr. Sacheverell and high-church principles. Both parties united in showing respect for the memory

His funeral. of the departed Chief Justice. The interment was to take place at Redgrave, in Suffolk; and not only all the heads of the law, with the barristers and students, but the principal nobility and gentry in London, of all shades of political opinion, attended the funeral procession several miles from the metropolis. The admirers of Sacheverell asserted that if Lord Chief Justice Holt's life had been spared, and he had attended the pending trial, he who had boldly withstood either House of Parliament would have lifted up his voice against this iniquitous prosecution, and declared that the champion of the Church had done nothing worthy of death or of bonds; while the Whigs retorted, that a solemn proceeding instituted to vindicate the principles of the Revolution would have been warmly countenanced by him who had resisted the tyranny of James II., who had been a distinguished member of the Convention Parliament, whose arguments had mainly contributed to the vote that *the throne was vacant*, and who, during his long career, had never swerved from the true principles of civil and religious liberty.†

* Then called Bedford Walk. See 2 Lord Raym. 1389.

† This seems to have been an anticipation of the contest between Whigs

After reaching Highgate, the hearse was accompanied only by the brother of the deceased and a few private friends till it approached the place of its destination, when it was met by an immense assemblage from the surrounding country. The manor of Redgrave is famous in our judicial annals. It had belonged to Lord Keeper Sir Nicholas Bacon; and here he had entertained Queen Elizabeth—when, in answer to her observation that “his house was rather too small for him,” he replied, “Your Majesty has made me too great for my house,” From the family of the Bacons it had been purchased by Chief Justice Holt, and here he spent his vacations as a private gentleman, mixing familiarly with all ranks, and particularly with the more humble. All the inhabitants of this and the adjoining parishes, as if by one of impulse, were now congregated to do honour to him whose face they were to see no more, but whose virtues they were to talk of to their children’s children. They cared little about his political conduct, but they had heard, and they believed, that he was the greatest Judge that had appeared on the earth since the time of Daniel, and they knew that he was condescending, kind-hearted, and charitable. We are told that as the body was lowered into the grave prepared for it, in the chancel of the church at Redgrave, not a dry eye was to be seen, and the rustic lamentations there uttered eloquently spoke his praise.

There is now to be admired a magnificent monument of white marble, which his brother erected <sup>His monu-
ment.</sup> over his grave at a cost of 1500*l.*, representing him in his judicial robes under a canopy of state, seated

and Tories three years later, when the tragedy of CATO was brought upon the stage. “The Whigs applauded every line in which liberty was mentioned, as

a satire on the Tories; and the Tories echoed every clap, to show that the satire was unfelt.”

between emblematical figures of JUSTICE and MERCY, with the following inscription :—

“ M. S.
Johannis Holt Equitis Aur.^o
Totius Angliæ in banco regio
Per xxi. annos continuos
Capitalis Justiciarii
Gulielmo Regi, Annæ Reginae
Consiliarii perpetui,
Libertatis ac legum Anglicarum
Assertoris, Vindicis, Custodis
Vigilis, acris, et intrepidi.
Rolandus frater unicus et hæres
Optime de se merito
Posuit.” *

This praise is certainly well deserved. I should have been glad if the epitaph could have truly added that he was an elegant scholar, an enlightened philosopher, a splendid orator, or a distinguished writer. Agreeing with Speaker Onslow, that “he was not of very enlarged notions,” I would not add, “the *better judge*, whose business it is to keep strictly to the plain and known rules of law.” According to a pithy expression which I have several times heard from the late Daniel O’Connell, “a judge must be a downright *tradesman*,” meaning “the first and indispensable qualification of a judge is that he should thoroughly understand his profession ;” and, if he is at all induced to neglect his judicial duties by the allurements of literature and science, or the dangerous ambition of *universality*, it would be much better that he had taste for nothing more refined than the YEAR-BOOKS. But there is no absolute incompatibility between the profoundest knowledge of jurisprudence and any degree of culture and accomplishment. We can conceive that Holt, like Somers, might have been President of the Royal Society, and a member of the Kit-Cat Club. But he seems to have been wholly unacquainted with the

Holt’s want
of literature
and science.

