

CHAP. IV, § 3. THE ORIGINES OF THE JURIST UNIVERSITIES.

§ 3.

The Anti-
quarian
bias.

THE passion for ascribing an immemorial antiquity to the place of one's education, which has hardly yet been killed by the progress of historical criticism, is a passion of very early growth in the history of the human mind. In the Middle Ages, indeed, men found it difficult to believe that an institution which had existed since a time 'whereof the memory of man goeth not to the contrary,' had not existed from the remotest antiquity. When once the Universities had sprung up it was found impossible to picture to the historical imagination a state of things in which there were no Universities. Another inveterate prejudice of the human mind is the disposition to ascribe the origination of a great institution to a great man. Greek cities ascribed their origin to an eponymous hero; and, if tradition did not supply them with a name for him, they invented one. The medieval scholar, accustomed by the later practice to associate the origin of a University with a Charter of Foundation, was driven to postulate such a foundation where history recorded it not, and if the Charter was not to hand, he forged one.

The Theo-
dosian
legend.

By the thirteenth century, and probably early in that century¹, this familiar logical process had resulted in

¹ The deeds are printed—one by Ughelli, *Italia Sacra* (1717), II. p. 9, the other by Muratori, *Ant.* III. c. 21. In these documents the authority of the Archdeacon over the Inceptions, first entrusted to that official in 1219 (see below, p. 223), is enforced as though it were still by no means beyond the reach of attack. The growth of this monstrous legend is elaborately traced by Chiapelli (cap.

1). The *ἀναρχία* of the Theodosian legend seems to be an older tradition as to the foundation of the City by Theodosius I or Theodosius II. In 1306 the Papal Legate Ancaldo was petitioned to confirm the Theodosian privilege: the Legate replied that he must first see the Privilege. Ghirardacci, I. p. 525. The forgeries were then already in existence.

a legend which attributed the foundation of the University of Bologna to Theodosius II and in the concoction of a Charter of Foundation by that monarch bearing date 433 A. D. Unfortunately for the success of this patriotic effort, the zeal of the forgers somewhat overshot the mark. Two distinct Charters were produced, both purporting to be issued by the same Emperor in the same year. Possibly in consequence of this contretemps, the Theodosian legend has never attained the same popularity or acceptance as the legends which make Charles the Great the Founder of Paris and Alfred the Founder of Oxford, the last of which still maintains a kind of underground existence in University Calendars, in secondary Guide-books, and in popular Histories of England. The early date of the legend is worth noticing as an illustration of the extremely small value which ought to be attached to scholastic traditions of this type even when they are not capable of the same definite historical confirmation which is possible in this case. A further discussion of this and other inconsistent legends or traditions as to the origin of the University would be neither interesting nor instructive. All that is really known as to the origin of the School has been placed before the reader in a preceding section. So far there has been not the faintest trace of any even rudimentary organization similar to that of the later University. Irnerius and his contemporaries, so far as we know, were private and unauthorized teachers; neither they nor their scholars belonged to any institution or enjoyed any legal privilege whatever. (The first legal Charter in which the School receives even an implicit recognition is a Charter of the Emperor Frederick Barbarossa, known as the Authentic *Habita* and issued in 1158 at the Diet of Roncaglia, in which the Doctors of Bologna played a very prominent part.

(This Privilege has often been treated as a kind of Charter, if not as an actual 'foundation,' of the University of Bologna. But though there is no reason to doubt that this legislation was primarily intended for the benefit of the increasingly numerous body of law-students at Bologna, that city is not

CHAP. IV.
53
Privilege of
Frederick I.
1158.

CHAP. IV, expressly mentioned in its provisions, and it is perfectly arbitrary to limit its actual scope to the Schools of that place¹. In any case this document does not recognize the existence of a University whether of Masters or of Students at Bologna or anywhere else. It is a general privilege conferred on the student-class throughout the Lombard Kingdom. This Charter does, however, constitute an important indication of the growing importance and the independent position of the Doctors of Law, and was no doubt procured by the interest of the Bologna Doctors. Its provisions were suggested by the older privilege conferred by Justinian upon the scholars of Berytus². Besides taking the scholars under the especial protection of the Emperor, it provides that in any legal proceedings against a scholar, the defendant is to have the option of being cited before his own Master or before the Bishop³. Attempts were made at

¹ As is done by Savigny (cap. xxi. § 63). This limitation is criticised by Denifle (vol. I. p. 49 sq.), whose view I have adopted. He there examines a story embodied in a Latin poem (partly printed by Giesebrecht ap. *Sitzungsberichte d. Bayer. Akad. d. Wiss. Histor. Klasse*, 1879, II. p. 285), according to which Frederick granted some such privilege to Bologna, on the petition of the Scholars in 1155. He comes to the conclusion that the Charter meant is the Authentic *Habita* itself, some copies of which bear no date, and that the story grew out of the fact of Frederick's having been near Bologna in 1155. It is quite possible that the Privilege was asked for and perhaps granted in 1155, but formally promulgated at the Diet in 1158 (as is suggested by Kaufmann, *Gesch. d. Deutschen Universitäten*, I. p. 164). On the part played by these Bologna Doctors at Roncaglia, see below, p. 259.

² The enforcement of the Emperor's regulations is entrusted at

Constantinople to the Prefect, at Berytus to the *Præses* of the province, the Bishop and the 'legum professores.'

³ 'Coram Domino vel Magistro suo, vel ipsius civitatis Episcopo.'—There has been much needless discussion as to the meaning of 'Dominus,' but there can be no doubt that it is a synonym for 'Magister,' though Malagola (*Monografia*, p. 39) still appears to understand it of the Rector. The use of this title (which was affected only by the Law-professors) shows that the Law-students were primarily in view; though the term Magister would include the teachers of other Faculties. Justinian had entrusted a disciplinary jurisdiction over students and copyists at the Law-school of Berytus to the Professors in conjunction with the *Præses* of the province and the Bishop. But it appears doubtful whether this is extended to ordinary criminal and civil proceedings. See the *Proemium* to the Digest.

times to extend the first of these provisions to the scholars in the other parts of Europe, and in the Italian Universities this pre-University Charter was usually recognized as the basis of all the special privileges conferred on particular Universities by the States in which they were situated. Whatever privileges were afterwards granted to the Universities, whatever jurisdiction was conferred on their Rectors, the jurisdiction of the Bishop and the Professors was usually, at least in theory, maintained. But after the rise of the Universities the scholar was not allowed by their Statutes to decline the jurisdiction of his own Rector. Hence the choice of tribunal practically passed to the plaintiff, and was lost by the defendant scholar¹. The jurisdiction of the Professors was found difficult to enforce, and that of the Bishop remained only in the case of scholars who were also clerks.

While the Authentic in no way recognizes the corporate existence of a College or Guild of Doctors, it does indirectly make it probable that some such Society must have by this time sprung into existence². In the days of Irnerius the teaching office could (so far as can be gathered) be assumed by any one who could get pupils: he required no license or permission from any authority whatever, ecclesiastical, civil, or academical. We can hardly, however, suppose that the Emperor would have conferred important judicial functions upon an independent body of self-constituted teachers like our modern 'Professors' of Music or of Dancing. It is therefore probable that in Italy as in France at least some recognized course of study was demanded by custom before the pupil could become a Master, and that he was required to obtain the approval of the existing body of Masters and

CHAP. IV,
§ 3.

Indications
of a Society
of Masters.

¹ *Stat.* p. 12.

² I cannot understand the ground of Kaufmann's statement that at the time of the Authentic 'Es gab also damals wahrscheinlich schon landmannschaftliche Verbindungen unter den Scholaren' (*Deutsch. Univ.* I. p. 166: cf. p. 184). These 'Verbindungen'

be apparently regards as 'Anfänge von Korporationsbildung' (I. p. 184). It is quite possible that the beginnings of informal Associations may be as early as 1158, but of this there is no evidence—least of all can it be inferred from the *Habita*.

CHAP. IV, to enter upon the teaching office by some public, definite ceremonial, such as the later *Conventus* or Inception. } We may therefore consider it tolerably certain that at least the idea of a co-opting College or corporation of Doctors dates in some shadowy form from before the year 1158; } although the Masters may not yet have proceeded to such definite manifestations of corporate existence as the making of written statutes, and the election of common officers. } The Guild was already in existence, but was merely, so to speak, a customary Society, which existed in fact, though not on paper. { Such an inference is strongly supported by the analogy of Paris, where we have positive evidence of the existence of a customary Guild of Masters, some ten or twenty years later, though it was not till fifty years after that that a single written Statute existed, and not till a still later period that the Guild was sufficiently organized to elect officers or use a common seal. } At Bologna the first express evidence of the existence of such a Society of Masters comes in the year 1215, when we hear of Boncompagni's new book being read before the 'University of Professors of the Civil and Canon Law' } but the whole system of degrees which is known to have been fully established before 1219 implies the existence of such a Society in a rudimentary form at a much earlier date. Taking the degree of Doctor or Master in its earliest form meant simply the being admitted or made free of the Guild of Teachers by receiving from one of its members² the insignia of Mastership.

¹ The *Rhetorica Antiqua* of Boncompagni, who says: 'Recitatus equidem fuit hic liber, approbatus et coronatus lauro Bononiæ apud sanctum Johannem in monte in loco qui dicitur paradus anno domini 1215 septimo Kal. April. coram universitate professorum juris canonici et civilis et aliorum doctorum et scolarium multitudine numerosa.' Ap. Rockinger, *Sitzungsberichte der bay. Akad. zu München*, 1861, p. 135.

The same writer, however, says: 'Tunc amici . . . ad Majorem Ecclesiam deverunt (sic). Et ita fuit Magistrorum et Scholarium Universitas congregata' (ap. Sarti, II. p. 32)—which might be held to indicate that some loose organization of *Masters and Scholars* preceded the formation of the Student-Universities. Cf. below, p. 214.

² It is probable that, originally, any Master might admit any other

In the account of Boncompagni's recitation, to which I have already alluded, the Professors of the Civil and Canon Law are described as forming a single Universitas¹. What were the exact relations between the two classes at this time, we do not know; eventually there were two wholly distinct Colleges—one of Canon and one of Civil Law, each with a Prior and other Officers, and a code of Statutes of its own. It is probable that the College of Canon Law was a later imitation of the Civilian organization. In most other Universities, however, the Doctors of Civil and Canon Law were united in the same College or Faculty, though the degrees were distinct.

CHAP. IV,
§ 3.
Doctors of
Civil and
Canon Law
at first
united.

Two decades later than the Charter of Frederick I, we meet with another official recognition of the Scholars, though it does not distinctly imply the existence of any Academical organization. In 1189 a Bull of Clement III confirms an already existing legatine Ordinance forbidding Masters or scholars to offer to the landlord a higher rent for a house already inhabited by scholars². At a very early date it became customary for the rents to be fixed by arbitrators or taxors, two of them appointed by the scholars, and two by the town. It is difficult to say whether the above-mentioned Bull implies the existence of this system³, but we find a similar system established

Taxation
of Students'
rents.

person to the Mastership, but that this right was controlled by the customs of the Profession. It is possible that this state of things lasted longer in the Arts Schools than in the Schools of Law. Cf. the way in which Rolandinus speaks of his graduation in 1221: 'apud ipsos Bononienses in scientia literali nutritus, in Anno Domini M CC XXI illic a Bonocompagnio meo Domino, et Magistro, natione et eloquentia Florentino, licet indignus, recepi officium Magistratus.' *Lib. Chronicorum*, ap. Muratori SS. T. VIII. c. 314.

¹ It is not implied that the mere use of the term *Universitas* proves the existence of a formal Guild: the

term *Universitas* might be used quite untechnically of any collection of persons: but the passage seems to imply that the Doctors of Law were a recognized class or official body.

² Savioli, II. ii. p. 160. So Decretal. Greg. IX. III. Tit. xviii. c. 1.

³ It is ordered that 'a te frater episcopus et tuo quolibet successore hoc singulis annis in communi audientia Magistrorum atque scholarium recitetur.' This implies that Congregations of some kind were customary, but it also shows a very different relation existing between the Masters and their Scholars from that which we find a century later.

CHAP. IV, in the very infancy of other Universities and it obtained
 § 3- in some schools which never grew into Universities at all.

The Magisterial Guild and the 'Conventus.'

The University of Bologna has already been described as a University of students. And it is quite true that at Bologna it was the Guild or rather Guilds of students which eventually succeeded in getting into their own hands the real control of the Studium in most of those matters which were at Paris settled by the Masters alone. But it cannot be too clearly understood that the Doctors of Bologna, probably at as early a date as the Masters of Paris, formed a Guild or Guilds of their own, and that it was not till a later period than that with which we are now engaged that the control of strictly Academical matters passed to the Universities of students. It was a mere accident that the term University was appropriated by the Student-guild, while the Doctoral Guilds were known as Colleges. The students did no doubt at last succeed in reducing the Masters to an almost incredible servitude. But there remained one function and one only over which the Doctors to the last retained an exclusive control, and it is of the greatest importance that this should be clearly understood. Even the domineering Student-guilds of Bologna left to the Masters the indefeasible right which every professional Guild possessed of examining into the qualifications of candidates for admission to the Profession. The Doctors examined the Candidate, gave him license to 'incept' or give his public probationary discourse, after which, if this further test was satisfactorily passed, he was received into the Collegium of the Doctors of Civil or Canon Law, as the case might be, being presented by an existing member in the presence of the rest with the insignia of his office. Such in its essence was the idea of the 'Conventus,' 'Principium,' or 'Inceptio'—the simple institution which formed the keystone of the whole University constitution. Unless its nature and meaning are thoroughly understood, the whole organization of medieval education will remain an unintelligible enigma. Postponing to a later date a detailed explanation of this part of the

Academic polity, we must now proceed to trace the
origines of the Student-Universities. CHAP. IV,
§ 3.

The Student-University which originated at Bologna forms a wholly new departure in the history of education; the institution is as distinct from anything which preceded it as it is unlike any of the modern institutions which have nevertheless been developed out of it. It is not, however, difficult to explain the genesis of the new creation, if we bear in mind the character of the environment wherein it grew up. We have already contrasted the state of Society in the Lombard towns with that which prevailed in the feudal Monarchies of Europe. We have seen that traditions of education, and of legal education, survived among the noble families of Italy at a time when the French or Norman nobles were inclined to look upon reading and writing as rather effeminate luxuries, fit only for plebeian clerks. It is probable, if we may draw an inference from the state of things which we find established at a later date, that the teaching of Irnerius attracted somewhat older men and men of much greater wealth and social position than the boys who attended the Arts Schools of Paris. Unto the Bologna Lecture-rooms the idea of discipline never entered at all. The associations of the School and of the Cloister were alike absent. The Professor was not originally the officer of any public institution: he was simply a private-adventure Lecturer—like the Sophist of ancient Greece or the Rhetor of ancient Rome—whom a number of independent gentlemen of all ages between seventeen and forty had hired to instruct them. If many of the students were ecclesiastics, they were most of them already beneficed—many of them Archdeacons or dignitaries in Cathedral Churches¹; and they owed no ecclesiastical obedience to their teachers. But even more important than the age and status of the

The Student-University.

¹ The German students were probably more predominantly ecclesiastical than the Italian. In the earlier period laymen predominate even

among the Germans, in the latter period ecclesiastics nearly all holding Canonries or other benefices. See the *Acta Nationis Germanicæ*, passim.

CHAP. IV,
§ 3.
Fostered
by the political and
social environment.

students was the political condition of the city in which Irnerius and his successors taught. The conception of citizenship prevalent in the Italian Republics was much nearer to the old Greek conception than that which prevails in modern States. Citizenship, which is with us little more than an accident of domicile, was in ancient Athens or medieval Bologna an hereditary possession of priceless value. The citizens of one town had, in the absence of express agreement, no civil rights in another. There was one law for the citizen; another, and a much harsher one, for the alien¹. Prolonged exile was a serious penalty, to which a body of young men of good position in their own cities, many of them old enough to be entering upon political life, would naturally submit with reluctance. The Student-Universities represent an attempt on the part of such men to create for themselves an artificial citizenship in place of the natural citizenship which they had temporarily renounced in the pursuit of knowledge or advancement; and the great importance of a Studium to the commercial welfare of the city in which it was situated may explain the ultimate willingness of the Municipalities—though the concession was not made without a struggle—to recognize these Student-communities.

¹ The Town-Statutes eventually provided 'quod scolares sint cives et tanquam cives ipsi habeantur, et pro civibus reputentur, donec scolares fuerint, et res ipsorum tanquam civium defendantur . . . nec possint ipsi tanquam forenses nec eorum res detineri vel molestari occasione represalie concesse contra commune vel civitatem terre vel castri, vel banni dictis terris castris vel civitatibus dati, vel alicuius debiti pecuniarii.' *Stat.* p. 16a. It is of course certain that no political rights whatever were conferred upon students: the provision that they should be treated as citizens was necessary to

secure them the ordinary protection of the law. Scholars who had resided over ten years at Bologna were sometimes granted actual citizenship: but then they lost their rights in the University. Savigny, cap. xxi. § 69, *note*. That the grievances against which the foreign student wanted protection were not merely sentimental, we are reminded by the frequent occurrence of a privilege exempting scholars from torture except in the presence of and with the sanction of the Rectora. See e.g. *Stat. Florent.* ed. Gherardi, p. 109. So at Padua, *Stat. Artist.* l. xxxiii. b.

Two other circumstances serve to explain the patience with which Bologna and other towns after her submitted to the erection of an 'Imperium in Imperio' within their own walls, and to confer an extensive civil, and sometimes even criminal, jurisdiction upon the elected officers of a Student-club. The first is the prevalence of the conception of 'Personal Law.' For centuries Lombards and Romans had lived together under different codes of law and different magistrates. At an earlier date it had been quite common for even three or four men to live in the same town and yet to be in matters of private Law members of as many distinct states: and respect for these personal rights had not entirely died out in the thirteenth century¹. It remained in all its fulness as regards the clergy. This conception made it seem the less unnatural that alien-students should live under the jurisdiction of their own Rectors, just as in Eastern countries where there is a mixture of races foreigners are freely permitted to live under the jurisdiction of their own Consuls or their own Bishops. And then there is a fact which is, indeed, the most important clue to the origin of Universities here and elsewhere. The University, whether of Masters or of Students, was only a particular kind of *Guild*²: the rise of the Universities is merely a wave of that great movement towards Association which began to sweep over the cities of Europe in the course of the eleventh century.

CHAP. IV,
§ 3.
Recognition of Student-rights facilitated by the conception of Personal Law.

and by the contemporary Guild-movement.

And the ruling ideas of the age made the Guild a closer and more powerful association in an Italian city than it could be in a modern state. In the first place, the Roman Law conferred a legal existence upon 'Collegia' or corporations of three persons or more, without any special authorisation of the state. In some of the Italian cities the Guelph and Ghibelin party-clubs (at Bologna known

No Charter required.

¹ Savigny, cap. iii, § 30 sq.

² As late as the middle of the fourteenth century this was still so fully realised in the Italian cities that we find at Florence the Statutes of the

Universitas Scholarium subjected to the approval of the 'Approbatores Statutorum Artium (trades or crafts) comunis Florentie.' *Stat. Florent.* p. 195.

CHAP. IV, as Lambertazzi and Geremei), overtly aiming at violent changes in the government of the city, were as much recognized legal corporations as the Guilds of merchants or craftsmen¹. Moreover, while the legal authority of modern Clubs and other Societies over their members is based for a most part upon a mere contract, in the Middle Ages it was based upon oath. And in the Middle Ages an oath meant a great deal more than it does in modern communities. Perjury was a mortal sin: and the oaths of obedience consequently enabled the Guilds to subject disobedient members not only to public 'infamy' and to spiritual penalties at the hands of their confessors but even to proceedings *in salutem animæ* in the Ecclesiastical Courts². The combined force of the social and the spiritual penalties thus wielded by the Guilds was so enormous

¹ Ghirardacci, P. I. p. 248.

² In the Italian Universities, every offence prohibited by the Statutes is forbidden 'sub pœna periurii.' Thus at Bologna, even absence from Congregation involved perjury unless the offender paid a price of five *solidi* within eight days (*Stat.* p. 129). So at Paris the Rector, 'si dicti Scholares ipsas burzasolvere noluerint, et rebelles extiterint, contra ipsos procedere tenebitur tanquam perjuros et infames (Bulæus, IV. 232). Whether this implied the promotion of an ecclesiastical suit or (as seems probable) simply a public notification of the fact, but such proceedings would have been quite in accordance with Canon Law. The German Nation at Bologna provides that the 'cohercio' of the Bishop of Bologna or his Vicar shall be brought to bear upon 'contradictores,' but with the explanation 'quorum iurisdictioni circa executionem conservacionis predictorum ordinamentorum ipsa nacio specialiter se subiecit.' *Acta Nat. Germ.* p. 350. Here the right to promote a suit rests upon consent; but in Gloria, *Mon. della Univ. di*

Padova (1318-1405) II. pp. 223-227, are documents which seem to relate to suits before the Bishop concerning disputes in the College of Arts where the jurisdiction is founded entirely upon the oaths taken by its members. So in London we find that the Bishop's Court 'entertained suits exactly analogous to those of the trades unions at the present day, turning on the question how far it is a breach of oath for the sworn member of the Guild to impart the arts and mysteries of his Guild to outsiders' (Stubbs, *Lectures on Medieval and Modern History*, Oxford, 1886, p. 316). It may be observed that the dependence of University authority upon an oath secured for the Papacy an especial jurisdiction over them, even where (as in Italy) they were not wholly composed of ecclesiastics. As to the ecclesiastical jurisdiction in matters of oath or contract, cf. Fournier, *Les Officialités au Moyen Âge*. Paris, 1880, p. 86; and, for its importance in the development of English Equity, Fry, *Specific Performance of Contracts*, London, 1892, p. 8 sq.

that in the Italian cities they often became more powerful than the State. At Bologna the Revolution of 1228 gave them an important constitutional position; their magistrates were almost equal in authority to the magistrates of the Republic and almost independent of their control¹. In such a state of Society, membership of a Guild was essential to personal security. If the students had not formed themselves into Guilds, if they had not insisted upon legal recognition and privilege for their officers, the position of scholars residing in a foreign city would have been well-nigh intolerable².

CHAP. IV,
§ 3.

To the Professors and Students who were citizens of Bologna these considerations of course did not apply. The State was not disposed to abandon any part of its jurisdiction over its own citizens, nor the Universities to receive as citizens of the Academic Commonwealth students who were unable to give it an undivided allegiance. (Bolognese students retained their natural citizenship: Bolognese Professors were accorded a high position in the constitution of the Republic³. Both alike were excluded from the scholastic Guilds.)

