

OUR UNPAID MAGISTRACY.

recommending the investment of the Reserve Funds of the Society in Government securities was adopted.

The Treasurer laid before Convocation a letter from Robert G. Dalton, Esq., Clerk of the Crown and Pleas, Queen's Bench, dated 15th June, 1878, enclosing a Rule in the matter of the Hon. J. G. Currie, one of the Attorneys of the said Court of Queen's Bench, which Rule was made absolute on the 7th June, A. D. 1878.

Salter J. Vankoughnet, Esq. was appointed Reporter of the Court of Queen's Bench.

SELECTIONS.

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In these days we are by no means in danger of setting too great store upon the "Wisdom of our Ancestors." The phrase itself, from an undue and foolish employment of it in the last generation, has been ridiculed in this; and we are much more likely in these days to fall into the error of denying due credit to the sagacity of our forefathers. If ancient institutions have become unsuited to modern requirements and modes of thought, it may be that this is owing in some cases not so much to the intrinsic crudeness of the institutions themselves, or to the quickened intelligence of a more enlightened age, as to a misconception of the designs of our ancestors and a neglect of the precautions which they were careful to observe.

If is often quoted as a great anomaly and even a great abuse in our elaborate civilization, that so large and important a share in the administration of justice should be confided to men of no legal training, and whose only qualification for the exercise of judicial functions is the possession of a certain social status. Coke speaks of the jurisdiction of Justices of the Peace as "such a form of subordinate government for the tranquillity and quiet of the realm as no part of the Christian world hath the like." And it would still be difficult to find a counterpart to this emphatically English institution. Year after year the Press is full of complaints of the incompetency of the "Great Unpaid," and yet year by year fresh judicial duties are imposed upon them. Large towns have found refuge from the ignorance of amateur tribunals in securing the services of trained

lawyers as "Stipendiary Magistrates," and the Court of Quarter Sessions has been rendered to a great extent innocuous by the prevailing influence of the Recorder. But an enormous mass of judicial business is every day transacted by men who, ignorant of the elements of law, are almost at the mercy of noisy and unscrupulous solicitors. Making all allowance for misstatements and exaggerations, no one, who knows anything of the administration of the law in England, can doubt that serious miscarriages of justice are very frequent in our inferior tribunals. The main argument indeed in favour of the existing treatment is its cheapness. The work may be ill done, but it is done for nothing. And the general substitution of Stipendiary Magistrates for the ordinary Justice of the Peace would involve a heavy burden on the rates.

It is perhaps worth while to refer back to the origin of the commission of the peace, and observe how our legislators of five hundred years ago took pains to secure a magistracy at once trained and gratuitous.

Justices of the Peace were first appointed at the beginning of the reign of Edward the Third. The "Conservators of the Peace," who existed previously to that time do not appear to have exercised functions of a judicial nature. What should constitute the qualifications for the new office, early became a matter of legislative solicitude. A Statute passed in the eighteenth year of the reign of Edward the Third, says:—"Two or three of the best of reputation in the counties shall be assigned Keepers of the Peace by the King's Commission; and at what time need shall be, the same, with *other wise and learned in the law*, shall be assigned by the King's Commission to hear and determine felonies, &c." Whatever may have been its precise meaning, this Act does not appear to have been carried out very successfully; for three years later we find the Commons charged to advise the King what was the best way of keeping the peace of the kingdom; and they thereupon recommended that six persons in every county, of whom two should be "*de plus grantz*," two knights, and *two men of the law*, and so more or less as need should require, should have power and Commission out of Chancery to hear and determine the keeping of the peace. No further statute, however, seems to have been passed upon the subject, until the 34 Edward III., c. 1., which enacts that, "In every county of England shall be assigned for the keeping of the peace one lord, and with him three or four of the most worthy in the same county, *with some learned in the law*." Again, in the thirteenth year of Richard II., we find a similar provision: "Justices of the Peace shall be made of new