* Biographia Brit.

philosophers and wits who illustrated the reigns of King William and Queen Anne; and Steele, who celebrates him in the *TATLER*, evidently speaks of VERUS only as an idol whom he had seen and worshipped from a distance. We are left to conjecture as to his habits; but he must have had benchers and serjeants-at-law for his companions, and his talk must have been of "contingent remainders." Yet he is the first man for a "mere lawyer" to be found in our annals. Within his own sphere he shone with unrivalled brightness. Perhaps he was carried too far by his admiration of the common law of England, as when he declared that an appeal of murder sued by the heir of the deceased, to be tried by battle, and excluding the Crown's power of pardon, instead of being an odious prosecution and a remnant of barbarism, was "a noble remedy, and a badge of the rights and privileges of an Englishman." * His head, likewise, seems to have been a little turned by the applause he received for his independence, inasmuch that he told Mr. Raymond (afterwards Lord Raymond, and his successor) that if the House of Lords had determined against him in a case of *Prohibition* which was clearly within their jurisdiction, he would not have held himself bound by their judgment: † but, generally speaking, he is to be considered a consummate jurist; above all prejudice; misled by no predilection; seeing what the law ought to be, as well as what it was supposed to be; giving precedent its just weight, and no more; able to adapt established principles to the new exigencies of social life; and making us prefer judge-made law to the crude enactments of the legislature.

He had the merit of effectually repealing the acts against witchcraft, although they nominally continued

* *Sarah Stout's Case*, 1 Lord Raym. 557; 12 Mod. 373, 375.

† 1 Lord Raym. 545.

on the statute book to a succeeding reign. Eleven poor creatures were successively tried before him for this supposed crime, and the prosecutions were supported by the accustomed evidence of long fasting, vomiting pins and tenpenny nails, secret teats sucked by imps, devil's marks, and cures by the sign of the cross or drawing blood from the sorceress—which had misled Sir Matthew Hale: but, by Holt's good sense and tact, in every instance the imposture was detected to the satisfaction of the jury, and there was an acquittal. One of the strongest *prima facie* cases made out before him was said to have been that against the woman to whom, many years before, he himself had pretended to be a wizard, and to whom he had given the cabalistic charm which was adduced as the chief proof of her guilt.* At last the Chief Justice effectually accomplished his object by directing that a prosecutor who pretended that he had been bewitched should himself be indicted as an impostor and a cheat.

This fellow had sworn that a spell cast upon him had taken away from him the power of swallowing, and that he had fasted for ten weeks; but the manner in which he had secretly received nourishment was clearly proved. He, nevertheless, made a stout defence, and numerous witnesses deposed to his expectoration of pins and his abhorrence of victuals, all which they ascribed to the malignant influence of the witch. The Judge, having extracted from a pretended believer in him the answer that "all the devils in hell could not have helped him to fast so long," and having proved, by cross-examining another witness, that he had a large stock of pins in his pocket, from which those supposed to be vomited were taken, summed up with great acuteness, and left it to the jury to say, not whether the defendant was bewitched, but whether he was *non*

* Ante, p. 121.

compos mentis, or was fully aware of the knavery he was committing, and knowingly wished to impose on mankind? The jury found a verdict of *guilty*, and, the impostor standing in the pillory to the satisfaction of the whole country, no female was ever after in danger of being hanged or burned in England for being old, wrinkled, and paralytic.*

Holt's conduct on this occasion will appear the more meritorious if we consider that he ran great risk of being denounced as an atheist; and that, to avoid this peril, preceding Judges, who were not believers in witchcraft, had pandered to the prejudices of the vulgar. Says Roger North, "If a judge is so clear and open as to declare against that impious vulgar opinion that the Devil himself has power to torment and kill innocent children, or that he is pleased to divert himself with the good people's cheese, butter, pigs, and geese, and the like errors of the ignorant and foolish rabble, the countrymen cry, 'This judge hath no religion, for he doth not believe witches;' and so, to show they have some, *hang the poor wretches*." †

Holt seems to have had a high reputation among his contemporaries for detecting false pretences of all sorts, and exposing those who put on an aspect of extraordinary sanctity. There existed in his time a "society for the suppression of vice," composed of men who sought to cover their own bad characters and pernicious habits by affecting to put the law in force against others less culpable than themselves. Said Steele, describing the Chief Justice as VERUS, "He never searched after vice, nor spared it when it came before him; at the same time, he could see through the hypocrisy and disguise of those who have no pretence to virtue themselves, but by their severity to the

He exposes
hypocritical
pretenders to
extraordi-
nary virtue.

* 14 St. Tr. 639-695.

† Life of Guilford, i. 251.