Citizens excluded from the Universities.

Thus, by merely attending to the conditions or environment in which the Law-Universities grew up, the peculiar relations which subsisted in them between the students and the Professors, and again between the Bolognese students and those from a distance, receive adequate explanation. Even had we no knowledge of the actual history of the evolutionary process, it would be unnecessary to look upon this constitutional phenomenon, as it has too often been looked upon, with mere stupid astonishment, as a kind of historical *lusus naturæ*. Whatever surprise may be still felt at the appearance upon the page of

The Student-Universities can be explained.

¹ The most convenient account of the Bologna constitution is given by Savigny, cap. xx.

² M. Thurot well remarks that the University of Paris 'se constitua sous l'empire de cet esprit d'association qui produisait en même temps

les villes Lombardes, les communes de France, et les corporations de métiers.' *De l'organisation de l'enseignement dans l'Un. de Paris*, p. 3.

³ The Constitution of 1245 made them *ex officio* members of the *Credeamus* or Council of 600. Savigny, *l.c.*

CHAP. IV, History of an institution so startling to modern ideas
 § 3.
 as a Student-University will be removed by an examination of the actual facts, scanty as they are, which have come down to us with respect to the early history of the earliest Student-guilds of Bologna.

The two
 Law Uni-
 versities.

Elsewhere
 four Uni-
 versities.

From about the middle of the thirteenth century¹ the organization of Law-students at Bologna consisted of two closely allied but distinct *Universitates*—a *Universitas Citramontanorum* and a *Universitas Ultramontanorum*, each under a Rector of its own. We have no direct documentary evidence of the state of the Academic organization in the first half of the century. But we have evidence that in the Universities which were established elsewhere by schisms or migrations from Bologna there existed at the beginning of the century not two Universities but four. This was the case at Vicenza, where a colony from Bologna established itself in 1204 A.D., and in Vercelli which was colonised in 1228 from Padua, itself an earlier colony of Bologna. To anyone aware of the servile fidelity with which the institutions of a mother-University were reproduced in its daughters, the mere fact that there were four Universities at Vicenza and Vercelli would be a sufficient proof that at one time there had been four Universities at Bologna also². But we are not left entirely to inference upon this fundamental point of our enquiry into the origin of Student-Universities.

So origin-
 ally at
 Bologna.

In 1217 we hear of the 'Scholars from the City' (i. e. Rome), Campania, and Tuscany as forming either a separate Society or more than one separate Society; but in any case it is clear that they are not embraced in the same organization as the other Italian students. What

¹ The earliest evidence of the change is in a city-statute of 1244. Frati, I. p. 367.

² Savigny conjectured that originally there were four Universities at Bologna, cap. xxi. § 616. When Kaufmann (l. p. 189) objects to Denifle's inferences from the Bull of 1217, because by 1250 we hear of a

single 'Universitas scholarium,' he appears to forget that the term *Universitas* does not necessarily imply a legal corporation, but may be applied to any collection of people. Kaufmann seems to me to exaggerate the solidarity of the Student-body both before and after 1250.

was the exact distribution of the students at Bologna at this time, it is impossible to determine with absolute certainty. But it seems highly probable that originally the four Universities were, (1) Lombards, (2) Ultramontanes, (3) Tuscans, and (4) Romans, in which last University the Campanians may have been included¹. This view is supported by two facts. First, in the later united Cismontane University there were, as is evident from the Statutes, three original *Nationes*—the Lombards, Tuscans, and Romans, which were subdivided into smaller *Consiliarie*² (bodies electing one or more Councillors), while the Ultramontane University contained a much larger number of Nations—in 1265 fourteen³—each of which corresponded with a *Consiliaria* of the Cismontane University. Whether or not the united Ultramontane University arose by

¹ Sarti II. (1772) p. 58. If this view be accepted, of course the 'scholares de urbe, Campania et de Tuscia' (notice the omission of the preposition before Campania) will represent *two* separate Guilds, acting on this occasion in conjunction. The fact that a Bull is addressed to the three together does not, as Denifle assumes (l. p. 140), prove that they were embraced in one organization, any more than the existence of Papal Bulls addressed to the Masters and Scholars of Bologna proves that the Masters belonged to the Universities or the students to the Doctoral Colleges, or the fact that Bulls were often addressed to the Doctors of Civil and Canon Law at Bologna proves that there was a single College for both Faculties. Moreover, the earliest Statutes of the United Universities *prove* the original distinctness of the Lombardi: 'De Citramontanis vero iuxta morem antiquum natio Romanorum habeat sex (consiliarios), Tuschorum alios sex, reliquos habeat natio Lombardorum, quos per consiliarias sic dividimus, sicut nationis statutis est descriptum. (Stat. p. 16.)

Denifle further assumes from the language of the Bull that this Guild of the Romans, Campanians, and Tuscans had only just been formed (l. 140), and hence infers that the *Universitas* originated with the Ultramontani. The fact is not improbable, but the language of the Bull seems to me to establish nothing as to the length of time (when the question is between one year and twenty-five) during which the Guild or Guilds had been formed. Honorius III speaks of the original motive of their formation, but so does the University of Paris fifty years after its first institution. See below, p. 303 n. 1. The amalgamation-theory is supported by the employment of the term Rector, which was especially used to denote the Head of a federation of Guilds. See below, p. 164.

² Stat. pp. 16, 68.

³ Gallici, Picardi, Burgundionenses, Pictavienses, Turonenses et Cenomanenses, Normanni, Catelani, Ungari, Poloni, Theotonicus, Yspani, Provinciales, Anglici, Vascones. Sarti, l. ii. (1772), p. 61.

CHAP. IV, § 3. amalgamation from these smaller Nationes, its later constitution bears no trace of having at any earlier period consisted of two or three separate Universities or Nationes, whereas this is distinctly the case with the Cismontane University¹. The second reason for supposing that the four Universities were originally constituted as above, is that the University of Medicine and Arts was to the last sub-divided into four Nationes only—Ultramontane, Lombard, Tuscan, and Roman².

The various Universities probably arose at distinct periods.

The fact that there were originally four distinct Universities and that we find one or more of them acting in independence of the rest, makes it probable that they originated at distinct periods; and it is highly probable that the final emergence of two closely united Universities is but the last stage of a process of amalgamation by which the three Societies of Cismontanes and the numerous small Ultramontane Nationes had reduced themselves to four large Societies³. The very distinct organization and exceptional privileges of the German nation⁴ find their

¹ See above, p. 157, n. 1.

² *Stat.* p. 215. Denife (l. p. 139) argues that since at Vicenza, Vercelli, and Padua, we find one University embracing all the Italians, while at Bologna there was certainly more than one Italian University, there must once have been more than four Universities at Bologna. I fail to follow the argument. The different distribution of Nationalities in these offshoots of Bologna may have been due to the composition of the seceding bodies of students. In the migrations, both from Bologna and from other Universities, the number of Nationes (four) was always preserved, but their composition varied. His suggestion (*l.c.*) that the larger Universities may have arisen by amalgamation from smaller Nationes which after their union remained as subdivisions of the larger body, seems to me probable as regards the Ultra-

montane Nationes only. Throughout, Denife fails to recognize the marked distinction between the Ultramontane Nationes and the Cismontane *Communitates*.

³ For the similar federation of Guilds in London, see Brentano, Pref. to Toulmin Smith's *English Guilds* (E. Eng. Text Soc. 1870), p. xlix; but Mr. Gross (*The Guild Merchant*, l. p. 61 sq.) has now shown that it is a mistake to identify the Merchant Guild with the Municipality.

⁴ In 1273 it is already claimed as an ancient privilege 'quod nobiles de Almania non teneantur jurare rectori' (*Acta Nat. Germ.* p. 349). The accounts of 1305 allude to written privileges (*ib.* p. 58), while a 'privilegium quod nobiles Almanni non tenentur jurare rectori' is included in an inventory taken in 1442 (*ib.* p. 189). The Statutes speak generally of privileges granted by

most natural explanation in the supposition that it was the earliest of these national clubs and formed the nucleus round which other and younger bodies grouped themselves. Even in the fully developed Academic constitution, the Nations of the *Ultramontani* retained a much larger measure of individual corporate existence than either the three original Nations of the *Citramontani* or the smaller *Conciliaria* into which they were sub-divided¹.

But whatever uncertainty there may be as to the early history of these Student-Guilds, the one fact about them which is certain is fortunately the one fact which it is of fundamental importance to grasp. They originated with non-Bolognese students; and this circumstance is by itself a sufficient clue to their *raison d'être*. It is probable, indeed, that it was the German students who first felt the need of mutual protection and co-operation²; but at all events the Guilds were formed by non-Bolognese students. The fact has been slightly obscured by the circumstance that the Universities eventually succeeded in asserting *some* authority even over the Bolognese scholars, though to the last they remained exempt from the oath of obedience to the Rector, without a vote in the University Congregations, and ineligible for University offices. To the last they were not in the strict sense *members* of those Corporations; originally they must have been wholly exempt from their authority³. The reason

the Emperor (*ib.* p. 13): but no actual Charter appears to be preserved of earlier date than 1530, when Charles V wholly exempted the German nation from the Rectorial jurisdiction, and subjected them to that of their own Masters. At the same time the latter were created *ex officio* Counts of the Lateran, and granted the power of making Notaries and legitimating bastards (*ib.* p. 19 sq.). The nation retained its existence as a Student-organization till the Revolution terminated its existence just, it would appear, as

it was about to die by the less noble method of Bankruptcy. (Malagola, *Monografie*, p. 286.)

¹ *Stat.* p. 139.

² Cf. the words of Honorius III to the Tuscans and Campanians: 'Etsi multam honestatem, imo necessitatem, sicut asseritis, causa continent, que vos ad contrahendam societatem induxit.' Sarti, II. (1772) p. 58. This 'necessity' would be likely to be still earlier experienced by the Germans.

³ The earliest Bologna Statutes assert the jurisdiction of the Rector

The Universities were Guilds of foreign Scholars.

CHAP. IV, of the exclusion is obvious. The Bolognese student no
 13. more wanted to be protected by a University than a young
 Englishman reading for the bar in London requires to be protected by a Consul. The very existence of the University was due to the want of political status on the part of its members. In exactly the same way we find foreign merchants¹ and other strangers in an Italian town forming themselves into Guilds for the prevention of quarrels among themselves and the promotion of their common interests.

Exclusion
 of Pro-
 fessors.

In the same fact is found the explanation of the other characteristic peculiarity in the organization of the Universities of the Italian type—the exclusion of the Professors from membership. The earliest Bolognese Professors were citizens of Bologna. Unlike Paris, whose political and commercial importance attracted student and teacher alike from distant lands, Bologna owed her scholastic fame to the accident (if it was an accident) that Irnerius and his first successors happened to live, and therefore to teach, at Bologna². Had the earliest teachers been foreigners, they might have occupied important positions in the University:

over the Bononiensis (*Stat.* p. 12); cf. the *Stat.* of Lerida formed on the model of Bologna in 1300: 'cum te dicas civem Iberdæ, jurare non cogis universitatis statuta, licet dum in hoc studio fueris ad eorum observantiam teneris.' Villanueva, *Viage Literario*, XVI. p. 229. So at Pisa and Florence the Rector must be 'forensis.' Citizens were forbidden to take the oath to the Rector on pain of confiscation and the ban by a Town-statute of 1245 (*Frati*, II. p. 29). Afterwards, a special oath merely binding them not to injure the University, &c. was imposed on the Bolognese student (*Bononiensis vel diocesanus*) and his name inserted in a 'matricula specialis.' *Stat.* p. 128 (cf. p. 132: 'Compaternitatem cum bononiensi cive vel diocesano nullus scolaris contrahat, nisi prius petita

licentia et obtenta a Rectore suo'). So they paid modified dues to the University officials on taking their degree, *ib.* p. 145.

¹ Especially German merchants. Denifle, I. p. 136; Simonsfeld, *Der Fondaco dei Tedeschi in Venedig*, Stuttgart, 1887. So there were *Universitates Judæorum*, e. g. at Catania in Sicily before 1083 (*Documenti per servire alla Storia di Sicilia*, Palermo, vol. VI. p. 28); so at Messina (*ib.* p. 63), Syracuse (*ib.* p. 78), Trapani (*ib.* p. 89), &c.

² Thus the Bull of Honorius III in 1230 reminds the town 'quod ipsi gratuito ad studendum vestram prelegerint civitatem, que cum prius esset humilis, per eos ibidem congregatis divitiis fere supergressa est civitates Provincie univere.' Sarti, T. II. (1772). p. 57.

as it was, the students had to choose their office-bearers from their own number. At first the Professors were excluded not so much because they were Professors as because they were citizens. But at a very early period in the development of the Universities, we shall find the Bolognese Doctors allying themselves with the City against the students in the selfish effort to exclude from the substantial privileges of the Doctorate all but their own fellow-citizens. The antagonism of interest thus created between the Doctors and their pupils has much to do with the growth of the student domination. The Doctors, as citizens and as laymen, were connected with the City in a way wholly foreign to the traditions of northern Schools. It was through identifying themselves in the pursuit of a common pecuniary interest with the City rather than with the scholars that the Doctors of Bologna sank into their strange and undignified servitude to their own pupils.

How entirely parallel to those of the non-scholastic Guilds were the original purpose and organization of the Student-Universities is best illustrated by the Statutes of the German Nation¹ which have fortunately come down to us. The original idea of the Universities became more or less obscured by the Academical power which they eventually acquired. The smaller National Associations naturally retained the more homely character of Clubs for mutual protection, assistance, and recreation, and for the performance of those religious functions which in the Middle Ages supplied the sanction for every social bond and the excuse for every convivial gathering. In these Statutes the object of the Guild is declared to be the cultivation of 'fraternal charity, mutual association and amity, the consolation of the sick and support of the needy, the conduct of funerals and the extirpation of rancour and quarrels, the attendance and escort of our *Doctorandi* to and from the place of examination, and the spiritual advantage of members².' The Statutes of any

CHAP. IV,

§ 3.

The original purpose of the University illustrated by Statutes of German Nation.

¹ For the position of these subdivisions of the University, see below, p. 184 sq.

² 'Hec nostra congregatio, utili-

CHAP. IV, ordinary religious Guild or Confraternity would define its objects in precisely similar language. The Statutes before us go on to provide that the two Proctors of the Society shall visit sick members and (if necessary) make a special collection for their benefit, or apply the general funds of the Guild to that purpose, or, if they are not in need of assistance, at least alleviate their sufferings by their 'cheerful presence'.¹ The same officials are also required to adjust quarrels and to take measures, in the interest of other members, for compelling students who had left Bologna to satisfy their creditors.² But the liveliest picture of the ordinary purposes of the Guild is supplied by its accounts from the year 1292—one of the earliest and completest series of University documents of the kind which have come down to us.³ The receipts are derived from entrance-payments varying, according to means, from five to sixty *solidi* or more, from fines, and from the occasional presents of a newly-mitred alumnus. The payments are chiefly devoted to convivial and religious purposes, wine and spices upon the great feasts either for the consumption of members⁴ or the payment of the officiating clergy⁵ and singers, candles for processions, charities to the poor, and other pious uses, such as an occasional vestment or ornament for the Conventual Church of S. Firmian habitually used by the Guild. Sometimes, however, a larger drain is made upon the resources of the Society by the expenses attending the rescue of a comrade lying fettered in the Bishop's prison.⁶ These interesting

tatistamenetpubliceetprivate nequam expers credenda, presertim ex qua fraterna caritas, societatis amicitieque communicatio, infirmorum consolatio et egenorum subsidium, funerum deductio et rancoris simultatumque extirpatio, tum doctorandorum nostrorum in locum et ex loco examinis comitiva atque constipacio, bona spiritualia resultarent.' *Acta Nat. Germ.* p. 4.

¹ *Ib.* p. 6.

² *Ib.* p. 7.

³ *Ib.* p. 96 *sq.*

⁴ The juxtaposition of the following is significant: 'Item, pro malvasia (Malmsey) libras III. Item, pro vitris fractis,' &c. *Ib.* p. 133.

⁵ 'Item pro vino propinando presbitero, qui nobis die illo missam cantavit ibidem, II solidos.' *Ib.* p. 36.

⁶ *Ib.* p. 83. It was no doubt on some similar occasions that it was necessary to spend sixteen *denarii* in gratifications to the Bishop's Chap-

records enable us to realise the original purposes of the larger Universities of which the smaller National Unions were either the prototypes or the imitations¹, though the former may have been too large for the frequent convivialities and fraternal intercourse of the smaller Societies.

To appreciate the fact that the University was in its origin nothing more than a Guild of foreign students is the key to the real origin and nature of the institution. It is also the starting-point for an enquiry into the date at which these Societies began to be formed. It was not till towards the end of the twelfth century that Guilds of any kind, Colleges of Arms and of Arts (as they were called), came into existence in the Italian cities. In the city of Bologna itself, for instance, the first allusion to the existence of a Guild occurs in 1174², when we hear of a Lombard 'Societas armorum.' The probabilities of the case would suggest that some little interval would elapse between the formation of the Guilds of Arms and Arts and the imitation of them by the scholars. The only direct evidence available is derived from the silence of documents and other authorities—particularly of the Civilians who in their commentaries on the title *De Collegiis* might be expected to allude to the existence of a kind of Association the legitimacy or illegitimacy of which was a matter of considerable personal importance to themselves. Now the first of the long series of Jurists who comment upon the anomalous character of the *Universitas Scholarium* is Bassianus, who, towards the close of the twelfth century³, disputes the right of the scholars to elect a Rector. Thus the evidence all points to the conclusion that the earliest

CHAP. IV,
§ 3.

Date of the
first Student-Universities.

lains or other domestics to get an audience ('pro copia episcopi'). *Ib.* p. 76.

¹ Denifle (I. p. 153) makes the Scholastic Guilds originate with the Germans. This would to a large extent explain the exceptional privileges of the German Nation: but the question turns in part upon the larger and very difficult question

whether the Guild was originally of Teutonic origin or a direct descendant of the Roman Collegia. On this question I do not feel competent to enter.

² Denifle, I. p. 159.

³ As to the date of his life or writings nothing appears to be known except that he was a pupil of Bulgarus. Sarti, I. pt. i. p. 89.

Universitas of students originated with the foreign students of Bologna in the course of the last quarter of the twelfth century. Further than this it is hardly possible to push the enquiry; though there is probability in Denifle's opinion that the last decade of the century saw the birth of the first University of students¹.

Their evolution spontaneous and gradual.

When, however, the spontaneous character of these Student-societies is taken into consideration it will become evident that the process of growth may have spread over a considerable time. Such Societies at first neither sought nor obtained charters, privileges, or incorporation from King, Bishop, or Municipality, any more than such permission is required for the establishment of a debating-society or a cricket-club among modern students. The University may, indeed, have originated in a definite meeting of the students from a particular country at a particular date: but it may equally have grown out of informal gatherings or indignation-meetings to concert measures for the release of an imprisoned comrade or for the punishment of an extortionate landlord. But we have no data for tracing the earlier stages of a process which may be considered to have been completed when the Society proceeded to elect its first permanent Rector. As to the date at which this fundamental step was taken, we can only say that it was before the close of the twelfth century.

Origin of the Rectorship.

The title of Rector was one which only began to be applied to various civic Magistrates and officers of Guilds after the revival of Roman Law-studies in the twelfth century. It was a term commonly used as the Latin equivalent of the Italian *Podestà*, to denote the elected Chief Magistrate or Dictator of a Lombard town². It was also used of the Head of the whole federation of Guilds in a town, or of the Head of a single Guild³. In the Guilds

¹ Denifle, I. p. 160. Cf. Savigny, cap. xxi. § 65.

² Denifle, I. p. 147. Under the Empire *Rector* had been one of the regular terms for the Civil Governor

or *Judex Ordinarius* of a Province after Diocletian. Savigny, cap. ii. § 25.

³ Thus at Bologna we hear of a *Rector Societatum* in 1194. (Savioli,

the term Rector is especially employed where the Society was placed under the government of a single Head, instead of (as was frequently the case) under a plurality of *Consules* or other officers¹. All the associations of the word suggest a concentration of corporate power in the hands of a single individual. From the Guilds the expression was borrowed by the Universities, as it had been borrowed by the Guilds from the constitutions of the towns. The same was the case with the University *Consiliarii*, who are first heard of in 1224². In fact, the whole organization of the University was exactly parallel to that of the Guilds, of which it formed merely a particular variety; while the organization of the Guilds themselves was in Italy largely a reproduction of the municipal organization of the cities. The Guild, whether of scholars or of the members of a political party or a particular trade, was a civic state in miniature, a *civitas in civitate*.

The jurisdiction of the Rector was in the main derived from the Statutes voluntarily enacted by the members, and from that formidable oath of obedience to them and to himself, on the significance of which we have already commented. At the same time the Rectorship was from the first looked upon as something more than the mere presidency of a private Society. According to the idea of the Roman Law (at least as understood in the Middle Ages), every trade or profession had a kind of intrinsic right to form a *collegium* and elect Magistrates of its own³:

Nature of
Rectorial
jurisdiction

II. Pt. 2, p. 177); at Perugia in 1223 of 'Bailivi, Rectores vel Priores fraternitatum, societatum, familiarum seu quarumlibet artium (Theiner, *Cod. Dipl. dom. temp. s. sedis*, I. 77); at Verona 'Prohibebo, quod nulum misterium (ministerium) de civitate seu districtu Veronae habeat vel habere possit gastaldionem vel rectorem, nisi qui sit de suo misterio, &c.' (*Liber juris civilis urbis Veronae script. 1228*, ed. Campagnola, 1728, p. 147). The last mentioned Stat.

probably originated in the twelfth century (see Denifle's note, I. p. 146).

¹ So Denifle, I. p. 146. But Accursius has a gloss on the passage of the Code quoted below: 'Pone in Camporibus Bon. qui suos habent consules sive rectores' (ed. Contius, Parisiis, 1576, c. 559).

² Savioli, III. pt. ii. p. 56.

