2nd and 3rd Edward VI. Takes from horse-dealers the benefit of their clergy.

And the statutes of the 27th and 32nd of Henry VIII. condescend so far as to take care of their very breed; these our wise ancestors prudently forseeing that they could not better take care of their own posterity than by also taking care of that of their horses.

And of so great esteem are horses in the eye of the common law, that when a knight of the Bath committeth any great and enormous crime, his punishment is to have his spurs chopped off with a cleaver, being, as Master Bracton well observeth, unworthy to ride on a horse.

Littleton, section 315, saith:—

"If tenants in common make a lease reserving for rent a horse, they shall have but one assize, because saith the book, the law will not suffer a horse to be severed."

Another argument of what high estimation the law maketh of a horse!

But as the great difference seemeth not to be so much touching the substantial part, horses, let us proceed to the formal or descriptive part, viz., what horses they are that come within this bequest.

Colors are commonly of various kinds and different sorts; of which white and black are the two extremes, and, consequently, comprehend within them all other colors whatsoever.

By a bequest, therefore, of black and white horses, gray or pied horses may well pass; for when two extremes or remotest ends of anything are devised the law, by common intendment, will intend whatsoever is contained between them to be devised too.

But the present case is still stronger, coming not only within the intendment but also the very letter of the words.

By the word black, all the horses that are black are devised; by the word white, are devised those that are white; and by the same word, with the conjunction copulative and, between them, the horses that are black and white, that is to say, pied, are devised also.

Whatever is black and white is pied, and whatever is pied is black and white; ergo, black and white is pied, and, vice versa, pied is black and white.

If therefore black and white horses are devised, pied horses shall pass by such devise; but black and white horses are devised; ergo, the plaintiff shall have pied horses.

Catlyne, Serjeant,—

Moy semble al' contrary, the plaintiff shall not have the pied horses by intendment; for if by the devise of black and white horses, not only black and white horses, but horses of any color between these two extremes may pass, then not only pied and gray horses, but also red and bay horses would pass likewise, which would be absurd, and against reason. And this is another strong argument in law—*Nihil, quod est contra rationem, est licitum;* for reason is the life of the law, nay the common law is nothing but reason; which is to be understood of artificial perfection and reason gotten by long study, and not of man's natural reason; for *nemo mascitur artifex*, and legal reason *est summa ratio;* and therefore if all the reason that is dispersed into so many different heads were united into one, he could not make such a law as the law of England; because by many successions of ages it has been tried and retried by grave and learned men! so that the old rule may be verified in it,—*Neminem oportet esse legibus sapientiomer.*

As therefore pied horses do not come within the intendment of the bequest, so neither do they within the letter of the words.

A pied horse is not a white horse neither is a pied a black horse; how then can pied horses come under the words of black and white horses?

Besides, where custom hath adapted a certain determinate name to any one thing, in all devises, feofments and grants, that certain name shall be made use of, and no uncertain circumlocutory descriptions shall be allowed; for certainty is the father of right and the mother of justice.

Le reste del argument jeo ne pouvois oyer, car jeo fui disturb en mon place.

Le court fait longement en doubt' de c'est matter, et apres grand deliberation eu.

Judgment fuit donne pour le pl. *nisi causa.*

Motion in arrest of judgment that the pied horses were mares; and thereupon an inspection was prayed.

Et sur ceo le court advisare vult.

TESTIMONY OF PARTIES IN CRIMINAL PROSECUTIONS.

Mr. Chief Justice Appleton, of Maine, under date of February 22nd, 1865, wrote a letter to the Hon. D. E. Ware, of Boston, which appeared in the *Register* of August following, wherein he states that the Legislature of Maine, in 1859, passed an act, by which any respondent in any criminal prosecution for "libel, nuisance, simple assault, and assault and battery," might, by offering himself as a witness, be admitted to testify; and that, in 1863, the law as to admission of testimony was further extended, and it was enacted that, "in the trial of any indictments, complaints and other proceedings against persons charged with the commission of crimes or offences, the person so charged shall, at his own request, and not otherwise, be deemed a competent witness—the credit to be given to his testimony being left solely to the jury, under the instructions of the court."

Chief Justice Appleton also wrote a second letter, bearing date the 24th February, 1866, to John Q. Adams, Esq., Chairman of the Committee on the Judiciary of Massachusetts (*vide Law Register* for October last), wherein he gives his views at length upon the change in criminal evidence, and argues with much legal acumen and plausibility the justice of the new law in his State. The opinion emanating