³ See the passage in the Code (III. Tit. xiii.): 'Periniquum et temerarium esse perspiciamus, eos qui professiones aliquas seu negotiationes exercere

CHAP. IV, and the jurisdiction of these Magistrates over its members
 § 3.
 in matters relating to the profession or trade was recognized by the Town-governments even without any Charter or express enactment as a legal, and not a merely consensual, jurisdiction. And the scholars, in setting up a *Universitas* and electing a Rector, undoubtedly claimed for themselves what were considered the natural or intrinsic privileges attaching to all recognized trades or professions. In general there seems to have been no unwillingness on the part of the Lombard towns to recognize to the full the jurisdiction of these Student-guilds and their Rectors, except on the part of one particular class. These were naturally the Professors of Law themselves. A *Universitas* of students at once offended their legal susceptibilities and infringed upon what they considered their professional prerogatives. They did not dispute the right of a profession or trade to be under the jurisdiction of a Rector: but the students, they urged, did not form an independent trade or class by themselves. They were merely the pupils of the Doctors of Law. The right to elect a Rector and to frame Statutes binding at once upon the full members and the students of the profession belonged *de jure* to themselves, as it did *de facto* to their more fortunate brethren at Paris and elsewhere. The pupils of the Doctors had no more right to form a *collegium* and elect Magistrates than the apprentices of the smiths or the skimmers¹. The protests of the Jurists, however, failed to check the growth of the institution. The University of students once formed was stronger than the handful of Professors. Townsfolk and

Opposition
 of the
 Professors.

noscentur, iudicium ad quos earum professionum seu negotiationum cura pertinet, jurisdictionem et praeceptionem declinare conari.'

¹ See for instance the words of Azo, Lecture in Cod. ad L. fin. C. *de jurisdict.* (III. 13): ap. Denifle, I. p. 170: 'Ergo scolares, quia non exercent professionem sed sub exercentibus sunt discipuli, non possunt eligere consules, sicut nec discipuli

pelliperiorum. Magistri ergo possunt eligere consules, quia ipsi exercent professiones. Saviguy (cap. xxi. § 65) continues the quotation: 'Sic et faciunt fabri, in terra ista, et alia corpora quia eligunt ministeriales suos sub quibus possunt conveniri.' This opinion is embodied in the Accursian gloss. Other instances are given by Denifle, I. p. 170 sq.

Professors alike stood in awe of a body which by the simple expedient of migration could destroy the trade of the former and the incomes of the latter. The Jurists from the first recognize the *de facto* existence of the Rectorial jurisdiction; and, after the fourteenth century, men who had grown up as students under the Rectorial régime even attempted a theoretical justification of the anomaly¹.

It must not be supposed that opposition to the Professors formed any part of the original *raison d'être* of the Universities. At first the Universities no more claimed authority over the Doctors or the control of strictly Academic matters than the Union Societies of Oxford and Cambridge, or the militant and beer-drinking corps of a German University. The Universities were formed for purposes of mutual protection and self-government, and had nothing to do with the *Studium*, which was managed by the *Collegia Doctorum* as much as at Paris. The jealousy of the Professors arose simply (so far as appears) from the fact that the students were attempting to do for themselves what the Professors (on the analogy of the relations ordinarily subsisting between Masters and their apprentices) claimed to do for them. But in process of time the Universities did gradually acquire a complete control over the Professors; and to a large extent usurped the powers elsewhere exercised by the Professorial body. By means of the terrible power of 'boycotting,' which they could bring into play against an offending Professor or a student who adhered to a 'boycotted' Professor, the student-clubs were masters of the situation². And when the Professors began

The Universities originally claimed no Academic authority.

¹ Cinius (*ad l. cit.*) after giving his own opinion against the scholars, says: 'Quidam moderni dicunt contrarium, quia scolares exercent professionem, ut in Aut. Habita, et quia eorum universitas est licita, et sic possunt dare jurisdictionem, ut ff. [i. e. Digest] *quod cujusque universitatis*.' (Venet. 1493.) So the earlier

Odofredus (+1265) admits 'tamen per legem municipalem hujus civitatis scolares creant rectores.' In Cod. *ad l. cit.* (T. III. l. 148 a).

² The Statutes of the Student-universities sometimes prescribe the measures to be taken against a contumacious professor. Thus at Parma penalties are provided against a

CHAP. IV,
§ 3.
The Universities reduce the Professors to subjection.

to accept *salaria* from the Universities themselves or from the towns which stood in awe of the Universities in lieu of collecting fees from their scholars, they passed still more completely under the authority of the Universities and their Rectors. | By these means the Universities were able to compel the Professors to take the oath of obedience to the Rectors, which gave a certain legal sanction to their subjection. This subjection was well established by the end of the thirteenth century, as is evident from the Statutes of Lerida: though the Doctors still continued to assert their theoretical superiority to the Universities¹.

This subjection not undisputed.

It must be remembered, indeed, that in the Student-statutes we have merely the students' estimate of their own relations to the Doctors. And we can no more assume that this was identical with the view taken by the Doctors themselves than quotations from the writings of an ancient Bishop can be taken to represent the views as to the limits of Episcopal authority entertained by his Presbyters or by the Church at large. Thus, while it is expressly provided by the Student-statutes that they shall overrule all contradictory provisions in the Statutes of the Doctoral Colleges²,

scholar who attempts to graduate under a deprived Doctor. (*Mem. e doc. per la storia della Un. di Parma*, Parma, 1888, vol. I. p. xxxix.) It should be remembered that 'privatio' meant *social excommunication* as well as mere refusal of official recognition. Thus the above-quoted Statute of Parma provides that 'scholares teneantur eum vitare tanquam privatum omni commodo et honore Universitatis, et nullus Scolaris ipsum admittat in societate nisi obtentum in Universitate fuerit, ut predicatur' (*l.c.*).

¹ 'In universitate ista Bononiensi doctores subsunt rectori... Modo quaero, num quid Doctores subsint universitati? Breviter dicendum est quod non: nisi ex prerogativa consuetudinis vel juramento, quia jura verunt obedire rectori.' Bartolus

(†1357), ad Auth. *Habita*, (quoted by Savigny, cap. xxi. § 70).

² 'Cassa et irrita et inania statuta et consuetudines decernimus que doctorum collegium habuerit vel observaverit seu habiturum servatum vel facturum de novo fuerit contra statuta universitatis nostrae et scolasticam libertatem.' *Stat.* p. 144. On the other hand, after the table of degree-fees, appears a clause respecting the Statutes of the Colleges. (*Ib.* p. 151.) The City enacted that their own Statutes should prevail over those of the Colleges, but the College-statutes over those of the Universities. (*Stat.* p. 156.) In one place in the University-statutes we find a clause 'secundum quod in statutis ipsius Collegii determinatum invenimus.'

the Town-statutes enact precisely the opposite. Moreover, it should be noticed that when the students seem to be most clearly usurping the functions of the Doctoral body in defining the conditions precedent to degrees, their enactments are in the main identical with those found in the Doctoral Statutes: just as many of the provisions by which the students seem to be legislating for the City and its Magistrates are mere embodiments of privileges conferred by the latter¹. At the same time there can be no doubt that the real supremacy rested with the students; and the Statutes of the Colleges themselves in general adopted a sufficiently humble tone in their attitude towards the Student-Universities.

In so far as the claims of the Student-corporations rested on anything more than usurpation and their undoubted right to pursue their studies elsewhere in the event of disagreement with the town-authorities², their legal and constitutional basis would be found in the Papal Bulls which from time to time confirmed the Statutes of the Universities, and subjected the impugners of them to ecclesiastical censures³. But little use seems practically to have been made of this Papal Privilege except as a weapon against the City in the earliest days of the University. The students seldom or never appealed, like the Masters of Paris, to ecclesiastical authority for assistance in enforcing their own internal discipline.

There was, as we have seen, nothing in the University as an institution to arouse the jealousy or hostility of the

¹ e. g. in the Statute *De domibus in quibus habitant scolares non destruendis* (pp. 126, 133). The whole of the Fourth Book of University Statutes is a reproduction of Town-statutes.

² Cf. the Stat. of Florence as late as 1472 in *Stat. Fiorent.* p. 24. The Rector is to insist on payment of the *salaria* by the City, 'Alias interdicat studium.'

³ The first general confirmation dates from 1253. The bull was ad-

ressed to the Archdeacon of Bologna and a Dominican Friar. Sarti, T. II. (1772) p. 124. Other ecclesiastics were from time to time appointed Conservators of the privileges of the University, but their jurisdiction does not seem to have become so extensive as at Paris (Ghirardacci, T. I. p. 539; T. II. pp. 27, 66). Savigny, by the way, makes the Archbishop (!) of Bologna Conservator in 1306. Cf. below, chap. v. § 3.

CHAP. IV, Magistrates of City of Bologna. That the students should have a *collegium* and be governed by a Rector was completely in accordance with the political ideas of the time. The *Universitates* met with no systematic opposition from the municipalities of the kind which we shall find the Parisian University of Masters experiencing at the hands of the Bishop, Chancellor, and Church of Paris. The Bolognese government was quite content to concede to the Universities of Students what it conceded to other Guilds. But in certain respects the Universities demanded more than the City conceded to other Guilds. The Guilds were composed of citizens, who never thought of disputing the authority of the city-government, and who could not put themselves beyond its jurisdiction without losing both property and status. The Universities were composed of aliens, who refused to recognize the authority of the State in which they lived when it conflicted with the allegiance which they had sworn to their own artificial commonwealth¹. One matter was pre-eminently a subject of contention between the City and University. The power of secession was cherished by the University as its great instrument of warfare against all manner of enemies. The City naturally wished to deprive it of this unfair advantage in its controversies with itself and to render its own prosperity independent of the good-will of an alien corporation.

The first
Migrations
originate
with
Professors.

In the first collisions between Town and Gown at Bologna it was, however, the Professors who were directly involved. Long before the close of the twelfth century we find a tendency in the Bolognese Professors to wander

¹ It was not merely in its relations with the City, as a whole, but in quarrels with individual citizens that the University could bring its powerful organization into play. Thus the Paduan *Statuta Artistarum* (fol. xxxiii. b) denounce the punishment of 'interdictio' (i. e. from intercourse with scholars) against anyone who

cites a scholar before the City Magistrates—the sentence to extend to the third generation of the offender's posterity. The same Statutes (fol. xxxii. b) enact that if a householder refuses to execute repairs after fifteen days' notice, the tenant is to repair, and deduct the expense from the rent.

abroad, whether in consequence of disputes with the town-authorities or allured by prospects of more liberal remuneration elsewhere. Thus Placentinus had left Bologna to establish schools first at Mantua, afterwards at Montpellier, in the third or fourth quarter of the twelfth century. And most of the numerous Law-schools which we find established in the Italian towns by the beginning of the thirteenth century, had apparently been founded by similar secessions of Doctors or students or both. The City was at last forced to bring to bear against the vagrant Doctors the usual medieval method of prevention—making the suspected party swear that he would not commit the apprehended crime¹. The first time that this measure was adopted was in the case of Pillius. Getting wind of a negotiation with the neighbouring town of Modena for the purchase of the Doctor's services, the Magistrates assembled all the Professors of the School and compelled them to swear not to teach out of Bologna for the next two years. In spite of his oath, however, Pillius could not resist the renewed offers of Modena gold². After this time such oaths appear to have been habitually exacted of the Doctors³; and from 1227 to 1312 the oath was regularly enforced by the Town-statutes upon all Doctors who intended to teach at Bologna⁴. At the beginning of the thirteenth century, however, the City found itself threatened with a much more formidable danger. Not merely individual Professors, but whole bodies of students, dissatisfied with their treatment at Bologna, entered into negotiations with other towns for the transference of the *Studium* to them. In 1204, after a secession of this kind to Vicenza, the City passed a Statute prohibiting citizens

The Student-migration to

¹ Sarti, I. pt. i. pp. 77, 78. Savigny (cap. xxi. § 81) gives a list of the Doctors who took the oath. Cf. Savioli, II. pt. ii. p. 465.

² See extracts from Pillius in Sarti, I. pt. i. p. 84. Savioli gives 1188 as the date of Pillius' flight, but he appears to be established in Modena

before 1180. Savigny, cap. xxii.

³ Sarti, I. pt. i. pp. 84, 85.

⁴ Frati, II. p. 23. In 1312 the oath was abolished, but penalties for Doctors absconding during the time of their contract reappear in 1334. Savigny, cap. xxi. § 81; Ghirardacci, T. I. pp. 560, 561; T. II. pp. 11, 117.

CHAP. IV,
§ 3.
Vicenza,
1204.

Secession
to Arezzo
in 1215 pro-
vokes fresh
quarrels.

from following the seceding scholars or from aiding and abetting similar secessions in future¹. After the secession to Arezzo in 1215, in consequence of a great quarrel between the Lombards and the Tuscans², or possibly in consequence of the measures which the city had adopted for the suppression of the tumults, the penalties of banishment and confiscation of goods were denounced against any scholar who should administer an oath to another binding him to leave the city if commanded to do so by him³. The Podestà required the Universities to incorporate the Town-statute with their own, by which means every student would be compelled to swear obedience to it. The 'scholars' especially aimed at were of course the Rectors⁴, who must have been empowered either by a permanent Statute or by some extraordinary resolution to demand such an oath as a means of securing a prompt and universal secession in the event of a request being refused or an injury going unpunished. One at least of the Universities, if not all, appealed to the Pope, who, in accordance with what became the universal policy of the Holy See, warmly espoused the cause of the scholars; and in 1217 a Bull was issued by the new Pontiff Honorius III—formerly Archdeacon of Bologna—urging or commanding the revocation of the obnoxious law, while the scholars were exhorted to leave the city rather than violate their

¹ Frati, II. p. 23. In 1211 we find a Statute passed, which, without directly naming the scholastic Universities, may possibly be directed against them, since in it citizens as well as strangers are forbidden to give a promise or oath 'de adiuvando unus alium;' the Societies of Arms and Arts being alone exempted from its provisions. Savioli, II. pt. ii. p. 464. At this time a clause was inserted into the Doctors' oath pledging them not to aid and abet secessions of scholars. Sarti, I. pt. ii. pp. 70, 71.

² 'Ideo ego Rofredus Beneven-

tanus juris civilis professor ad preces et instantias sociorum meorum, nobilium de partibus Tusciæ, cum essem in civitate scilicet arretina,' &c.—ap. Sarti, I. pt. i. p. 139. Cf. *ib.* pp. 133, 134.

³ 'Si quis scholaris vel alius aliquem scolarem aliquo modo vel ingenio astrinxerit ut ei possit precipere de ducendo de civitate ista causa studii banniatu,' &c. Frati, II. p. 23. Cf. Denifle, I. pp. 161-162; Savigny, cap. xxi. § 65.

⁴ Explicitly mentioned in the Bull of 1200. See below, p. 173.

oaths¹. It would appear from subsequent documents that the Papal intervention was unsuccessful, that the suppression of the Rectorship took effect, and that the scholars, for non-compliance with the demands of the citizens, were placed under the ban of the city, by which they became 'infamous,' lost their civil rights and were liable to the confiscation of all their goods. In fact it is probable that from 1217 to 1220, or at least for some time before the last-mentioned year², there was a more or less complete dispersion of the *Studium*. In 1220 a fresh Papal re-monstrance³ induced the Town to yield so far as to repeal the penal enactments against the scholars and their Rectors, but it required that upon their accession to office the Rectors should swear not to entertain any project for the removal of the *Studium* from Bologna. The truce, if such it was, was of short duration, and in 1222 a great migration to Padua took place⁴. But in 1224 another Papal Bull⁵, combined with the efforts of the Emperor Frederick II to destroy the *Studium*⁶, seems practically to have resulted in the abandonment of the attempt to exact the suicidal oath from the Rectors, though the Statute requiring it remained on the City Statute-book till 1288⁷; though in the City-statutes, printed as a supplement to the University-statute of 1432, we still find the penalty of death denounced against any person whatever, whether citizen or stranger, who shall enter into a conspiracy for transferring the *Studium*, as also against any citizen-doctor over the age of fifty who shall without permission of the city magistrates leave Bologna for the purpose of lecturing elsewhere. If the offender were

CHAP. IV.

§ 3.

Migration
to Padua,
1222.¹ Sarti, II. (1772), pp. 57, 58.² Savioli records these events under 1220, but the documents do not indicate that any fresh measures were taken in this year.³ Savioli, II. pt. ii. p. 466. Cf. II. pt. i. p. 395.⁴ See below, chap. vi. § 4.⁵ Savioli, III. pt. ii. p. 56.⁶ See the Bull of Honorius III in 1227, requiring the Emperor to revoke his edicts against the Lombard league, 'et specialiter constitutionem factam de Studio et Studentibus Bononie.' Sarti, I. pt. ii. (1772) pp. 72-74.⁷ Denifle, I. 176.

CHAP. IV, a younger and therefore a less valuable Professor, the milder penalty of 200 ducats is substituted¹.

§ 3.
Recog-
nition of
Rectorship.

A full account of the relations between the University and the City of Bologna in the thirteenth century would form one of the most interesting chapters in the history of Universities. Unfortunately, the fragmentary and scattered details which have been given are all which can be collected. It seems that a fairly satisfactory *modus vivendi* was effected between the two bodies at about the middle of the thirteenth century, after a great collision provoked by the execution of a scholar, and also by the efforts of the Bolognese Doctors to convert their office into a lucrative monopoly². Again the Rectorate was threatened; again the counter-threat of secession eventually prevailed. The Statutes of 1245, while taking precautions against the transference of the *Studium* and still continuing to prohibit oaths pledging the scholars to obey a Rectorial order for secession, fully recognize the right of the scholars to elect Rectors, though forbidding citizens to swear obedience to them. Students are accorded the private or *civil* (though of course not the *political*) rights of citizens; they are to be allowed to make a will or receive property under a will, to give evidence, and to do other 'legitimate acts'. The Statutes of 1289 confer still further privileges upon scholars: exceptional steps are taken for the protection of their person and property, and the Podestà is even directed to enforce the Rectorial sentences in civil disputes between scholars³. At some time before 1432 the University appears to have succeeded in imposing upon the Podestà a special oath to respect and enforce the Statutes of the University: at all events the Rectors are required by the Statutes of the University to demand such an oath⁴.

¹ *Stat.* p. 157.

² Savioli, III. pt. i. p. 332.

³ Frati, II. pp. 25-29.

⁴ *Stat.* p. 163.

⁵ *Stat.* p. 64. The Statute was introduced later than 1347. The

Town-Statutes of 1244 required the Podestà to swear obedience to all the Town's provisions in favour of the Studium. Frati, I. p. 369. The later Town-Statutes are not published.

The last important collision between Town and Gown at Bologna took place in 1321, when, in consequence of the execution of a scholar for the abduction of a rich citizen's daughter, the majority of the students, together with many Professors, seceded to Siena¹. In the following year a reconciliation was effected; the City compelled its Podestà to receive discipline in the Dominican Church, and a chapel or church was built for the University by the grateful townsmen in memory of the event. The building was styled 'The Church of S. Mary of the Scholars in the Borgo of S. Mamolo,' though spoken of in the Statutes as the University Chapel². The fact testifies to the vital importance of the University to the City³, and the consequent power wielded by the former.

CHAP. IV,
§ 3.
Migration of 1321: Peace between Town and Gown.

Even for tracing the internal development of the University the materials are singularly scanty compared with those which we possess for the history of Paris. We know that a body of Statutes received the Papal approval in 1253. But the earliest collection of Statutes available until quite recently dates only from 1432. Enough might even then have been gathered by inference from the Statutes of daughter-Universities to demolish the rash assumption of Savigny⁴ that the bulk of these Statutes had come down unaltered from the earliest days of the University. Father Denifle has, however, recently dis-

Scantiness of data: the Statutes.

¹ Ghirardacci, II. pp. 5, 6.

Melloni, *Elenco delle Chiese della Città e Diocesi di Bologna compilato nel MCCCCLXVI* (Bologna, 1779, p. 18), and *Stat.* pp. 14, 61 notes. After 1309 the Church was styled S. Maria delle Grazie: it is now suppressed.

² The *Acta Nationis Germanicae* bear curious testimony to the frequency of Secessions or Migrations in the period immediately preceding this approximately permanent settlement. Under the year 1309 occur the words 'Nota, quod hic vacaverat natio tribus annis, quibus non fuit

studium' (p. 59), and among the accounts of 1308 (*l.c.*) is an entry 'pro sacco, in quo portabantur res nationis in discordia, II solidos.' Under 1312 (p. 65) is a payment 'pro instrumento cautionis, quam fecimus nationi dum timore novitatum cederemus de Bononia.' There is a similar entry in 1316 (p. 72); while under 1321 and 1322 there are payments connected with the secession to Imola (pp. 79-80). On this last see Banchi, *Giornale Storico degli Archivi Toscani*, Anno V. 1861, p. 237.

⁴ Cap. xxi. § 61.

CHAP. IV, covered in the Chapter Library of Pressburg in Hungary, § 3. an earlier redaction of about half of this Statute-book. From the information supplied by these Statutes themselves, it appears that they were originally drafted by the celebrated Canonist Johannes Andreae, and published by the University in the year 1317. Additions were made to them in the years 1326, 1336, and 1346, and in the last-mentioned year they were subjected to a complete revision. The Pressburg MS. contains the form which was given to them in the academical year 1346-1347.

Statutes
of 1317.

But a comparison of these Statutes with those of various Universities formed on the Bologna model in the period between 1317 and 1347 makes it clear that the changes introduced in 1347 were but slight. The re-editing consisted chiefly of additions, deciding moot points that had arisen in the interval, and which can generally be recognized by their interrupting the alphabetical arrangement of the original Statutes. When, however, we turn to the only extant collection of University Statutes believed to be copied from those of Bologna at an earlier date than 1317, we find little verbal coincidence with the collection of 1317. The University constitution in its main outlines—the Rectorial jurisdiction, the Nations and Consiliarii, the Student-supremacy over the Professors¹ and other institutions to be more fully described in our next chapter—are all found faithfully anticipated in the Statutes made for the University of Lerida in the year 1300². But the actual Statutes are expressed in a different style and language, and are very much less bulky and detailed than the Bologna Code of 1317. It is from this epoch then that we must date the Code of Laws which continued with few modifications to govern the University of Bologna throughout our period.

¹ This supremacy was virtually recognized by Honorius III as early as 1224, where he speaks of the Doctors 'qui . . . stare ut tenebantur sententias rectorum con-

tempserunt.'—Savioli, III. pt. ii., p. 56.

² Published by Villanueva in *Viage Literario à las Iglesias de España*, T. XVI. p. 207.

In the following Section I shall content myself with giving a sketch of the University system as it is presented to us by the first collection of Statutes which we possess in their integrity—the Code of 1432. But the discovery of Denifle enables us to add that the account will in the main be applicable to the whole period between 1317 and 1432¹.

CHAP. IV.
§ 3.

It may be convenient here to explain that there was at Bologna a wholly distinct University of Students in Medicine and Arts, and a wholly distinct College of Doctors in those Faculties, which will be dealt with in detail hereafter. In the next two sections I am concerned only with the Jurist organization.

¹ See below, § 6.

§ 4. THE CONSTITUTION OF THE STUDENT-UNIVERSITIES.

CHAP. IV,

§ 4.

Close union of the two Universities.

It will be noticed at once on comparing the extant Statutes with the state of things disclosed by the isolated documents of earlier times that a great change has taken place in the mutual relations of the separate Universities. At the beginning of the thirteenth century the four Universities of Jurists appear as distinct as a number of separate trade-guilds. Though the city legislation against the administration of oaths pledging scholars to leave Bologna under certain circumstances was directed against all the Universities, it was (so far as appears) only by the non-Italian Societies that it was resisted: and other instances occur of independent action on the part of particular Universities. By the fourteenth century the Universities of Jurists (now amalgamated into the two Ultramontane and Cismontane Universities) though remaining theoretically distinct bodies, are practically almost fused into one. They have a common code of Statutes; they hold common Congregations; the Rector of either University is empowered, in the absence or default of his colleague, to act on his behalf¹; they have even (it would seem) one common seal². Though they have no common Head, the two Universities have become practically as much one body as the four Nations of Paris³.

The jurisdiction of the Rector was originally based upon

¹ *Stat. p. 63 et passim.*

² *Stat. p. 127.*

³ It would seem that this state of things came into existence at about the close of the thirteenth century. In 1273 the Ultramontanes in their separate Congregation discuss a proposed alteration in their permanent Statutes (*Acta Nat. Germ. p. 349*). In 1301 we read of a 'liber statutorum scholarium ultramontanorum et citramontanorum' (*ib. p.*

350). In 1306 the Ultramontanes are said 'statuere et declarare *ad hoc*' (*ib. p. 352*), but its resolution related merely to an internal dispute between its constituent nations and does not seem to have involved any alteration in its permanent Statutes. Except where the contrary appears from the context, I shall employ the term University to denote the combined Universities of Jurists.

the Statutes of the University and derived its sanction from the penalties which the University as a private society had in its power to inflict on its own members, including the spiritual penalties in which transgressors were involved by their oaths of obedience. In accordance, however, with the prevalent ideas as to the authority of *collegia* and the inherent power of their members to elect Consuls or Rectors, the Republic recognized the authority of the Rectors over their students and directed its own Magistrates to enforce their sentences. This applied, however, only in the first instance to causes in which both parties were members or public servants of the Universities. But the Universities claimed more than this. They claimed for the Rectors an exclusive jurisdiction in all cases in which a scholar was involved either as plaintiff or defendant¹. Such a demand the Republic naturally resented, and there remained a permanent contradiction upon this point between the Statutes of the University and those of the City². Citizens may at times have elected to cite a Scholar before the Rector: but it is improbable that the Rectors ever succeeded in getting their jurisdiction *in invitos* acknowledged where a citizen was defendant. The Statutes of 1432 require the Rector to demand of the Podestà an oath to respect the privileges of the University and to enforce the Rectorial sentences³, but in the practical ap-

CHAP. IV,
§ 4.
The Rectorial
Jurisdiction.

¹ Sometimes, but not always, the Italian University Statutes admit the household (*familiars*) of scholars to their privileges, e. g. at Florence *Stat.* p. 22. So apparently at Bologna, *Stat.* p. 163.

² Cf. *Stat.* p. 37 with the Extract from the Town-statutes, *ib.* p. 163. Such collisions between the Town-statutes and those of the Scholars could probably be found in most Italian Universities. Sometimes the Universities expressly claim to override those of the town. Thus at Florence the Rector is to bear arms 'non obstantibus.. Statutis vel re-

formationibus Populi et comunis Florentie in contrarium loquentibus' (*Stat. Florent.* p. 28). In 1366 we find the Rectorial jurisdiction sanctioned by the City Statutes with the express exception of the right to bear arms or 'ire de nocte' (*ib.* p. 149). In 1403, however, licenses to bear arms might be granted to the *familiars* of the Rector (*ib.* p. 181.) At Ferrara the Rector's House is to be a sanctuary for criminals (Borsetti, I. p. 379).

³ 'Item mandabit sententias Rectorum vel alterius ipsorum executioni.' *Stat.* p. 183.

CHAP. IV, § 4.
 plication of this enactment there remained no doubt the old diversity of interpretation between the imponent and the taker of the oath; though, from the variations observable on this point in other University Statutes, it is probable that at Bologna itself there may have been fluctuations in the practical limits of the Academical jurisdiction at different times.

The Rector bound to exact penalties.

So completely was the Rector's jurisdiction dependent upon the Statutes that his functions were, in many cases, almost purely executive. When the Statutes denounced deprivation or expulsion upon Professor or student, the Rectors had no discretion in inflicting it. The power of restoring a deprived Doctor was reserved to the University itself¹. Similarly when the amount of a fine was fixed by Statute, it was regarded as a debt to the University incurred *ipso facto*. If the Rector failed to collect it, he became himself indebted to the Society to the same amount, and at the scrutiny held at the end of his term of office was required by the Syndics appointed for that purpose to make good the deficiency². All students—with a peculiar exception in favour of Bishops and high dignitaries—were bound to give information if any breach of the Statutes came under their notice³. At the *Syndicatus* on the expiration of his office complaints might be made against the Rector by Professors or Scholars, and the Rector was personally liable in damages to individuals whom he had annoyed by excessive zeal just as he was liable to the Society for his omissions⁴.

No criminal jurisdiction.

Criminal jurisdiction even over its own members—still less over citizens—the Universities do not seem to have secured⁵ until the fifteenth century, when it was conceded

¹ *Stat.* p. 110.

² *Stat.* pp. 60, 67 sq., 149. This is one of the innumerable adaptations from Italian civic practice. The same method was adopted with the Podestà.

³ *Ib.*

⁴ For a most curious record of

such a *syndicatus*, see *Statut. Fiornt.*, pp. 425-436.

⁵ 'Jurisdictionem ordinariam Rectores habent in scolares in causis civilibus' (*Stat.* p. 56). In a later addition (p. 181) there is an elaborate scale of fines for various forms of injury to the person or dignity of the

where both parties were scholars. In the late additions to the Statutes of 1432 we find, moreover, a provision that a student shall not be arrested (except for treason) without the permission of the Rector, that he shall not be dragged through the streets, and that he shall be admitted to bail when accused of carrying arms¹. CHAP. IV,
§ 4.

There was, indeed, a large class of citizens on whom the Statutes did impose penalties. By a judicious employment of the mighty power of interdict or 'boycotting', the University had acquired jurisdiction over the landlords of Students' houses in matters affecting their relations with the students², and over all classes of tradesmen or workmen engaged in the production of books³. With these Interdict.

IV

Rector, culminating in the provision that any one who assaults that official 'cum armis et sanguinis effusione citra mortem vel mortale vulnus poenam manus et centum lib. bonon. incurrat.' But from the context it appears that the University was merely 'puniri curare et usque ad finem prosequi' before the City Magistrates. In 1411 the Rector's criminal jurisdiction over scholars is recognised by the city (*ib.* p. 166). So later (*ib.* p. 195): 'Et talis gerens se pro Bidello tradetur carceribus domini Potestatis per spacium trium dierum per Rectores Universitatis nostrae.' A Privilege of Paul III in 1544 gave the Rectors jurisdiction in all non-capital criminal cases in which a scholar was involved. *Stat. Jur. Bon.* pp. 97, 98. Savigny (*cap.* xxi. § 74) says that the right of the Rectors to punish small offences was never contested, but gives no proof of such a right being recognized except in the case of offences against the Statutes, which do not provide for the punishment of offences against the ordinary Law.

¹ *Stat.* p. 184.

² At Padua a person who violates the privilege of the University

'per scholas publicetur et comertio scholarium interdicatur.' *Stat. Artistorum*, f. xxxvi. The penalty of 'Privatio' sometimes extended to the fifth generation. *Stat. Univ. Jur. Patavini Gymn.* 1550, f. 51.

³ The town recognizes the system of joint-taxation (*Stat.* p. 160), but it denies the University's right of Interdictio, at least in certain cases (p. 161), while the University Statutes denounce it against the 'hospites' of houses near which an outrage on a scholar is committed, even if the owner was not personally responsible (p. 124). Under the Papal Bull authorizing the taxation (see above, p. 149) disputes about lodgings might be taken before the Spiritual Courts, but the University denounces perpetual interdiction against an interdicted landlord invoking their help (*Stat.* p. 125).

⁴ 'Scriptores, miniores, correctores et minorum repositores atque rasores librorum, ligatores, cartolarii et qui vivunt pro universitate scolarium.' *Stat.* p. 59. The town-statutes require that disputes between scholars and *scriptores* shall be settled by the Podestà (*Stat.* p. 162).

CHAP. IV, exceptions the jurisdiction of the Rector was confined to the members of the University; and even over Students this jurisdiction was very strictly limited and defined by Statute. The penalties which he could inflict consisted in ordinary cases of fines, or in serious cases of expulsion or 'privation,' together with the power of pronouncing a Student perjured. In the last two cases, the assent of a majority of the Council was required. In the enforcement of his civil penalties, the Rector was dependent upon the assistance of the Podestà and his officers¹.

The Pro-
fessorial
Jurisdic-
tion.

As has been already said, the jurisdiction conferred by the Authentic *Habita* upon the Professors was always legally recognized, however much out of harmony with the later relations in other respects between the Professors and their domineering pupils. By the decree of Frederick I this jurisdiction extended apparently both to criminal and civil matters. This interpretation of the law was, however, much disputed by the citizens: and a great feud between the Lombards and the Tuscans early in the thirteenth century, when (according to the Jurist Odofredus) there were 10,000 students at Bologna, compelled them for a time to renounce a criminal jurisdiction which they found themselves incapable of enforcing. This jurisdiction had been, however, nominally resumed in the time of Odofredus († 1265 A.D.), though it is probable that it was very much of a dead letter². At all events the Professors

¹ Cf. *Stat. Florent.* p. 430, where a student complains that the Rector 'misit pro familia domini Potestatis, uno mane, dum esset dominus Andreas in scholis ad audiendum, et eum de Studio ignominiose et vituperose capi fecit et duci ad Palatium et in carceribus detrueri,' &c., for which excess of zeal the Rector was heavily fined by the Syndica.

² 'Sed per scholares et doctores renunciatum est Bononiæ quantum ad criminales, et sic servatur exceptis clericis qui suo non potuerunt privilegio renunciare.' Accursius in

Cod. iv. tit. 13 *Habita* Verb. *si litum* (ed. Contius, Parisiis, 1576, c. 750). 'Or, signori, videtur quod hec constitutio quantum ad verba loquatur in civili et in criminali, nam vidi hoc in civitate ista tempore Domini Azonis quod scholares poterant declinare forum in causa criminali, et erant hic tunc temporis bene x. millia scholarium. Sed scholares renuntiaverunt huic privilegio tempore Domini Azonis et fuit renunciatum tali ratione, quia inter Lombardos et Tuscos fuit maxima discordia et maximum bellum, ita quod domini doctores non pote-

would be entirely dependent upon the co-operation of the Town authorities for the enforcement of any sentences that they might venture to pronounce. The right secured by the *Habita* of citing a scholar before the Bishop was no doubt intended primarily for clerks, though originally the alternative appears to have been always open to a plaintiff-student; but in practice it was seldom claimed except by ecclesiastics. And at no time was either clerk or layman allowed to decline the Rector's jurisdiction if cited before him by the other party¹. As, however, the Canon Law forbade the exercise of any jurisdiction by a layman over a clerk, the University Statute provided that the Rector should be himself a clerk². We shall have occasion again to speak of the medieval conception of *clericatus*, which is, indeed, of great importance in the appreciation of the relations between the Universities and the Church. Here it will be sufficient to say that any student could become a clerk and so acquire the immunities of an ecclesiastic by merely receiving the tonsure from a Bishop,

CHAP. IV.

§ 4.

The Rector
a clerk.

rant se intromittere in puniendo eos ;
... sed in civili bene habent adhuc
suum hodie privilegium. Sed hodie
reversum est ad pristinum statum :
tamen deus velit quod non faciant sibi
male adinvicem, nam per dominos doc-
tores male puniuntur illa maleficia.'
Odofredus, *Super Codicem* (T. III.
f. 204). Auth. *Habita*. He adds
that the privilege applies only to *scholares qui studiorum causa peregrinantur*, hence not to *Bonomienses*. Accursius (c. 1200) treats even the Bishop's jurisdiction as obsolete 'quantum ad delicta.' *Authenticorum Collatio* III. tit. 4 (Parisii, 1576, c. 133), though this must be understood with an exception in favour of clerici. Odofredus *ad Dig. Vetus Const. Omnium* (T. I. f. 4) assumes that even a lay scholar may still be cited before the Bishop. The clerical privilege is enforced by Bull in 1252 (*Archiv f. Kirchengesch.* IV. p. 245).

¹ *Stat.* p. 57.

² The above explanation of the proviso is clearly given by the jurist Baldus and adopted by Denifle, I. 87. Savigny (c. xxi. § 72), who never could understand what a *clericus* meant in the Middle Ages, rejects it, and says that *clericus* must mean merely 'scholar.' But compare the following Statute of Ferrara (Borsetti, I. 367): 'Et si fieri posset, sit (Rector) qui promotus sit ad primos ordines ecclesiasticos, scilicet ad primam tonsuram et quatuor Ordines Minores et hoc quo convenitur (*lege conveni-ent*) Judex competens Scholaribus fieri queat.' For the importance attached to the tonsure and clerical habit, cf. *Stat. Florent.* p. 437, where it is pleaded in the Archbishop's Court that 'non potuit nec potest dictus magister Ieronimus gaudere aliquo privilegio clericali, et maxime quia jam diu vivit sine habitu et tonsura clericali.'

CHAP. IV,
§ 4.

adopting the clerical dress, and remaining celibate. The Rector of a University of students was usually a beneficed ecclesiastic—a Dean or Archdeacon or Canon for instance¹. In such cases he would have to be at least in minor orders: but he might be a *clericus* without being even in minor orders.

The
Nations.

We have already alluded to the subdivision of the two Universities into Nations. In the earliest Statutes we find the Citramontani divided into three nations only, the Romans, the Tuscans, and the Lombards: but these are further subdivided into *Consiliaria*, or smaller local divisions, each of which elected one or two Councillors². By 1432, however, these *Consiliaria*, seventeen in number, are occasionally spoken of as distinct Nations, though traces of the earlier arrangement still remained in the Statute book³. As early as 1265 the Ultramontani were divided into fourteen Nations⁴. In 1432 there were sixteen Ultramontane Na-

¹ Thus, at the time of the Reformation of the Statutes in 1432 we find that both Rectors are scholars in Canon Law, one being Dean of Troyes, the other Provoet of a collegiate Church (*Stat.* p. 47). At Florence, in 1487, we find the *minimum* age reduced to nineteen (*Stat. Fiorunt.* p. 15).

² 'Statuimus quod consiliarii sint numero triginta octo, scilicet decem et novem ultramontani, et totidem citramontani. De ultramontanis autem quod solitum est servetur. De citramontanis vero iuxta morem antiquum natio Romanorum habeat sex, Tuscorum alios sex, reliquos habeat natio Lombardorum, quos per consiliarias sic dividimus, sicut nationis statutis est descriptum.' *Stat.* p. 16.

³ The above-cited words are repeated nearly *verbatim*, except that the allusion to the Statutes of the Nation disappears and the Councillors are redistributed as follows: 'Natio Romanorum habeat octo, Tuscorum

sex, et natio Lombardorum quinque. Quas nationes per consiliarias sic dividimus, videlicet: Natio vero sunt decem et septem, sex Romanorum, sex Tuscorum et quinque Lombardorum. Romana continet sub se has nationes: Nationem Romanorum, nationem Abrucii et terre laboris, apulie et calabrie, marchie inferioris, marchie superioris, item totius insule Sicilie. Natio Tuscorum habeat sub se sex nationes, scilicet Florentinam, pisanam et lucanam, senensem, ducatum, ravenatam et venetorum. Natio lombardorum quinque nationes, cum vocibus contentis sub illis, scilicet ianuensium, mediolanensium, tessalonicam, longobardam et celestinam' (*Stat.* p. 68). Rome and Sicily have each two councillors. So in *Stat.* p. 50 the Ultramontane Consiliarie are distinguished from the Cismontane Nations.

⁴ See doc. in *Acta Nationis Germ.* p. 347. The Nations are Gaul, Picardy, Burgundy, Poitou, Touraine and Maine, Normandy, Catalonia,

tions¹, each electing one, or in a few cases two *Consiliarii*². In early times these Nations (which we have seen reason to believe were in reality earlier than the two great Federations into which they were ultimately merged), were, like the Nations of Paris, distinct corporations with Statutes, officers, and meetings of their own. But (except in the case of the specially privileged German Nation) they here appear to have lost much of their importance and autonomy, though they must have held Congregations of their own for the election of *Consiliarii*³.

CHAP. IV.
§ 4.

It is obvious that so enormous a body as the whole body of Law-students could not meet so frequently as the Parisian University of Masters. Many matters therefore which were at Paris dealt with by the University itself were at Bologna left to the Rectors and *Consiliarii*, who jointly formed the ordinary executive body of the University. The consent of one Rector and a majority of the Councillors was necessary to the calling of a congregation⁴ — a provision which of course gave them the initiative in all University legislation. Upon the requisition of two Councillors, the votes were taken by ballot⁵. The concur-

The *Consiliarii*.

Hungary, Poland, Germany (Teuthonici), Spain, Provence, England, Gascony. Poitou and Gascony were merged and assigned two councillors by the agreement made in this year (*ib.* p. 348).

¹ The names are now (*Stat.* pp. 70, 71): (1) Gaul, (2) Portugal and the Algarve, (3) Provence, (4) England, (5) Burgundy, (6) Savoy, (7) Gascony and Auvergne, (8) Berry, (9) Touraine, (10) Aragon and Catalonia with Valencia and the Majorcas (two councillors), (11) Navarre, (12) Germany (two councillors), (13) Hungary, (14) Poland, (15) Bohemia, (16) Flanders. The Statute speaks of nineteen ultramontane councillors, but only eighteen are accounted for.

² From the expressions 'habeat unam vocem et unum conciliarium,' 'habeat duas voces,' &c. (*Stat.* p. 68),

it would seem as if the voting was by Nations as at Paris (below, p. 405 sq.), but the Statute *De modo partium ponendi in Universitate* proves the contrary (*Stat.* p. 130). Possibly the expression may be a survival.

³ The Statutes of 1432 limit the 'festivitates Nationum que non sunt descripte inter festa universitatis' and abolish the 'officia prepositorum seu priorum Nationum seu consiliarium ultramontanorum per que etiam Rectorum iurisdictione per tempora extitit multum impedita' (*Stat.* p. 139). We know from the *Acta Nat. Germ.* that the independent existence of the specially privileged German Nation was quite unaffected by this Statute: how it affected other nations we do not know.

⁴ *Stat.* p. 60.

⁵ *Stat.* p. 57.

CHAP. IV, § 4. rence of a majority of the Council was, as has been said, necessary before the Rector could pronounce the sentence of deprivation, or declare a Doctor or scholar perjured¹.

Election of Rector. The Rector was chosen biennially by that method of indirect election which bore so prominent a part in the constitutions of Italian Republics. The electors were the ex-Rectors, the newly-elected Councillors, and an equal number of special delegates. The voting was by ballot, a Dominican Priest acting as returning-officer². The Rector was required to be a 'secular clerk, unmarried, wearing the clerical habit³, of five years standing in the study of law, and at least twenty-four years of age⁴. The Rector took precedence over all Archbishops and Bishops (except the Bishop of Bologna) and even over Cardinals⁵.

Rectorial expenses. The expenses of the office must have been in proportion to its dignity, the only salary attached to it being a moiety of the fines exacted by its occupant⁶. The Rector was expected to live with a certain amount of state; he was bound, for instance, by Statute to keep at least two liveried servants⁷. But the most serious expense was incurred in connexion with the festivities of the Installation-day. If we may transfer to Bologna the custom of Padua, the ceremony took place in the Cathedral, where, in presence of the assembled University, the Rector-elect was solemnly invested with the Rectorial hood by

¹ Stat. p. 50.

² Stat. pp. 49-51.

³ 'Clericus non coniugatus, habitum deferens clericalem, ac nullius religionis apparent.' Stat. p. 49.

⁴ 'Qui . . . vigesimum quintum sue etatis attigerit' (Stat. p. 49). Savigny wrongly gives the minimum age as twenty-five (cap. xxi. § 7a).

⁵ Stat. Jur. Bon. p. 90. The Legate and the Vexillifer Justice are also placed above the Rectors. Cf. Ghirardacci, II. p. 484.

⁶ Stat. p. 60. It appears that it had been at one time customary for the University to grant a *subventio*

towards the Rector's expenses. This is forbidden by the Statutes of 1432 (pp. 53, 54), unless the insufficiency of the Rector's purse is proved. But later it appears that it was customary to elect the Rectors to Student-chairs of 100 *libre* — a salary which was doubled when the two Rectorships were amalgamated, and largely increased in the sixteenth century. Malagola, *Monografia*, pp. 52, 53; Stat. p. 181.

⁷ Stat. p. 256: the title *Rector Magnificus* does not begin to be used till the end of the fifteenth century. Malagola, *Monografia*, p. 47.

one of the Doctors: after which he was escorted in triumph by the whole body of students to his house; where a banquet, or at least wine and spices, awaited the constituents to whom he owed his exalted office¹. It is worth mentioning as an illustration of the continuity of Academic custom that this 'deductio' with the subsequent 'wine and spices' was prescribed not only by the Statutes of Universities which directly copied those of Bologna, but by the ancient customs both of Paris and of Oxford². At the latter it is observed in a somewhat shrunken form at the inauguration of the Vice-Chancellor, and of the Proctors. But in the Italian Universities the festivities at the Rectorial Inauguration were on a much vaster scale than anything that could have been provided by a poor Master of Arts in a Master-University. At Padua a tilt or tournament was held at which the new Rector was required to provide two hundred spears and two hundred pairs of gloves for the use of combatants. The Statutes of the Bologna University of Arts and Medicine forbade the Rector to feast those who escort him home, to give a banquet to more than twelve persons on the day of his election, or to 'dance or make to dance with trumpets or without' for a month after that event³. In the terms of this prohibition we may probably read a picture of the rejoicings which were permitted in the case of the wealthier University of Jurists. A still more curious and no less expensive feature of the entertainment as conducted in the sixteenth century was the custom of setting upon the newly-elected Rector, tearing his clothes off his back, and then requiring him to re-

¹ *Statuta Universitatis Juristarum Patavini Gymnasii*, 1550, f. 11.

² Facciolati, *Syntagma*, p. 17 sq. *Stat. Jur. Pat. l. c.*

³ 'Tripudiare aut tripudiarum facere cum trombis vel sine vel cum aliis instrumentis, de nocte, cum dopleris vel sine, directe vel indirecte.' *Stat. p. 221*. What is to dance 'in-

directly'! The Artists' Statutes of 1486 at Padua (*Stat. Artistarum Academia Patavina*, fol. 3 b, 4 a) require the Rector to provide a *collatio* for the whole University, and to find at least 800 spears for the tournament, at which he awarded prizes compulsorily given by himself and the *Doctores legentes*.

CHAP. IV, deem the fragments at an exorbitant rate. The Statute
 54
 of 1552, which was passed to restrain 'the too horrid and
 petulant mirth' of these occasions, does not venture to
 abolish the time-honoured 'vestium laceratio'¹; These are
 a few examples of the extortions to which the newly-
 elected Rector was exposed. The Statutes of the various
 Universities abound with regulations as to the number of
 servants that the Rector shall keep, the value of his
 liveries², the quality of the wine that he should provide at
 his Installation banquet, and the like. Altogether, there
 is little cause for surprise that students eventually became
 as anxious to avoid the Rectorship as English country
 gentlemen are to escape the burdensome honour of the
 Shrievalty. The acceptance of the office by students of
 sufficient means was made compulsory, and elaborate pre-
 cautions had to be taken to prevent those who had this
 unwelcome greatness thrust upon them from absconding
 before the expiration of their year of office. The Rector
 was, therefore, not allowed to leave the city without the
 permission of his Council, or without giving sufficient
 security for his return³.

Accept-
 ance com-
 pulsory.

Decay of
 the Rec-
 torship.

In the middle of the fourteenth century we already find
 an instance of the two Jurist-rectorships being held by
 a single individual. Towards the end of the fifteenth
 century this arrangement became the rule instead of the
 exception. In the sixteenth century the difficulty of ob-
 taining candidates able to perform such expensive duties,
 together with the growing hostility of governments to
 Student-rectorships, led either to a great reduction in the

¹ 'Vestem quoque abripi atque etiam lacerari non prohibemus dummodo sciant hi qui lacerarunt nihil hinc exigi posse, &c. Qui vero integram detulerunt, contenti discedant pecunia eis danda per rectorem que non sit minoris summe scutorum sex intotum.' *Stat. Jur. Bon.* (1561) p. 103.

² So at Ferrara, where he is also to keep a horse 'vel mulam honora-

bilem.' Borsetti, I. p. 376. He is also to provide a 'collationem laudabilem' to appease the 'altercationes' that were wont to arise at Rectorial elections, but it may be doubted whether the 'vinum dulce optimum' was the best means of securing that end.

³ *Stat.* p. 65. Cf. the elaborate Statute *De excusatione electi*, p. 53.

splendour and dignity of the office, or to its permanent discharge by deputies—often Professors—who were not expected to maintain the state invariably associated with the actual Rectorship. At Bologna several instances of the appointment of a Vice-Rector occur in the later medieval period, and after 1580 this arrangement became permanent. After 1609 the Rectorial duties were discharged by a deputy known as Prior, elected by the students for a single month only¹. In 1742 the Rectorship was revived, but only to be conferred upon the Cardinal-legate of Bologna. This arrangement is a sufficient indication of the practical extinction of the student-liberties: still in this their earliest home the whole Student-constitution lasted in a shadowy form down to the Revolution². In the University as in the State the sixteenth century everywhere (except to some extent in England) broke down the old medieval liberties as well as the medieval licenses which those liberties had too often sheltered: but the last vestiges of them often lived on till they were swept away—only too ruthlessly—by that mightier Revolution which was to bring back in a more advanced form the liberty which they had once enshrined.

The supreme governing body of the Society was the Congregation of the two Universities, i. e. the whole body of students with the exception of poor men who lived 'at others' expense³. The Universities in their earliest days had no buildings of their own, and the fact is one which is of primary importance for the appreciation of the genius and history of the institution. Their power depended wholly upon the facility with which they could move from town to town: and when a University or a large section of it had decamped from the place, there were no effects left

¹ Malagola, *Monografia*, pp. 34, 133 sq. There was an isolated revival of the Rectorship in 1604. *Ib.* pp. 60, 205.

² *Ib.* pp. 72, 205 sq. After many vicissitudes (*ib.* pp. 75-81), the Rectorship is now re-established, but

the Rector is of course no longer elected by the Students.

³ 'Viventes sumptibus alienis . . . ut sunt socii doctorum bononiensium et scolarium bonon., repetitores et similes.' *Stat.* p. 147.

behind for the authorities to attach. In the earliest days of the Universities, the lecture-room or school was simply a hired apartment, or the private house of the Doctor¹. None of these schools of course were large enough to hold the entire body of students. For great solemnities, such as Doctoral Inceptions, the Cathedral was used. For ordinary Congregations a Convent or a Church had to be borrowed. At Bologna the usual place of meeting was the great convent of S. Dominic (the burial-place of the Saint), in the sacristy of which the common chest and seal of the University were kept². Attendance at these Congregations was compulsory. When a question was laid before the Assembly by the Rectors, every member had the right of speaking, but the Rectors had the power of 'closure,' and might 'impose silence on too prolix speakers³.' The votes were taken by ballot with black and white beans⁴.

Perma-
nence of
the Sta-
tutes.

It must not be supposed that University legislation was to the students of Bologna the weekly employment that it has become to the resident M.A.s of Oxford and Cambridge. As in the old Greek and medieval Italian Republics, the Constitution provided most effectual checks against hasty or over-frequent legislation of a permanent

¹ The will of Bonrecuperus Porrus († 1278) contains a clause: 'Et si decederet sine liberis legitimis masculis voluit et jussit ut domus ipsius testatoris in qua ipse moratur sic existat separata per murum a domo alia testatoris in qua morantur scholares et sunt schole,' ap. Sarti, l. pt. i. p. 215. So Sarti tells us that Odofredus 'Scholas habuit paramplas in suis aedibus, quarum aliquando mentionem ingerit in commentariis ad Pandectas.' *Ib.* p. 166.

² *Stat.* pp. 127, 129; Ghirardacci (l. 525) says the usual place was 'al luogho de S. Dominico.' Was this the Church or the Piazza outside? No room in the Convent would have been large enough. The only approach to a University building

which existed in medieval times was a 'Statio Universitatis' in which the Rector sat and the Notary had his office, but there is no evidence that it was actually the property of the University. *Stat.* pp. 81, 83. The Rector held his Court in the 'Statio bidellorum generalium'—probably the same place. *Ib.* p. 85.

³ 'Possint tamen Rectores nimium prolixis in sermone silentium imponere.' *Stat.* p. 61.

⁴ 'Priusquam ad fabas albas et nigras perveniat.' *Stat.* p. 61. Cf. p. 130. At the beginning of every Congregation four Consiliarii were chosen who with the Rectors determined the form in which the question should be put ('forma partiti'). *Stat.* p. 60.

character. The Statutes could only be altered once every twenty years, when eight *Statularii* were appointed to conduct the revision and to publish the new Code, which passed into law without any further confirmation by the University. In the intervals between these revisions, changes could only be made by the unanimous consent of the University upon a proposal already approved, first by the Rectors and Councillors, and then by a body of twenty-four members of the University named by them. A still more self-denying ordinance was the provision that in this case the consent of the Doctors was also necessary¹.

One of the most curious parts of the University system was the institution of *Peciarii*². The *Peciarii* were six in number. Their duty was to supervise the *Stationarii* or keepers of book-stalls. The Stationer was compelled periodically to submit his MSS. to the inspection of this board, and the Stationer was liable to a fine of five Bologna *solidi* for every incorrect copy which he produced. Students who might detect clerical errors in their books were bound on pain of perjury to give information against the Stationer: and both Doctors and Students were bound at all times to lend their books to the *Peciarii* for the purpose of collation. The actual correction of the MSS. was carried out by the *Correctores peciarum*. The Stationer's primary business was to let out books on hire to scholars, the rate of hire being determined by the University Statutes³. So far the regulations are mainly applicable to books produced by the writers in the Stationers' employment. But a very large proportion of the book-trade in the Middle Ages was a second-hand trade. Books were dearer, but much more durable, than at the present day. In the sale of second-hand books, however, the Stationer was not allowed to reap the enormous profits made possible by the modern

¹ *Stat.* pp. 76-78.

² The following regulations are from *Stat.* pp. 75, 76.

³ Six *denarii* were paid for the loan of a *quaestio* (for how long does not appear), and the Stationer might

demand a 'pignus' of twice the value. (*Stat.* p. 76). A list of prices for the hire of books is given in *Stat.* p. 91, sq. A complete Digest costs 30 *solidi*, the Institutes 25.

CHAP. IV, § 4. system. He occupied the position not so much of a trader as of an agent acting on behalf of the owner, and was remunerated by a fixed commission which was defrayed half by the buyer and half by the seller¹. In the sale of new books he likewise, it would appear, served as a middleman between the buyer and the writers. A continual supply of fresh scholastic literature was ensured by the provision that every Doctor, after holding a 'disputatio' or 'repetitio' should, on pain of a fine of ten golden ducats, write out his argument and deliver it to the General Bedel of the University, by whom it was transmitted to the Stationers for publication². Some similar regulation in our own Universities might be found a more effectual stimulus to research than much 'endowment' and many 'visitatorial boards.' The *Stationarii* were subject to a number of other minute regulations, most of which we shall find substantially reproduced at Paris, with a view of securing an adequate supply and keeping down the prices. Paternal government was in this matter carried so far that books above a certain value might only be sold in presence of the University notary³.

Taxors.
(*Taxatores*
Hospicio-
rum.)

Of the remaining University officials the most important were the Taxors, who, jointly with arbitrators appointed by the city, fixed the rents of houses used by scholars. Five years' 'interdiction to scholars' was the penalty of refusal to abide by the decision of the arbitrators or any other infringement of the regulations of the University⁴. This system of taxation was, as has been seen, very early recognized by Papal authority. Traces of it are found in other places even before the rise of the Universities, and it soon became universal in all University towns whether of the Parisian or of the Bologna type. Landlords were not

¹ Six *denarii* on each *libra* up to 60, afterwards four. *Stat.* p. 89.

² *Stat.* p. 109.

³ *Stat.* p. 87. In Fournier, *Stat. et Priv. des Univ. Françaises*, I. No. 150. is a contract for the sale of a book as elaborate as a conveyance

of a landed estate.

⁴ *Stat.* pp. 121 sq., 160. Four *proxenetae* were also appointed by the Universities to assist students in finding lodgings and the employment of other intermediaries was forbidden. *Ib.* p. 123.

the only class of citizens against whose exactions the Universities sought to protect their members. Both the University and the Town Statutes provide for the appointment by the University of four licensed Merchants or money-lenders or (as they might be no less correctly termed) pawnbrokers, who were privileged to lend money to students¹.

CHAP. IV,
§ 4.
Merchants.

The other officials employed by the University but not selected from the student-body were the two *Massarii* or Treasurers², the *Notarius*³, the *Syndicus* or common Advocate (a lawyer who also acted as legal assessor to the Rectors⁴) and the *Bidelli Generales*⁵ (one for each University). The functions of the first three pretty well explain themselves. The duties of the *Bedels* were fairly analogous to those of the venerable and picturesque functionaries who bear the same name in our own Universities, except that they performed some of the duties now entrusted to the Clerk of the Schools and others which have fallen into desuetude. Thus, besides preceding the Rectors on public occasions, collecting the votes in Congregation, and so on, the *Bedels* went the round of the schools, to read Statutes and decrees of Congregation, announcements of lectures by students, lists of books which the *Stationarii* or individual students had on sale and other matters of general interest. He was remunerated by a special *collecta* to which all students were required to contribute the customary amount.

Other
Officials.

The *Bedelship* is among the most ancient of Academical offices—perhaps as ancient as the Rectorship. It is found

Antiquity
of *Bedels*.

¹ *Stat.* p. 64, *De electione mercatorum*. The nature of their functions is explained in the Town-statute (*Stat.* p. 161), which exempts from military service 'quatuor mercatores vel feneratoros qui mutuunt eis pecuniam.' So at Florence, a *Fenerator* is to be elected 'cum quo paciatur de salario usurarum; qui Scholaribus mutuunt sub usuris, pro minori quantitate lucri quam alii

feneratoros mutuunt, tempore opportuno.' *Stat. Fior.* p. 34. Scholars were here forbidden to borrow from other money-lenders.

² *Stat.* pp. 19, 20.

³ *Stat.* p. 79 sq. He kept the *Matricula*, and recorded the acts of the University.

⁴ *Stat.* p. 79.

⁵ *Stat.* p. 84 et passim.

CHAP. IV, in all medieval Universities without exception. In fact, an
 54. allusion to a *bidellus*¹ is in general (though not invariably) a sufficiently trustworthy indication that a School is really a University or Studium Generale. It is interesting to observe that in spite of the decay of most that is medieval in the continental Universities the Bedels of Bologna and the other Italian Universities still appear upon public occasions with the ponderous maces which they have borne from medieval times, and which retain almost exactly the form familiar to Oxonian or Cantabrigian eyes.

Special
Bedels.

Besides the General or University Bedels, each Doctor had a 'special Bedel' of his own, who looked after his school, opened and shut the door, swept it out twice a month, strewed the floor with straw in winter and carried his Doctor's books to the school. He was remunerated by a *collecta* from his Master's pupils. Both the special and general Bedels preceded the Rectors at funerals or other University processions².

Few disciplinary
Statutes.

The Statutes of the Student-Universities naturally do not regulate the private life of students with the same detail as the College-statutes or even the later University-statutes of Paris and Oxford. The students of Bologna lived in their own houses and entirely after their own fashion. The usual practice was not to take lodgings in a citizen's house like the modern extra-collegiate student, but for parties of students (*socii*) to hire the whole house together and make their own arrangements as to servants, furniture³ and the like⁴. To live in a townsman's house (*ad contubernia* or *ad*

¹ Often spelt *pedellus*, whence the *Pedel* of the German Universities. It is derived of course from *pedum* (a stick).

² *Stat.* pp. 84, 85. Cf. *Stat. Florent.* pp. 68, 81, 96.

³ What this furniture was may be gathered from a Statute of the College of Spain at Bologna: 'Cameram quoque unusquisque predictorum fulcitam habeat expensu collegii lectisternio uno, matalatio uel cultra,

cooptorio plumari et linteaminibus de tela grossa, archobanco, studio (a desk) et paleis pro lecto necessariis.' He is allowed to buy additional furniture at his own expense. *MS. Stat. f. 13b.* (See below, p. 200, n. 4).

⁴ At Lerida the Bedel is required to introduce the new-comer to a suitable *Societas*. *Stat. ap. Villanueva, Viage Literario, XVI. p. 223.* So at Bologna a student 'going

cameram) was the exception¹. The principal disciplinary regulations which we do find relate to two subjects—the wearing of arms and the practice of gambling: quarrelling and gambling were no doubt the most prevalent, or at all events the most troublesome, vices among Italian students. The wearing of arms at Congregation is prohibited: but, mindful that without them the life of a student would not always be safe, the Statutes allow any one who fears his enemy's stiletto privately to inform the Rector and so obtain leave of absence². The Statutes against gambling are extremely strict. 'With a view of obviating the loss of money' attendant upon the practice, it is made an offence even to watch a game of dice played in public. Students are forbidden to enter or to keep gaming-houses, and the latter prohibition is expressly extended to Doctors³. There is also a very curious provision that a student was not even to play in his own house during the three months before 'going down' for good or (as it was technically styled) 'going home a wise man,' or again for one month after taking his degree⁴. Was the legislator anxious to provide against the exceptional temptations to frivolity and dissipation which the close of an Academic career brought with it, or was he influenced by a merely prudential desire to protect the remaining students against irrecoverable debts of honour? In the Student-University of Lerida scholars are forbidden to entertain or be entertained by actors or pro-

CHAP. IV,

54

down' is required to deliver his key not to the landlord but to his 'socii.' *Stat.* p. 125.

¹ *Statuta Juristarum Patavinæ Gymnasii*, 1550, f. 119. If the analogy of Paris may be trusted it was customary only with the poorest students. (Cf. below, p. 475.)

² *Stat.* pp. 130, 131.

³ *Stat.* p. 133 (*De ludo taxillorum*). There is, however, an exception in favour of playing 'ad scacos (chess) vel ad tabulas causa recreationis.' (What was the principle of the dis-

inction between 'taxilli' and 'tabulæ'?) The provisions against professorial gambling were not uncalled for: 'Joannes Bassianus . . . nonnumquam pannis exutus, nudus remanebat in alca.'—Guil. de Pastrengo ap. Sarti, I. pt. i. p. 90.

⁴ 'Adjicientes quod nullus doctorari volens, vel sapiens recedere infra duos menses ante suum recessum vel conventum audeat ludum in hospitio suo tenere, vel aliis ludentibus consentire nec etiam post doctoratum per mensem.'—*Stat.* p. 133.

CHAP. IV, ^{§ 4.} fessional jesters, except at Christmas, Easter and Whitsuntide, or at the Inceptions¹: even at these times they might only provide them with food, but not with money, in return for their professional services. The thrifty students of Lerida are also forbidden to ride to the schools or to keep a horse, though a mule is allowed. The Statutes even prescribe the number of courses to which they might entertain their friends, and the maximum price of their clothes². At Bologna the regulations, so far as extant, were less inquisitorial.

Academical dress.

The Statutes relating to costume must be regarded more in the light of sumptuary regulations than as a requirement of 'academical dress.' The 'Cappa' or other outer garment was required to be of 'statutable or black' stuff³, the penalty for the violation of this Statute being much higher than the ineffectual Oxford five shillings. Hoods were not limited to graduates, but a miniver hood was the especial distinction of Rectors and Professors. The former were

¹ 'Mimia, jocularibus, istrionibus, militibus qui dicuntur salvatges, coeterisque truffatoribus, &c.' Villanueva, *Viage Literario*, XVI. p. 230. The clause as to the Rectorial and Doctorial inaugurations was repealed in the following year, *l. c.* p. 233.

² *Ib.* pp. 233, 234.

³ 'Damnosis scolarium sumptibus providere cupientes, statuimus quod nullus scolaris . . . emat per se vel per alium pannum alium quam qui vulgariter vocatur pannus de statuto vel de panno coloris nigri, quem pannum pro habitu superiori, cappa, tabardo vel gabano vel consimili veste consueta pro tunc longiore veste inferiori et clausa a lateribus ac etiam fibulata seu maspillata anterius circa collum portare teneantur infra civitatem sub pœna trium librarum bonon.' (*Stat.* pp. 132, 133.) It is difficult to explain the contradiction between the insistence in this

Statute upon black, and the fact that in the medieval illumination reproduced in *Acta Nationis Germanice* the majority of the Students are represented as coming to the Proctor to be sworn attired in long red gowns. Was this a privilege of the German Nation or of nobles? The Statute at Florence simply requires 'omnes de uno eodemque colore panni' (*Stat. Fior.* p. 97.) The form of both the Doctoral and Student *Cappa* may be seen in the beautiful tombs of the Doctors which form the most characteristic feature of the Bologna Churches. There is usually a recumbent effigy of the Doctor above, while below he is represented as lecturing (seated) to his students sitting at slightly sloping desks or narrow tables, very much like those of a modern lecture-room. Some of the College Statutes, even in Italy, insist on the 'clericalem habitum.' (Facciolati, *Fasci*, p. 11.)

required to wear their hoods whenever they appeared in public, but in summer were allowed to exchange them for cooler hoods of silk¹. On state occasions at least, the Doctors of all Faculties wore robes of purple and miniver, while the Rectors were robed in scarlet or scarlet and gold.

If the discipline which the free and independent students of Bologna imposed upon themselves exhibits few indications of extraordinary strictness, the same cannot be said of the discipline which they imposed upon their subjects—the Professors. Whatever view, as a matter of constitutional theory, the Doctors might take of their relations with the students, it is certain that while the latter were in no way bound to obedience to the Prior or College of the Doctors, the Doctors were compelled, under pain of a ban which would have deprived them of pupils and income, to swear obedience to the Students' Rector², and to obey any other regulations which the Universities might think fit to impose upon them. While not entitled to a vote in the University Congregation, the Professor was liable to 'privatio' or expulsion from a Society to whose privileges he had never been admitted³. At any moment his lectures might be interrupted by the entrance of the Bedel to serve a summons on the Professor to appear before the Rector, or to read a Rectorial proclamation to the students or a new Statute of the Student-University to which his consent had not been asked but to which his obedience was none the less required. A scholar was, indeed, obliged as the con-

CHAP. IV,

§ 4.

Bondage
of the Professors.

¹ *Stat.* p. 55. At Padua the Rector of the Artists is to wear a robe of scarlet silk in summer, and a scarlet robe of some thicker material (*de grana*) in winter (*Stat. Artist. Pat.* f. iii, b. (v. a)), while the Rector of the Jurists wears robes embroidered with gold as well as fur. (*Colle, Storia dello Studio di Padova*, I. p. 104; Malagola, *Monografie*, p. 67). Later we hear of a Rectorial hood of gold brocade. *Ib.* p. 6a. In the time of Gaggi, Doctors of Divinity wore the *Almutium violaceum*

(a tippet) and Doctors of the other Faculties had the privilege 'uti Varris (ermine) et torque aurea.' In processions of the College, the Bedels carried gold maces before them.

² *Stat.* p. 99. A Doctor, neglecting to take the oath, 'non possit eo anno facere collectam suam et ultra hoc Rectorum arbitrio puniatur.' *Ib.* p. 100.

³ A ban which sometimes extended even to the descendants of the offender.

CHAP. IV. 64. dition of enjoying the privileges of 'scholarship' to attend lecture at least three times a week: but a Professor requiring leave of absence even for a single day was compelled to obtain it first from his own pupils and then from the Rectors and *Consilarii*: and if he proposed to leave the town, he was required to deposit a sum of money by way of security for his return¹. He is expressly forbidden 'to create holidays at his pleasure²'; and his scholars are bound on pain of perjury to give information against a truant Doctor³. By the City-regulations, moreover, for each day on which he failed to secure an audience of five for an ordinary lecture, or three for an extraordinary one, he was treated as absent and incurred the appointed fine accordingly⁴.

Punctuality enforced upon Professors.

Punctuality is enforced with extreme rigour. The Professor was obliged to begin his lecture when the bell of S. Peter's began to ring for mass, under a penalty of 20 *solidi* for each offence⁵, though he has the privilege of beginning at an earlier hour if he pleases; while he is forbidden to continue his lecture one minute after the bell has begun to ring for tierce. To secure the observance of this Statute a more effectual means is adopted even than that of fining the Doctor: his pupils are required under a penalty of 10 *solidi* each to leave the Lecture-room as soon as the bell begins.

Mode of lecturing prescribed by Statute.

Even in the actual conduct of his lectures the Doctor is regulated with the precision of a soldier on parade or a reader in a French public library. He is fined if he skips a Chapter or Decretal: he is forbidden to postpone a difficulty to the end of the Lecture lest such a liberty should be abused as a pretext for evading it altogether. In medieval as in modern times Lecturers had a tendency

¹ *Stat.* p. 109.

² 'Nec festa pro libito faciant.' A penalty of 40s. is provided 'pena perjurii non obstante.' *Ib.* p. 101.

³ *Ib.* p. 110.

⁴ 'Punctetur perinde ac si eo die non legisset.' Dallari, l. p. xxii.

⁵ 'Nec audea[n]t tardare ad veniendum post pulsationem dicte campanæ ad scolas pena XX solidorum.' *Stat.* p. 105.

to spend a disproportionate time over the earlier portions of a book, and so leave none for the rest. With a view of checking this practice, an expedient was adopted at Bologna which became universal in the Law-Universities of Southern Europe¹. The Law-texts were divided into portions known as *puncta*; and the Doctor was required to have reached each *punctum* by a specified date. At the beginning of the academical year he was bound to deposit the sum of 10 Bologna pounds with a banker, who promised to deliver it up at the demand of the Rectors: for every day that the Doctor was behind time, a certain sum was deducted from his deposit by order of these officials. With a view of enforcing obedience to this and other Statutes on the part of the Doctors, a Committee of students (*Denunciatores Doctorum*) was appointed by the Rectors to observe their conduct, and report their irregularities to the Rector².

CHAP. IV,
§ 4.

Compelled
servare
puncta.



The Colleges which played so large a part in the development of the Northern Universities were comparatively unimportant in Bologna and the other Italian Universities. They were as a rule smaller foundations than the Colleges of Paris and Oxford, and they remained to the last (what all Colleges were originally intended to be) elemosynary institutions for the help of poor students, boarding-houses and not places of education. A small College of Avignon was founded in Bologna in 1267 by Zoen Tencarius, Bishop of Avignon, for eight students, three of whom were to be Canons of his Cathedral³; but it does not seem clear whether its members originally lived

Colleges.

Coll. of
Avignon,
1267.

¹ This provision occurs only in the earlier Statutes (p. 42), but the institution is implied in the later Statutes (pp. 78, 79). The meaning of the expression 'ut puncta per eos bene servantur' has to be inferred from the Statutes of other Universities.

² *Stat.* pp. 23, 78, 79. The stakeholder was known as the *Depositarius*

(Dallari, I. p. xxiv). The students profess to be actuated by anxiety for their masters' spiritual welfare. The Statute begins 'Christiano cuique sed precipue sacre legis doctoribus periculosum noscentes esse periculum' (*Stat.* p. 78).

³ Sarti, I. pt. ii. (1888), p. 416; I. pt. ii. (1772), pp. 118-123.

CRAP. IV,

§ 4.

Coll. of
Brescia.College
of Spain,
1367.

in community, or merely received pensions: in any case the property of the scholars was held in trust for them by the Bishop of Avignon. The College of Brescia was founded by Guglielmo de Brescia, Archdeacon of Bologna, in 1326¹, and the College of Reggio by the Physician, Guido Bagnoli di Reggio, in 1362². But the first College, on a scale at all approaching that with which we are familiar in the English Universities, was the College of Spain, founded by the will of the great Spanish Cardinal, Egidio Albornoz, (once Archbishop of Toledo, but compelled to fly from the tyranny of Peter the Cruel, and afterwards Papal legate at Bologna), who died in 1367³. This College appears to have been the model of many others in Italy and Spain. In the sixteenth century we may infer from the privileges which the University conferred upon its Rector, that it had acquired some faint shadow of the prestige enjoyed by the Sorbonne and the College of Navarre at Paris or at Oxford by the foundations of Wykeham and Walsey. The College of Spain may be taken as a type of the College-constitution in Universities of the Bologna type⁴. A short account of its organization and arrangement may therefore be worth giving.

Statutes
of 1377.

In the Statutes as revised by Papal delegates in 1377 it is provided that the College shall consist of thirty scholars—eight in Theology, eighteen in Canon Law, and four in Medicinæ. The scholars held their places for seven years, except in the case of a Theologian or Medical student who

¹ Sarti, l. pt. ii. p. 503; Orlandi, p. 89. It was afterwards merged in the Collegium Gregorianum founded by Gregory XI in 1371. Cf. Ghirardacci (II. 302, 307), who prints the Statutes. They provide for thirty Scholars of Law and six Chaplains. The lecture-fees of Scholars are to be paid out of the foundation—a rather unusual provision in the North.

² Malagola, Pref. to *Stat.* p. xiii.

³ Ghirardacci, T. II. p. 285 ff. Savigny in his list mentions this College

twice over under different names (cap. xxi. § 72).

⁴ The printed Statutes are of the sixteenth century; no earlier Statutes were known to be extant. In 1889, however, I found that the statutes of 1377 were contained in MS. No. 5383 of the Philipps Library at Cheltenham (catalogued as 'Statuta Bononiensis'). Their provisions are materially different from the printed edition.

wished to stay up and lecture as a Doctor. The scholarships were divided among the numerous Spanish dioceses in which the founder had held preferment. The patronage was vested in the Bishops and Chapters of those dioceses together with two members of the Albornoz family, i. e. the head of the house and any member of it who was a prelate, or if more than one were prelates, then the superior or senior prelate. The qualification for election was poverty¹, and competent grounding, 'at least in Grammar.' In the case of the Theologians and Medical students, Logic was also required, and if they had not heard Philosophy before, their first three years of residence were to be devoted mainly to that Faculty². An entrance examination was held, and the College was at liberty to reject nominees who failed to satisfy these requirements. Every scholar received daily a pound of moderate beef or veal or other good meat with some 'competent dish,' the larger part at dinner, the smaller at supper³. Wine, salt, and bread were at discretion; but the wine was to be watered in accordance with the Rector's orders⁴. A portion of the allowance for meat might be applied by the Rector to the purchase of salt meat or fruit. We may charitably hope that the College availed itself of this provision on Feast-days and on the Sunday before Lent, when the above mentioned 'portions' of meat were doubled. On Fast-days the ordinary allowance was to be spent on fish and eggs. At a 'congruous time' (not further defined) after dinner and supper respectively, the College re-assembled for 'collation,' when drink was 'competently' administered to every one⁵.

¹ i. e. his income (unless he were Rector) must not be 'ultra summam quinquaginta florenorum auri Bono-niensium'. *MS. Stat. l. 5 b.*

² The printed Statutes add that the Scholars must be 'Ancient Christians'—a provision redolent of the Moorish wars and the fanaticism which they engendered.

³ 'Carnium castratarum uel utilinarum mediocrum uel aliarum

bonarum . . . cum aliquo ferculo competenti.' *MS. Stat. f. 12 b.*

⁴ 'De uino autem Rectoris arbitrio temperato, panem, et sal habeant in prandio et in cena quantum uoluerint et conueniat honestati,' *l. c.*

⁵ 'Post prandium uero et post cenam quolibet die hora congrua signo campanæ in modum cibali ad iussum Rectoris uel eius uices gerentis pulsato, ad collationem

CHAP. IV
§ 4.

Besides commons, each scholar received every autumn a new scholastic 'cappa, sufficiently furred with sheep-skin,' and another without fur, and with a hood of the same stuff and colour as the cope¹, at the beginning of May; and there was an annual allowance of twelve Bologna pounds for candles, breeches, shoes, and other necessaries. Poor scholars of the founder's kin have a peremptory claim to a vacant scholarship; while any scholar of the Albornoz family residing in Bologna becomes the 'Protector' of the College with certain visitatorial powers, and the right to a seat in the College 'Chapter.' If he is twenty years of age, these powers are to be exercised on his own responsibility: if under twenty, he is to act by the advice of his tutor, but may none the less be present at College meetings to gain experience.

Democ-
ratic con-
stitution
of the
College.

So far the regulations of the College of Spain are of very much the same character as those of mediæval College-statutes in our own magisterially-ruled Universities. When we come, however, to those respecting the mode of internal government, all is changed. The Bologna College is governed as democratically as the Bologna University. Scholars under eighteen years of age are, indeed (as was the case in many Universities), to have no vote, though they might be present at Chapters. But the Rector is to be elected annually by ballot; like the Rector of the University he is to be at least twenty-four years of age and a clerk.

conueniant et prebeatur potus cui-
bet competenter.' *MS. Stat. l. 13 a.*

¹ 'Una capa scolastica et noua et
foderata sufficienter pellibus pecudis,
ut studentes Bononienses habere
communiter consueuerint': the other
to be 'sine foderatura de panno
statuti coloris eiusdem et capuceum
de competenti panno eiusdem eciam
coloris, ualoris quinque solidorum.' (f.
13 a.) The printed Statutes (Bonon.
1558, f. xviii.) order that Scholars
'utentur veste ex panno nigro . . .
talaris sit et manicata, qua forma nunc
doctores, olim cum hoc primum in

Collegio fuit institutum etiam scho-
lastici Bononienses uti uidebantur, et
focali quod dicitur caputeus ex hya-
ciinthino panno qui morellus vulgo
nuncupatur . . . quibus vestibus et fo-
cali semper uti debeant, quocumque
sive ad scholas sive per urbem iuerint
et quacunque hora diei.' It is ob-
vious that the form of the dress has
considerably altered since the four-
teenth century. A black gown with
a cherry-coloured silk scarf (by way
of 'focale') is still worn by stu-
dents of the College on state occa-
sions.

He is assisted by *Consilarii* elected in the same way: but in important matters such as the alienation of property, the consent of the whole College is necessary. In fact the constitution of the College is the University constitution in miniature. But though establishing this system of popular government, the Cardinal-founder was not of opinion that democracy necessarily meant weak government or no government at all. The discipline prescribed by the Statutes is decidedly stricter than that contemplated by the Oxonian or Parisian Statutes of the same period. There was a Chapel served by four Chaplains; two masses were to be said daily, one before and one after the 'Ordinary' lecture, and presence at one or other of these was to be compulsory, besides attendance at Matins and Vespers on holidays and at Vespers on Vigils. Daily attendance at lecture is enforced by fines. The monastic silence and Bible-reading are observed in Hall¹. Lateness in returning to College at night is visited by a day's 'penitence on bread and water,' a second offence by three days' bread and water, and a third offence entails expulsion. A Chaplain who stays out of College for a night loses half his year's salary, besides being condemned to three days' bread and water. A nocturnal exodus by the window involves immediate expulsion. For an assault on a brother-scholar, the penalty was no less than five days in the stocks and one day's penance on bread and water to be eaten sitting on the floor of the Hall². For an assault resulting in effusion of blood or for assisting in the quarrels of others, the penalty was doubled. The punishment of the stocks is not mentioned in English or Parisian Colleges till the sixteenth century, though these Colleges contained boys much younger than were usually to be found in the College of Spain. It may be added that women are warned off the premises—including even the Chapel—in language as

CHAP. IV.

54.

Strict discipline.

¹ It is, however, expressly provided that Scholars may be either *clerici* or *laici*.

² 'Quinque diebus stent in cipo

ligneo saltem cum uno pede et die qua extrahentur in pane et aqua coram omnibus in terra peniteant.'

(*MS. Stat.* l. 27 a.)

CHAP. IV, ferociously ungallant as could be culled from the Statutes
 54. of the rudest northern disciplinarian¹.

The Col-
 lege sur-
 vives.

The College of Spain still flourishes upon its ancient site in sumptuously adorned buildings of the sixteenth century, whose quadrangle, Chapel, Hall, and students' rooms still testify to the continuance on a small scale (there are only five or six students) of the College life with which we are familiar in the English Universities. Indeed, the College of Spain reproduces the medieval type far more faithfully than any English College: for all its members are graduates in Arts, none of them teachers, but all students in Law. The College is now under the control of the Spanish Government, which sends to it candidates for the diplomatic service who have taken the B.A. degree in a Spanish University.

Later
 Colleges.

The Colleges continued to be exceptionally few at Bologna—fewer even than in other Italian Universities—throughout the medieval period. The names of only two others are recorded as founded before 1500²—the *Collegium Gregorianum* founded by Gregory XI in 1371, and the *Collegium Ancaranum* founded by Pietro d'Ancarano, Doctor of Decrees, in 1414³. It was only in the fervour of the Catholic Reaction that Bologna began to be a City of Colleges. One explanation of the paucity of the Bologna Colleges is no doubt to be found in the selfish policy pursued by the Bologna Government towards foreign students who were here deprived of all chance of a career as teachers. One of the numerous seventeenth century Colleges—the little house founded by John Jacobs for Flemish students in 1650⁴—still survives to assist the more magnificent

¹ 'Et quia mulier est caput peccati, arma diaboli, expulsio paradisi et corruptio legis antique et propterea omnis eius conversatio sit diligencius euitanda, interdicens,' &c. (*MS. Stat. f. 20 a.*) Dancing is forbidden 'quia secundum sanctorum patrum sententiam in coreis diabolus facilius illaqueat homines' (*l. c. 27 b.*)

² See the Statutes in Ghirardacci,

II. p. 308 sq. Here also we find the Students' Lecture-fees paid out of the foundation.

³ Orlandi, *Notizia*, p. 89. Cf. Ghirardacci, II. p. 603: *Stat. p. 200.*

⁴ *Statuta servanda a Juvencibus Belgis qui admissi fuerint in Collegium Jacobs Bononiae fundatum an. 1650 sub titulis SS. Trin. Reformati, A. D. 1829, &c.*

College of Spain in bearing testimony to the cosmopolitanism of the old medieval Universities. Thus at Bologna, all but alone among continental Universities, in one of the two great original homes of University life, there survive specimens of the true medieval College, reduced to smaller dimensions than of old, but retaining more completely the old form and purpose of a medieval College than the more famous but more altered foundations which form the especial glory of our English Universities.

CHAP. IV.

§ 4.

§ 5. THE ORGANIZATION OF THE STUDIUM.

CHAP. IV.

§ 5.

The Guild
of Doctors
acquires a
monopoly.

We have seen reason to believe that the Guilds of Doctors were in their origin somewhat more ancient than the Guilds of foreign students. By some process which we are quite unable to trace the old liberty of unlicensed lay teaching, in which the School of Bologna originated, came to an end. In the teaching profession, as in so many others, trades-unionism ultimately triumphed over liberty of contract, and the right of teaching became practically, if not theoretically, restricted to those who had been made free of the teaching Guild¹. This restriction was the foundation of the system of Academical degrees. [The degree was in its origin nothing more than a qualification to teach. But when, in consequence of the general advance of civilization and enlightenment which marked the twelfth century, the services of learned men came to be in general request, it was natural that this certificate of competency should be valued for other than teaching purposes. In the course of the twelfth century the style of Master came to be regarded as a title of honour which it was not beneath the dignity of a Bishop or a Cardinal to prefix to his name. If we may judge from the number of persons who enjoyed this designation in the second half of the century, we may infer that it had already become pretty common for a 'degree' to be taken—to use the modern expression—by persons who had no intention of devoting themselves, or at least of permanently devoting themselves, to the work of teaching. We may presume that this was the case at Bologna as well as at Paris, though the Masters of the

Multiplication
of
titular
Masters.

¹ The liberty of private teachers of Honorius III, in 1219. See below, p. 203. may perhaps be considered to have been legally terminated by the Bull

Civil or Canon Law were never so numerous as the Parisian Masters of Arts. But at Bologna the distinction between simple 'graduates,' who had no intention of permanently devoting themselves to the teacher's office, and actually teaching Doctors, was from an early period much more sharply drawn than at Paris and Oxford. The number of actual teachers of Law at Bologna was always comparatively small: enormous crowds attended the lectures of a single Professor; the teacher's chair was here a coveted and lucrative prize. At Paris, in consequence of the multiplication of Masters of Arts, the remuneration that could be got by teaching was small, and a difficulty was experienced in getting a sufficient supply of teachers. Hence it was left open to anyone to teach who chose, and it was even necessary to compel graduates to reside and teach for a time to ensure a sufficient number of lecturers. At Bologna, on the contrary, the distinction between the *Magistri* or *Doctores legentes* and the *Non-legentes* was fundamental. ¶ The teaching Doctors of Bologna very soon passed into something like the position of a modern Professoriate, and the rights of the Doctor or Master as such fell more and more into abeyance. ¶ The various steps of this process must now be investigated, so far as the scanty data at our disposal admit. As to the use of these alternative titles, it may be observed that at Bologna the title most affected was Doctor, rather than Professor or Master. (At first the title Master was used by other Faculties than the legal, but eventually the term Doctor became universal. The Doctors of Law were also frequently called 'Domini.' A scholar would speak of his Master as 'Dominus meus'; but the mere use of the term 'Dominus' does not imply a Master: in Italy it is often applied to mere students. It is characteristic of the different relations in which the Master stood to his class at Bologna that the Parisian term 'Regens' is here rarely used.

Before, however, the successive changes in the position of the teaching body can be understood, it is absolutely necessary to explain a distinction between two classes of lectures

CHAP. IV,

§ 5.

Teaching confined to an inner circle of Doctors.

'Ordinary' and 'Extraordinary' Lectures.

CHAP. IV, which originated at Bologna, and which afterwards spread, with more or less modification, to all the Universities of Europe. (The lectures were divided into 'Ordinary' and 'Extraordinary.' Ordinary lectures were those given in the morning: Extraordinary lectures in the afternoon.) Originally this distinction of time corresponded with a distinction between what were considered the more essential and the less essential of the Law-texts. The Ordinary books of the Civil Law were the first part of the Pandects technically known as the *Digestum Vetus* and the Code: the extraordinary books were the two remaining parts of the Pandects known respectively as the *Infortiatum*¹ and the *Digestum Novum*, together with the collection of smaller text-books known as the *Volumen* or *Volumen Parvum*, which included the *Institutiones* and the *Authentica* (i. e. the Latin translation of Justinian's Novels), the Lombard *Liber Feudorum*, and a detached fragment of the Code known as the *Tres Libri*.

Origin of
this distinc-
tion.

This distinction between the various parts of the Digest is purely arbitrary. The *Infortiatum*, though its ending corresponds with a natural transition in the subject-matter, begins in the middle of a book. It is obvious on the face of it that the division must have originated in an accidental separation of some archetypal MS.—probably of the original Bologna copy of the great Pisan codex. According to a tradition which has already been alluded to, Imerius began his work as a teacher by lecturing on a MS. of the Old Digest, which was the first to arrive from Ravenna; while the *Infortiatum* came to Bologna later and the *Digestum Novum* (we may presume) last of all². The

¹ The *Dig. Vetus* extends from the beginning to the end of Lib. XXIV. tit. ii, the *Infortiatum* thence to the end of Lib. XXXVIII. tit. iii, the rest of the Pandects being the *Dig. Nov.* There is an extremely arbitrary section known as the *Tres Partes* (beginning in the middle of a paragraph), so called from its commencement at the words *Tres Partes* in *L. Quere-*

batur. Sa. D. ad L. Falcidiam. The *Tres Partes* is sometimes treated as part of the *Infortiatum*, sometimes as a distinct portion.

² See above, pp. 112, 122. Of the various explanations of 'Infortiatum' Mommsen accepts the view 'Id est auctum'; he sanctions the above explanation of the division. *Digest. Libri*, 1866. I. Pref. p. lxxii.

distinction must in any case have originated in some accidental circumstance of the kind: and the matter is only noticed here because it seems probable that the distinction between Ordinary and Extraordinary books originated in the same historical fact. The Ordinary are not intrinsically more important than the Extraordinary, but they must have formed the main or exclusive subject of the Doctoral lectures in the early days of the School, the *Infortiatum* and the *Digestum Novum* being successively introduced at a later period. In the Schools of the Canon Law the Ordinary books were the *Decretum* and the Five Books of Decretals published by Gregory IX, the Clementines and Extravagants being Extraordinary¹.

Similar distinction in Canon Law.

Ordinary lectures were reserved to Doctors, but Extraordinary lectures on certain limited portions of the Law-texts might be given also by Scholars of a certain standing, after being 'admitted to read' such lectures by the Rector. By delivering such a course of lectures a Scholar became a Bachelor. The term was at first probably a popular term applied to any senior student who was shortly intending to proceed to the Doctorate: eventually it obtained the more definite and technical meaning already mentioned².

Doctors and Bachelors.

¹ *Stat.* p. 159. At Paris only the *Decretum* was ordinary, which was no doubt once the case at Bologna. See below, chap. v. § 4. Kaufmann (l. p. 213), on the authority of Odofredus ('licet insolitum sit querere a dominis sive doctoribus in mane de eo quod legant in mane, peto veniam'), holds that questions might be asked at extraordinary and not at ordinary lectures. This is not impossible, but I do not feel sure that the distinction is not one between the lectures proper and the afternoon *repetitiones* on the morning lecture. The lectures of Odofredus on the *Infortiatum* certainly show no difference in style or manner from those on the *Dig. Vat.*

Hugolinus makes it the duty of the student 'socium querentem pati cum benignitate' (ap. Savigny, *l. c.*).

² Many absurd definitions of the word *Baccalaureus* or (according to the earlier spelling) *Baccalaris* have been given. The actual etymology of the word seems to be doubtful; but there can be no doubt that the general meaning of the word *Bachelor* at the time when it came to be applied—first in common usage, and eventually as a formal designation—to students authorized to teach by way of preparation for the mastership, was 'a young man,' with the special sense of apprentice or assistant (e. g. the landless man who worked for a *colonus*). 'En réa-

CHAP. IV, ^{§ 5.}
 We are now in a position to trace the process by which the simple Doctorate was gradually shorn of its prerogatives and degraded from an office—carrying with it the full rights of teaching, of membership in the Doctoral College, and of control over the extension of those rights to others—into a mere honorary distinction or 'degree.' This revolution was the effect of three distinct changes:—

Doctors originally dependent upon fees.

(1) We know in reality very little of the teaching system of the University—or indeed of any other parts of its organization—in the thirteenth century. But enough evidence has come down to us to make it clear that the teacher was absolutely dependent for support upon his *collecta*, i.e. the fees paid to him by his pupils¹. The ordinary practice was for a Professor to employ a couple of scholars to negotiate with the other students as to how much each was to pay: but at times a large body of students would make their own terms with the Professor, and divide the cost among themselves. The amount of the honoraria was not even approximately fixed by custom, and at times we find learned Professors of the highest reputation haggling with their scholars over these payments in a highly sophist-like and undignified manner².

lité,' says M. Thurot (*L'Organisation de l'enseignement dans l'Un. de Paris*, p. 137), 'ce terme signifiait apprentissage.' We everywhere meet with the institution of the Baccalaureate or pupil-teachership before the name occurs in formal documents. It probably arose as a slang term: cf. the list of students 'qui legunt extraordinarie et vulgariter Bachelarii vocantur,' in a document of 1297, ap. Sarti, l. ii. (1772) p. 105. At Paris we likewise find the *institution* before the name. See below, p. 443.

¹ Ghirardacci (l. p. 77) speaks of 'molti Dottore da publico stipendiati' in 1150, but produces no evidence.

² 'Anno MCCLXIX die Jovis XIII exeunt. April. Albertus qu. (sc. quæstor) dn. Odofredi doct. leg. fuit

confessus recepisse a dn. Viviano . . . scholare bonon. quinquaginta libras bonon. quas in solidum cum mag. Gorlano suo fratre ei dare tenebatur ex instrumento manu Ugolini qu. Ugolini Presbiteri notar. Item xxxvi lib. bonon. pro parte sua et dicto suo fratri contingente de debito quadringentorum libr. bonon. quas in solidum cum pluribus scholaribus dicto dn. Odofredo dare tenebantur ratione collectæ ex instrum. Mich. Vineiguerræ notar. *Ex Memor. Com. Bonon.* ap. Sarti, l. pt. i. p. 166. 'Bene scitis quod cum doctores faciunt collectam, doctor non querit a scholaribus, sed eligit duos scholares, ut scrutentur voluntates scholarium: promittunt scholares per illos. Mali scholares nolunt solvere quia dicunt, quod per procuratorem

Thus, for instance, we find the eminent Jurist Odofredus CHAP. IV. announcing at the termination of a course of lectures, that § 5 next year he would give no afternoon lectures at all, because he had not found the scholars good pay-masters: 'they want to profit,' he pathetically explains, 'but not to pay. All want to profit, but no one will pay the price¹.' The introduction of the system of *Salaria* paid by the State seems to have arisen elsewhere than in Bologna. Fees partially superseded by *Salaria*. The neighbouring towns in their eagerness to rival the Academical fame of Bologna, would make overtures to a Bologna Doctor, and invite him to come and lecture in their midst: and afterwards, when the great scholastic migrations began, the Universities through their Rectors would make a contract with the

non queritur actio domino.' Odofredus in l. *Si procuratori*: Dig. *De verb. obligat.* ap. Sarti, l. pt. i. p. 167. And the Doctor is much concerned to prove that he has a right of action against 'bad scholars' who would not pay. Franciscus Accursius obtained absolution for himself and his late father for having lent money to students in hopes of obtaining 'majores collectas', Sarti, l. pt. ii. (1772) and from the words of Odofredus—'contra doctores qui mutant pecunias scholaribus ut audiant eos'—it would seem that this was a frequent practice (ad l. *Omnia omnino crimina* Dig. *de off. prof. urbis*, T. I. l. 27b). So another Doctor leaves a sum of money to the poor 'ex questu, quem feci in Scholis, quia multis et variis modis peccatur in Scholaribus habendis' (Sarti, l. pt. ii. 1772, p. 76). We find Doctors (not of Law) subletting their 'Schools and Scholars' in a very curious fashion (Sarti, l. (1769) pt. i. p. 245; pt. ii. pp. 110, 131). Franciscus Accursius gives two Chalice to a Minorite Church on behalf of the souls of the Scholars, 'a quibus aliquid iniuste percepit tam Laicorum quam Clericorum dantium de bonis eorum propriis eidem non secundum dictum.' Sarti, l. pt. ii.

(1772) p. 95. Sometimes there is a contract for board and lodging as well as instruction: 'An. MCCLXVIII Mag. Gerardus de Cremona Doctor Grammaticæ promittit Adamaro Tebaldi de Villa S. Attredii docere eum in scientia Grammaticæ et dare sibi libros quos legerit in Scholis et victum in duodena secundum quod alii Scholares habuerint et dare cameram a festo S. Michaelis ad omnem annum pro pretio libr. xxiii. Bonon. de quibus habuit lib. x.' *Ex Memor. Com. Bonon.* ap. Sarti (1769), l. i. p. 511. So 'aliquem ex Scholaribus intrinsecus abitantibus in dictis Scholis cum dicto Mag. Petro,' l. c. pt. ii. p. 110.

¹ Odofredus in *Dig. Vet.* (ad l. fin. D. *de divorciis*), T. II. l. 192, 'Et dico vobis quod in anno sequenti intendo docere ordinarie bene et legaliter, sicut unquam feci; extraordinarie non credo legere; quia scholares non sunt boni pagatores; quia volunt scire, sed nolunt solvere, juxta illud; "Scire volunt omnes; mercedem solvere nemo." Non habeo vobis plura dicere: catis cum benedictione Domini.' In the preceding sentences Odofredus alludes to the custom of attending a Mass of the Holy Ghost after the completion of every 'Book' in lecture.

CHAP. IV,

§ 5.

town selected, in which, together with facilities for the hiring of houses, exemptions from taxation, immunities from the ordinary Courts and the like, the payment of certain *stipendia* to the Professors was stipulated for. Eventually the Bolognese Republic found it necessary to imitate the liberality of its neighbours. The first recorded instance of such a payment occurs in 1280, when the Spanish Canonist Garsias agreed to lecture for one year at a salary of 150 *librae*¹. The contract was originally made by the students, but at their petition the Republic undertook the payment, and in 1289 two permanent chairs were endowed with salaries of 150 and 100 *librae* respectively *per annum*². The election of the Professor was annual and was left to the students, which must have been, at all events, an excellent system for keeping the teacher up to the mark. The chairs were at first few in number, poorly endowed, and conferred only on strangers (*forenses*), no such measures being necessary to keep Bologna citizens from straying abroad in search of higher pay. Gradually, however, the number and amount of the *salaria* were increased: and as the power of the purse thus passed from the students to the City, the control of the former over the elections was gradually withdrawn, and the nomination appropriated by the State³. In 1381 we find as many as twenty-three salaried

Appoint-
ment to
salaried
chairs.

¹ Sarti l. i. p. 481. The first Civis who received a Stipendium—a small one of fifty *librae*—was Joannes Pas-savantius, in 1289. l. c. p. 498.

² The first Doctors elected were the Canonist Altigradus de Lendinaria and the better-known Civilian Dinus. Sarti, l. pp. 255, 491. In 1297 Guil-dinus de Patralata is offered 500 *librae*. *Ib.* p. 495. In 1305 the number salaried has risen to seven besides six (in various Faculties) appointed by the Council. Ghirardacci, l. p. 504.

³ At first it seems clear that the *Salaria* did not supersede the *col-lecta* (Sarti, l. pt. i. p. 256); afterwards the practice seems to have varied.

The Canonist Hostiensis (*Summa in decretal. tit. de magistris*, n. 7, Lug-duni, 1597, f. 288 b) raises the ques-tion 'utrum a scholaribus collectam facere vel levare possit?' and an-swers, 'quod sic, si non percipiat salarium de publico,' or if the Master is poor. On the other hand we find a Bolognese Student, Wardus de Clusio, in 1324-5, paying 'Do-mino meo Ray. Doctori pro suo salario . . . unum florenum. Item dedi Do-mino Belvisi' (evidently a Bachelor) 'pro bancis et domo . . . decem so-lidos.' Clossius, *Codicum MSS. Dig. vet. descriptio*. Vimarise (1818), 8. pp. 16-18 (Savigny, xxi. § 94). The con-tracts with Garsias certainly allowed

Doctors of Law, receiving payments varying from 100 to 620 *libra*¹, the total grant for all Faculties amounting to 63,670 *libra*. At this time the fact that one of the twenty-one salaried Law Professors had been elected by the University is mentioned as something exceptional². The appointment of the Doctors and the general management of the Studium in its relations to the State were eventually entrusted to a board known as the 'Reformatores Studii³'. In the course of the fourteenth and fifteenth centuries such a body (under that or some similar name⁴) was established by the City Government or Prince in all Italian Universities, and the real control of the University more and more passed to

The Reformatores.

him 'collectas facere' (Sarti, I. pt. ii. (1772) p. 131). At Padua, by the Town statute of 1283 (Facciolati, *Fasti*, p. vi), salaried Doctors are forbidden to charge anything except 'pro medio pensione'; but we hear of a *collecta* in the later Statutes f. 15b. At Lerida in 1300 A. D. the payment to the salaried Decretist is 'ad minus tempore collectæ viginti turonenses argenti' (*Stat. ap. Villanueva, Viage Literario*, xvi. pp. 220, 221). At Florence there were some 'Doctores ordinariæ legentes' who received a *collecta* limited to one florin a head *per annum*; others were forbidden to take anything. (*Stat. Fior.* pp. 65, 66.) So at Perugia (*Doc. per la storia dell' Univ. di P.*, p. 39), though here *civis* were exempted from the *collecta*. At Bologna a non-doctor 'extraordinariæ legens' is forbidden to demand fees (*Stat.* p. 111), which may be thought to imply that Doctors might receive them, but possibly not the salaried Doctors. In 1437 Eugenius IV assigned a particular tax—the 'datum gabellæ grossæ mercantiarum'—to the payment of the Salaria (Bull. of Pius V. ap. Gaggi). Kaufmann's inference from the passage of Odofredus (quoted above, p. 211, n. 1), that 'die

Scholaren hatten die ausserordentliche Vorlesung eines Professors frei, dessen ordinaria sie hörten und bezahlten' (l. p. 209), is unwarranted. Odofredus merely states that he did not find his afternoon lectures pay sufficiently to make it worth his while to continue them.

¹ Ghirardacci, II. pp. 389, 390. The year before the University had itself attracted the Civilian Guido Suzarino by the offer of 300 *libra*, Sarti, I. pt. i. p. 185.

² Ghirardacci, T. II. p. 389. The Canonists and Medicals still retained a larger share in the elections. The Statutes of the College of Spain provide: 'Hec autem in canonistis et medicis qui solent per suas universitates eligi locum uolumus obtinere.' *M.S. Stat.* f. 6 b.

³ Dallari, I. p. xix. Earlier we find the elections made 'per dominos Antianos . . . et per collegia dominorum Confaloniorum et Massariorum artium civitatis Bononie.'

⁴ Such as 'Gubernatores Studii' or 'Tractatores Studii.' In the smaller Studia the Universities were from the first more closely dependent on the State, of which they were the creatures, than at Bologna or Padua.

CHAP. IV] this body of external Governors, which by the sixteenth or
 § 5. seventeenth century succeeded in destroying the Student
 autonomy or reducing it to a shadow. After the full estab-
 lishment of the Papal domination in Bologna a supreme
 control was exercised over the University by the Legate
 and the 'Sixteen'.¹

Restriction
of Right of
Promotion. (2) The 'right of promotion,' i. e. of taking part in the
 admission of other Doctors, which had originally no doubt
 (if we may trust the analogy of Paris and the probabilities
 of the case) been enjoyed by all Doctors, came to be re-
 stricted to a small inner circle, who were limited in number
 and who filled up the vacancies in their body by co-optation.²
 By the earliest extant Statutes of the Civil Law College
 (published in 1397) their number is fixed at sixteen³,
 together with three supernumeraries who possessed the
 right of voting in all matters except graduations (in which
 they could only participate during the absence of any of
 the sixteen), and who succeeded to vacancies as they
 occurred. The College of Canon Law in 1460 consisted
 of twelve members, to which three supernumeraries were
 added in 1466⁴.

Restriction
to Bolog-
nese Citi-
zens. (3) Membership of the College and admission to the
 most valuable salaried Chairs were alike restricted to
 Bologna citizens⁵. Both these restrictions probably had

¹ The consent of the Legate was required for an additional holiday. *l.c.* p. xxiii. An official was appointed to keep an eye on the Professors, and inform the Reformers as to their attendance, &c.

² The process by which this change was effected is far from clear; but it would seem as if at first the attempt was made to exclude even from the honorary Doctorate all Bolognese citizens except relatives of Doctors. Sarti, l. pt. i. pp. 291, 300. At all times the number of Bolognese citizens who might be promoted was limited. *Stat.* p. 386. In part the exclusion was perhaps accounted for by the

efforts of the dominant political party to exclude their opponents. Cf. Ghirardacci, T. I. p. 327. It is clear that by 1304 the College was already limited to Bolognese, since in that year the City and University united to force it to admit new members. Ghirardacci, T. I. p. 464. It would appear that at present *all* Bolognese Doctors became *ipso facto* members of the College.

³ *Stat.* pp. 370, 371.

⁴ *Stat.* pp. 336, 353.

⁵ 'Vere et naturaliter cives civitatis Bononie origine propria, paterna et avita'—*Stat.* of Civil Law College in 1397 (*Stat.* p. 370, cf. p. 391).

their origin in the fact that Irnerius and the other Doctors who made the fame of the School were citizens of Bologna, and this original nucleus of Bolognese Professors was assisted by all the resources at the disposal of the Republic in the patriotic effort to reserve for their own countrymen the substantial emoluments, while they freely distributed to strangers the honorary distinctions, of their world-famous Studium. Attempts to narrow the teaching body had been made before the year 1259, but in that year the Doctors were compelled to swear (no doubt under pressure from the students) that they would not prevent external Doctors duly elected by the Universities from filling a chair at Bologna¹. Eventually, however, the City enacted that Ordinary lectures on Ordinary books should be reserved to Bolognese citizens²; and also that admission to the Colleges should be similarly restricted³.

So long as the Doctors limited their efforts to creating a monopoly for the Bolognese, their interests were identical with those of the City and were accordingly supported by the Municipal authorities. It appears, however, that from the first the ultimate object of the Professorial clique was to reserve the substantial endowments of the Studium to members of their own families. The preferential right of sons of Doctors to succeed to vacant chairs is expressly claimed by the Jurist Accursius⁴. In 1295, however, we find the City interfering to prevent the Faculty promoting their own sons or nephews⁵; and similar interpositions compelled the

CHAP. IV,
§ 5.

Efforts to
make the
Profes-
soriate
hereditary.

¹ 'E si decretò finalmente, che a qualsivoglia straniero invitato per via legittima degli studenti sarebbe libero il presentarsi, ed ascendere col favor loro le Cattedre,' Savioli, III. pt. i. p. 333. They also swore 'non riceveressero degli Alunni compenso alcuno per dichiararli capaci del Magistero' (ib.).

² *Stat.* p. 159 (cf. p. 391). In Canon Law the restriction was extended to extraordinary books if read at ordinary hours, *Stat.* p. 337. There were, however, as late as 1347, four

Chairs—two ordinary and two extraordinary—to which the Universities elected; and to two of these (one ordinary and one extraordinary) 'forenses' alone might be nominated, *Stat.* pp. 36, 37. This Statute disappears before 1432.

³ *Stat.* pp. 336, 370.

⁴ In *Codicem L. 4. de adv. dis. judic.* (ed. Contius, cc. 353, 354).

⁵ At this time it appears to have been necessary for the Faculty to obtain leave from the city authorities before carrying out a promotion of

CHAP. IV, Doctors to admit outsiders in 1299¹ and 1304². At the date of the earliest Statutes of the Civil Law College (1397) the privileges of Doctoral families are found to be much restricted. As a general rule, only one Bolognese citizen might be promoted to the Doctorate in any one year: but sons, brothers and nephews of Doctors are exempted from this provision³. On the whole then it appears that the actual monopoly of the Doctoral families was destroyed, but there can be no doubt that from about the middle of the thirteenth century the Professoriate of Bologna became largely hereditary. The effects of this restriction upon the prosperity of the School we shall see hereafter: but the most fervent believer in hereditary institutions will hardly augur well of the experiment of an hereditary Professoriate.

Collegia
in other
Universi-
ties.

From the nature of the case this limitation to citizens could not be imitated in new and struggling Universities. The object of Bologna was to reap the full pecuniary benefit of an established prestige; towns which had a reputation to create, were anxious to entice Doctors from other cities. All the Universities organized on the Bologna model had a limited College or 'Faculty of Promotion,' but it was not always restricted to citizens⁴, while in some cases citizens were actually excluded from the salaried Chairs⁵.

The Stu-
dent
Chairs.

A very peculiar and anomalous feature of the Bologna constitution as it is presented to us in the Statutes of 1432 now demands a word of explanation. This anomalous

Bologna citizens: on this occasion leave was granted on condition that the new Doctors should be 'della parte della Chiesa, e de' Gieremei di Bologna . . . ò non fossero figliuoli, fratelli, ò nepoti di detti Dottori.' Ghirardacci, I. p. 327. Not all the Professors were on the Guelf side. When the city imposed differential taxes upon the Lambertazzi party, the descendants of the Accursii were specially exempted on petition of the Universities—Sarti, T. I. p. ii. (1772) p. 76.

¹ Alidosi, pp. 223, 224.

² Fantuzzi, *Scritt. Bologn.* II. pp. 48, 49, 331.

³ *Stat.* p. 386. There is no similar provision in the Statutes of the Decretist College published in 1460. The earlier canonists were unmarried ecclesiastics.

⁴ At Florence this restriction at one time existed, but was modified in 1404 and repealed in 1417, *Stat. Fiornt.* pp. 182, 195.

⁵ e.g. at Florence in 1392, *ib.* p. 172.

feature is the existence of six salaried Chairs for which only students or Bachelors were eligible. Its origin must be sought in the events of the year 1338. In that year, Bologna, having expelled the Legate, had fallen under the power of Taddeo Pepolo. Its tyrant siding with the Ghibelines, the City was laid under an interdict, a sentence which forbade the legal continuance of the Studium. A body of the students, however, seceded to Castro Pietro and there elected six of their own number to take the place of the silent or scattered Professors¹. Upon the return of the seceders, the City found it advisable to allow the chairs to continue, perhaps as a solatium for the loss of the University's right to elect to the regular Professorships². In the course of time, however, it was found that these elections led to serious encounters in the streets between armed supporters of the rival candidates, to infinite perjury, and to the election of undeserving and illiterate candidates, perhaps popular athletes or the like. Henceforth the lot was substituted for election³, a remedy which might have been considered worse than the disease, had not the chance of delivering one of these lectures been looked upon as more valuable than the privilege of listening to them⁴.

I must now try to give the reader some connected account of the career of a Law-student at Bologna, from the time of his Matriculation to his graduation. 'Matriculation' it should be observed, i. e. the placing the name of the student upon the 'Matricula' or list of members of the University, was originally peculiar to the Student-universities; because only in them was the student a full member of the University. At Paris and Oxford only the

The Student's
Career: Ma-
triculation.

¹ 'De mense Aprilis Dominus Raynerius de Forlivio Doctor Legum, et sex Scholares electi ad legendum et tenendum Studium in Castro S. Petri propter interdictum Studii, iverunt ad dictum Castrum, dicta occasione, et multi Scholares iverunt ad intrandum ibi.' (Matt. de Griffonibus, *Memoriale Historicum*, ap. Muratori, SS. XVIII. c. 163.) Cf. *Stat.* p. 95.

² The origin of these chairs explains the fact that one of them, though held by a student, was 'ordinary.' *Stat.* p. 95 sq.

³ *Stat.* p. 188 sq.

⁴ By the city-regulations of 1475 students are required to 'prove their poverty' by two witnesses before becoming candidates. Dallari, I. p. xxiii.

Masters were really members of the Corporation: consequently there was no *Matricula* of students. At Matriculation, the student took his oath of obedience to the Rector¹ and at the same time (it goes without saying) paid a fee—at Bologna amounting to twelve *solidi*².

It is difficult to reproduce the time-table of a medieval institution, since the time of day was more frequently indicated by the hour at which the bells rang for such a service at such a Church than by the clock or the sun-dial. At Bologna there appear to have been three Lecture-hours daily. The first and most important Lecture of the day—the 'Ordinary' lecture—began at the hour of the 'morning bell' for mass at S. Peter's and lasted till the bell began to ring for tierce (presumably about 9 a.m.). It must therefore have lasted at least two hours and possibly longer³. In the afternoon, there might be two lectures of two hours and one-and-a-half hours respectively, the time being 2-4⁴ p.m. and 4-5.30 in winter, 1.30-3 p.m. and 3.30-5 p.m. in summer.

The period from tierce till 1.30 or 2 p.m. was thus left vacant for dinner and siesta: but it is probable that Extraordinary lectures might be given after tierce. Other University Statutes provide for a lecture at this time in addition to the two hours or two-and-a-half hours' lecture in the morning⁵. It should be observed that there was this difference between the two legal Faculties as to the distinction between Ordinary and Extraordinary lectures. In Civil Law the Ordinary books were reserved for the Ordinary hours: in Canon Law, since the bulk of the Ordinary books far exceeded that of the Extraordinary, Extraordinary lectures might be given on Ordinary books. The books were

¹ *Stat.* p. 128.

² *Stat.* p. 73.

³ By the city-regulations of 1475 the Salaried Doctors are required to lecture for one or two hours 'secundum quod disponunt statuta Universitatis predictæ.' Dallari, I. p. xxii. At Padua the Doctor must lecture for two hours (*Stat. Jur. Pat.* l. 76 b).

Students are forbidden '*banca pulvere*' to enforce an earlier termination.

⁴ 'In hora vigesima intrent scolæ, et in eis legendo stent usque ad vigesimamsecundam horam.' *Stat.* p. 105.

⁵ e.g. at Ferrara. Borsetti, *Hist. Gym. Ferrar.* I. p. 434.

divided among the Doctors in such a way that all the texts should be lectured on annually (if the Studium had sufficient Doctors) or at least once in two or four years¹. CHAP. IV,
§ 5.

The place of the lectures was originally the private house of the Doctor, or a School rented for that purpose. In the case of an exceptionally popular Professor whose audiences could not be crowded into any ordinary room, a public building or an open space in the City is said to have been borrowed for the purpose. There is a tradition that Irnerius himself lectured from the open-air pulpit in the corner of the great square in front of the venerable Basilica of S. Stephen²; and Albericus is recorded to have lectured in the Palazzo Publica³. It was not till the fifteenth century that the Universities generally began to build or acquire handsome and permanent buildings of their own, instead of leaving their Professors to lecture in their private houses or hired Schools. The existing Archiginnasio of Bologna dates only from the sixteenth century⁴. Lecture-rooms.

A good idea of the nature of a Bolognese Law-lecture—or indeed (allowing for the difference of subject-matter) of a lecture in any Faculty in any medieval University—is given by the following account of the plan of a course of lectures by Odofredus, which is quoted by Savigny⁵:—

‘First, I shall give you summaries of each title before I proceed to the text; secondly, I shall give you as clear and explicit a statement as I can of the purport of each Law (included in the title); thirdly, I shall read the text with a view to correcting it; fourthly, I shall briefly repeat the contents of the Law; fifthly, I shall solve appa- Manner of Lecturing.

¹ *Stat.* p. 104 sq. Cf. Borsetti, l. 433. Fabroni, *Acad. Pisan. Hist.* l. p. 120.

² The tradition perhaps arose from the statement of Odofredus ad L. *Si duas*, *Dig. De carnocat.* (ap. Sarti, l. pt. I. p. 86) that ‘Scholares voluerunt quod dominus Azo legeret in platea S. Stephani.’

³ The tradition is preserved by Odofredus in *Dig. vetus L. 2 de*

vide instrum. (Lugd. 1557, T. II. f. 165 b).

⁴ In the fifteenth century we find salaries voted to Doctors of Arts ‘dummodo legat in scholis consuetis artistarum’ (Dallari, l. p. 46). But I can find nothing else about these Schools.

⁵ *Cep. xxiii. § 204.* This *Pro-missum* does not appear in the printed edition of Odofredus.

CHAP. IV, rent contradictions, adding any general principles of Law (to be extracted from the passage), commonly called 'Brocardica¹,' and any distinctions or subtle and useful problems (*questiones*) arising out of the Law with their solutions, as far as the Divine Providence shall enable me. And if any Law shall seem deserving, by reason of its celebrity or difficulty, of a Repetition, I shall reserve it for an evening Repetition.'

Glosses. In the above account there is, however, no mention of a very important feature of all medieval lectures—the reading of the 'glosses.' By the Bologna Statutes the Doctor is required to read the 'glosses' immediately after the text². The 'dictation' of lectures in the 'Ordinary' hours was strictly forbidden³ and the extant lectures of Bologna Doctors are thoroughly familiar and conversational in style. The 'repetitiones' alluded to by Odofredus consisted in a more detailed and elaborate discussion of some particular question arising out of a recent lecture. Any Doctor might give a Repetition in extraordinary hours whenever he pleased: but the salaried Doctors were required to arrange by rotation among themselves for a Repetition every week on some day on which no Ordinary lectures were given⁴. In Lent Repetitions were suspended and disputations took their place⁵. At these disputations, the Doctor maintained a thesis against all comers. The

Repetitions.

Disputations.

Rectors presided and determined the order of precedence when two rose at once. The precedence was settled by degree or standing, but nobles who sat on the front bench at lecture took precedence over all but Doctors⁶. The Students' disputations, which were presided over by a Doctor, took place on holidays⁷.

¹ Sarti explains the word by 'generales regule quasi loci communes.'

² *Stat.* p. 105.

³ *Ib.* At Padua the Doctor 'post horam lectionis tenetur summarium lectionis, vel questionis disputate, dictare' (*Stat. Jur. Patav.* ff. 79, 80), also to answer questions handed to him in writing (f. 77); and in 1474

he is required 'ad se reducendum post lectionem ad conferendum et ad circulos more artistarum' (ib. ff. 78, 79). These 'circuli' seem to have been informal disputations or discussions among the students presided over by a Doctor.

⁴ *Stat.* p. 106.

⁵ *Stat.* p. 107.

⁶ *Stat.* p. 108.

⁷ Dallari, I. p. xxiii.

Holidays were of frequent occurrence. To obviate the inconveniences arising from the caprices of the ecclesiastical Calendar, it was prudently provided that there should be a holiday on every Thursday when no Festival recognized by the University occurred during the week: but on such days Repetitions and disputations might be held. While Doctors were peremptorily forbidden to lecture on Saints' days, students, whose lectures there was of course no moral or legal obligation to attend, were allowed to lecture whenever they would. The scholastic year opened with a Mass of the Holy Ghost¹ in the Dominican Church on the morrow of St. Luke, i. e. October 19th, while the Long Vacation, unlike the luxurious recess of Oxford and Paris did not begin till September 7th². There was a Vacation of ten days at Christmas, a fortnight at Easter, and three days at the Carnival, which was afterwards extended to three weeks³. Bologna also enjoyed two days' holiday at Whitsuntide, in place of the short vacation allowed at the beginning of May in other Italian Universities for medical purposes⁴.

After five years' study a student of Civil Law might be admitted by the Rector⁵ to lecture on a single title of the

Bachelorship.

¹ Which the Friars were required to say 'sine nota proliza.' *Stat.* p. 101.

² In the time of Odofredus the Long Vacation seems to have begun earlier and to have lasted a little longer. Savigny, cap. xxi. § 9a.

³ *Stat. Jur. Bon.* p. 106.

⁴ Borsetti, *Hist. Gym. Ferrar.* I. 418, 419. Fabroni, *Hist. Acad. Pisan.* I. 446. At Ferrara the May Vacation is described as 'pro potionibus sumendis more solito'; at Pisa it is more bluntly styled 'vacatio Purgationum.' At Pisa there was also a week at Midsummer.

⁵ Elsewhere the admission to Bachelors' degrees belonged to the Masters, very rarely to the Chancellor. So at Vienna, 'Ordinamus

quod ad solos Doctores et non ad alios spectet . . . Baccalarios creare.' Kink, *Gesch. d. h. Univ. zu Wien*, II. p. 136. The candidate having held a 'repetition,' and responded to opponents, was solemnly admitted by a Doctor (*ib.* p. 146).

This was probably the original custom at Bologna, where an early city Statute provides that no one 'sinatur regimen inchoare (i. e. to become a Doctor), nec aliquis Doctor legum det ei librum suum, nisi primo juret,' &c. ap. Sarti, I. ii. (1772) p. 222. A Bachelor was originally simply a student allowed to teach in a Master's School—a pupil teacher. Thus it is said of S. Richard, Bishop of Chichester, who studied at Bologna in the early years of the thirteenth century,

CHAP. IV,

§ 5.

Civil or Canon Law, or on a whole book after six years. A Canonist could similarly lecture on a single title after four years of 'hearing,' or on a whole Decretal after five years. The License of the Rector to 'read' a title or book or rather the completion of such a course of lectures made a man a Bachelor. Bachelors admitted to read a whole Book or Decretal might give a Repetition¹. They might lecture twice a week². Before presenting himself for admission to the Doctorate, a Bachelor must have given a course of lectures or at least a Repetition, must have completed eight³ or at least seven years of study in Civil Law or six years for the degree in Canon Law. But time spent in the study of one Law was accepted in reduction of the time necessary for graduation in the other, and it was possible to become a Doctor of both Civil and Canon Law (*Doctor utriusque iuris*) in ten years⁴. Bachelor-lectures were apparently looked upon rather in the light of academical exercises for the Lecturers than as means of instruction for the pupils. It was sometimes necessary for an ambitious student who was anxious to have an audience to bribe scholars to come and sit under him by gifts or loans of money⁵. No examination or formal test was ever required at Bologna for the Baccalaureate, which was altogether much less of a distinct 'degree' and of much less importance than it eventually became in the Academical system of Paris or Oxford⁶.

In the earliest period the Masters of Bologna had en-

that 'mellea Canonum fluentia sic hausit, quod Magister suus, infirmitate detentus, ad lectiones suas vice sua continuandas, prae omnibus discipulis suis dictum Richardum elegit.' A. S. Ap. 3. T. I. p. 278.

¹ Stat. p. 111.

² Stat. p. 112.

³ So by the Civil Law College Statutes, p. 38a. The University Stat. of 1432 adds 'vel ad minus per septem annos' (p. 113).

⁴ According to the Stat. of 1432 (p. 113).

⁵ Sarti, I. i. p. 231.

⁶ On this point Kaufmann (I. p. 361 sq.) has some good remarks. When he makes the Bachelorship more of a distinct degree at Oxford than at Paris, the remark is only true in respect of the Bachelorship of Arts, which perhaps gained additional importance from the fact that here alone was it conferred by the Chancellor. As to the explanation of this peculiarity of Oxford, see below, chap. xiv. § 1.

joyed the same freedom as any other professional Guild in admitting or rejecting candidates for membership. They alone conducted the Examinations, and conferred in their own name the license to teach: and the student thus licensed became an actual Doctor by receiving the 'book,' the symbol of his office, from an existing member of the Guild. This unfettered liberty of the Bologna Doctors was, however, out of harmony with hierarchical ideas: it was contrary to the general principle of Canon Law which claimed—though in Italy it had scarcely succeeded in securing—for the Church a certain control over education: and it was contrary to the analogy of the Schools North of the Alps, particularly of the great University of Paris, where the *licentia docendi* had always been obtained from the Chancellor of the Cathedral Church. Accordingly, in 1219 Honorius III, himself a former Archdeacon of Bologna, enjoined that no promotion to the Doctorate should take place without the consent of the Archdeacon of Bologna¹, who was probably the Head of the Chapter School² as well as of the Chapter itself. The innovation was accepted without opposition, perhaps on account of the accident that the Archdeacon's stall was at the time filled by a distinguished Bolognese Canonist, Gratia Aretinus³. In 1270 an attempt was made on the part of the Doctors to throw off the yoke⁴, but, with this exception, the relations between the Arch-

CHAP. IV.
§ 5.
License
and
Doctorate.

Honorius
III introduces au-
thority of the Arch-
deacon,
1219.

¹ Doc. in Sarti, I. ii. (1772) p. 59. At the same time the Archdeacon received a faculty for absolving scholars excommunicated for assaults on clerks. *Ib.*

² It would seem that the Archdeacon was occasionally called 'Cancellarius,' and already exercised a kind of honorary and informal presidency over the Studium. Cf. the words of Buoncompagni, who, in 1214, read his *Rhetorica novissima* 'in presentia venerabilis fratris Henrici Bononiensis episcopi, magistri Tancredi archidiaconi et cancellarii, capituli et cleri, et in presentia doc-

torum et scholarum,' &c. (sp. Rockinger in *Sitzungsberichte d. bay. Akad. zu München*, 1861, p. 136). In the Church of Bologna the Archdeacon ranked next to the Bishop. See *Stat.* p. 417.

³ Savigny (cap. XXI. § 83) thinks that the right was meant to be a personal concession to the then Archdeacon, but the document does not prove this.

⁴ See the 'compromise' referring the dispute (which had led, as usual, to a scene in church) to the arbitration of the Bishop, in Sarti, I. ii. (1772) 106; Savioli, T. III. ii. p. 433.

CHAP. IV, § 5. deacon on the one hand, and the Doctors and the University on the other, present a striking contrast to the chronic hostility which prevailed between the Chancellor and University at Paris. The comparatively wealthy students of Bologna were less disposed to resent the pecuniary exactions of the Archdeacon, and enforced them by their Statutes. The Archdeacon on the other hand, content with an accession of dignity and an enormous increase of income, does not appear after 1270 to have seriously attempted to interfere with the actual conduct of the Examinations over which he presided.

Importance of the change.

It is hardly necessary to comment on the importance of the Bull of Honorius III in the history of the University system throughout Europe. By that Bull and the imitation of its provisions in favour of other Schools the Universities throughout Europe were, so to speak, brought within the ecclesiastical system. Graduation ceased to imply the mere admission into a private Society of teachers, and bestowed a definite legal status in the eyes of Church and State alike. The gulf which had hitherto separated the free lay system of education in Italy from the ecclesiastical system of Northern Europe was to some extent (more, it is true, in form than in substance) bridged over. By the assimilation of the degree-system in the two great Schools of Europe, an archetypal organization was established which supplied a norm for all younger Universities. It came to be a recognized requirement of every University organization that it should have an official duly commissioned by public authority to confer the license. And a further step was taken in the same direction in 1292, when a Bull of Nicholas IV conferred on all Doctors licensed by the Archdeacon of Bologna the right to teach not only in Bologna but throughout the whole world¹. Henceforth the Universities passed from

¹ The Bull is also noticeable as recognizing the Doctorate as a permanent rank which a man retained even when he had ceased to teach : ' ut quicumque ex Universitate vestra apud Civitatem predictam per Archi-

diaconum Bononien., vel ejus Vicarium, prout est ibidem hactenus observatum, examinatus et approbatus fuerit, et docendi ab eo licentiam obtinuerit in Jure Canonico, vel Civili, ex tunc absque examinatione,

merely local into ecumenical organizations: the Doctorate became an order of intellectual nobility with as distinct and definite a place in the hierarchical system of medieval Christendom as the Priesthood or the Knighthood. The Archdeacon henceforth occupied the same relation to the University of Bologna that the Chancellor of the Cathedral occupied towards the University of Paris: and in course of time it became usual to speak of the Archdeacon of Bologna and the officials charged with similar functions elsewhere as Chancellors of their respective Universities: in a Bull of 1464 this phraseology even receives the sanction of Papal authority¹. By this time the term 'Universitas' or rather 'Universitas studii' was coming to be usual as a synonym of Studium or Studium Generale. But originally it should be remembered that the Archdeacon or Chancellor was not an official, or even *ex officio* a member, of either the University of students or the Doctoral Colleges². He was rather an external representative of the Church's authority over the Studium. The only jurisdiction which he exercised in connexion with the school besides that of presiding over the promotions, was that of absolving for assaults on clerks, an offence for which absolution was by Canon Law reserved to the Holy See. The faculty for this purpose was conferred upon the Archdeacon by a Bull of Honorius III at the same time as the right of promotion³.

CHAP. IV,

§ 5.

The Archdeacon eventually styled Chancellor.

The account which must now be given of the graduation ceremony at Bologna relates to the period in which it was

Process of Graduation.

vel approbatione publica, vel privata, aliquo vel alio novo privilegio regendi atque docendi ubique locorum extra Civitatem Bononien. predictam liberam habeat facultatem, nec a quocumque valeat prohiberi, et sive velit legere sive non, in facultatibus prelibatis, pro Doctore nihilominus habeatur.' Sarti, I. ii. (1772) pp. 59, 60. The privilege was confined to the Faculties of Canon and Civil Law, yet it was never disputed that Bologna was a *Studium Generale* in Arts and Medicine also.

¹ 'Universitatem Studii Bononie, cui archidiaconatum ipsum pro tempore obtinens, ut illius maior Cancellarius, preesse dignoscitur.' (*Stat.* p. 417.) In the same Bull he is styled 'caput et Cancellarius Universitatis dicti studii.'

² If a Doctor of the College of Canon Law received this appointment he ceased to be a member of it, unless dispensed by a unanimous vote. *Stat.* p. 343.

³ Doc. in Sarti, I. ii. (1772) p. 59.

CHAP. IV, § 5. presided over by the Archdeacon. Of the earlier procedure we know nothing; but in all probability the main outlines of the ceremony were already established before the introduction of the Archidiaconal presidency. The process of graduation consisted of two parts, (1) The private Examination, (2) The public Examination or *Conventus*.

The Private Examination.

The private Examination was the real test of competence, the so-called public Examination being in practice a mere ceremony. Before admission to each of these tests the candidate was presented by the *Consiliarius* of his Nation to the Rector for permission to enter it, and swore that he had complied with all the statutable conditions, that he would give no more than the statutable fees or entertainments to the Rector himself, the Doctor or his fellow-students, and that he would obey the Rector. Within a period of eight days before the Examination the candidate was presented by 'his own' Doctor or by some other Doctor or by two Doctors to the Archdeacon, the presenting Doctor being required to have satisfied himself by private examination of his presentee's fitness. Early on the morning of the examination, after attending a Mass of the Holy Ghost, the candidate appeared before the assembled College and was assigned by one of the Doctors present two passages (*puncta*) in the Civil or Canon Law as the case might be¹. He then retired to his house to study

¹ It will not be necessary to give a separate reference for every detail of the above account: I may refer generally to the University Statutes, pp. 116-119, and those of the Colleges, pp. 344-346, 383-386, and Gaggi. For the elucidation of the somewhat perplexing Statute *De punctis in privata examinatione*, the Statutes of Montpellier (*Cartulaire*, I. p. 314 sq., cf. also p. 389 sq.) and other Universities, are almost indispensable, e.g. the *Stat. Varia Civ. Placentia*, pp. 565-8; Fabroni, *Acad. Pisan. Hist.* I. pp. 431, 457. which show the universality of this system

of *punctorum assignatio*. At Bologna it dates from before 1289. See the doc. in Sarti, I. ii. (1772) p. 106. It also obtained in the Medical School of Montpellier, Astruc, p. 86, and in the Law Faculty at Vienna. Kink, *Gesch. d. h. Univ. zu Wien*, II. p. 147. So at Cologne, where the candidate was allowed eight hours' study and to give his lecture in the evening. Bianco, *Die alte Un. Köln* I. *Am.* p. 53. Something like a survival of this system is said to be found at Salamanca (see Graux, *Notices Bibliographiques*, Paris, 1884, p. 335), and Coimbra, where candidates are re-

the passages, in doing which it would appear that he had the assistance of the presenting Doctor¹. Later in the day the Doctors were summoned to the Cathedral or some other public building² by the Archdeacon, who presided over but took no active part in the ensuing examination. The candidate was then introduced to the Archdeacon and Doctors by the presenting Doctor or Promotor as he was styled. The Prior of the College then administered a number of oaths in which the candidate promised respect to that body and solemnly renounced all the rights of which the College had succeeded in robbing all Doctors not included in its ranks. The candidate then gave a lecture or exposition of the two prepared passages: after which he was examined upon them by two of the Doctors appointed by the College³. Other Doctors might ask supplementary questions of Law (which they were required to swear that they had not previously communicated to the candidate) arising more indirectly out of the passages selected, or might suggest objections to the answers⁴. With a tender regard for the feelings of their comrades at this 'rigorous and tremendous Examination' (as they style it) the students by their Statutes required the Examiner to treat the examinee 'as his own son.' The Examination concluded, the votes of

CRAP. IV,
§ 5.

quired to lecture on three questions chosen by lot from a large number, and to meet objections, answer questions, &c., three hours' preparation being allowed.

¹ 'Et die extimationis [*leg. examinationis*] ipsius scholaris tenetur dictus doctor presentans ire ad domum dicti scholaris et eum iterum examinare et ipsum audire super legibus eidem in punctis assignatis.' *Stat.* p. 384. In the time of Gaggi, the candidate was still further assisted by knowing that one of a limited number of *puncta* was sure to be set, and was coached in the preparation of his apparently written exposition.

² The Statutes seem to contem-

plate that the ceremony took place in the Cathedral: Gaggi, however, speaks of an examination 'in Palatio DD. Antianorum,' and of a *doctoratio* 'in Palatio ipsius Gubernatoris.'

³ By the Statutes of Padua (*Stat. Jur. Patav.* f. 94), the '*puncta*' were to be taken from the first '*utilis materia*' which occurred after the place at which the book was casually opened.

⁴ The function of the Examining Doctors is only distinguished from that of the rest by the University Statutes. In the College Statutes of 1387 all the Doctors in turn are to argue with the candidate (*Stat.* p. 385).

CHAP. IV, the Doctors present were taken by ballot and the candidate's fate determined by the majority, the decision being announced by the Archdeacon.

Relation of License to Doctorate. A candidate who had passed the private, and had been admitted to the public Examination, became a Licentiate. Normally and naturally the Licentiate proceeded to the ceremony which made him a full Doctor after a very short interval: but the expense of this step sometimes compelled candidates to postpone it, while others (in spite of statutory prohibition) went off and took it at a cheaper University¹. On the day of the *Conventus*, or public Examination², the love of pageantry characteristic of the medieval and especially of the Italian mind was allowed the amplest gratification. Shortly before the day appointed the candidate had ridden round the city to invite public officials or private friends to the ceremony or to the ensuing banquet, preceded by the Bedels of the Archdeacon and of the Promotor or Pro-

Public Examination.

¹ The Paduan Statutes allow a Licentiate of Bologna to receive the insignia at Padua. *Stat. Jur. Patav.* f. 95 b. In the 16th century, however, when Padua had far surpassed Bologna in scientific prestige, the Paduan charges were higher than Bologna. Ferrara was much cheaper. A student of this period, George Wagner, thus writes: 'Laurea, seu doctoratus gradus, ut vocant, Patavii sine maximo sumptu suscipi non potest: nam collegio Doctorum amplius 43 sc. numerantur et subductis aliis impensis sumptus fere ad 50 sc. excurrunt. Bononiæ paulo minus numeratur, Senis circiter 34 sc., Ferrariæ vix ultra 28, sed hæc urbs, nec literis nec studiosorum frequentia celebris, vulgo miserorum refugium vocatur, qui suæ inscitie conscii alibi aliam rigorosi examinis, ut dicunt, subire non audent. Qui Patavii et Bononiæ insigniuntur, apud Italos in precio, sed nec contemnuntur Doctores Senonenses ob Academiæ quondam florentissimæ et professorum qui eam

illustrarunt auctoritatem.'—ap. *Nuovi Documenti riguardanti la Nazione Alemanna nello Studio di Bologna*, ed. Luschin von Ebengreuth, Modena, 1884. There are two important Articles by the same writer on the German students at Bologna in *Sitzungsberichte d. Kais. Akad. d. Wissenschaften*. Ph-Hist. Cl. B. 118, 124.

² Kaufmann (l. p. 364) well points out that there was a certain difference between the License of Paris and that of Bologna. At Bologna the License conferred at the *Privata* was merely a License to proceed to the *Publica*; at Paris it was the actual *Licentia docendi*, which at Bologna was only given in the *Publica*. Consequently the Archdeacon presided at both functions: whereas at Paris the Chancellor (except in the Faculty of Theology) took no part in the Inception. It should be added that the *Publica* is occasionally described as a *Principium* in Universities of the Bologna type.

motors. The Statutes, indeed, forbade on this occasion the blowing of trumpets or other instruments, but on the actual day of the *Conventus* no such sumptuary limitation was imposed. On that day the candidate was accompanied to the Cathedral by the presenting Doctor, and by his 'socii' or fellow-students lodging in the same house with him. The idea of the '*Conventus*,' or '*Public Examination*,' was essentially the same as that of the ceremony known as the '*Principium*' or '*Inceptio*' in the Northern Universities. That idea was derived from the principle of the Roman Law according to which a man was invested with the *de facto* possession of his office by an actual and solemn performance of its functions. At the same time and by the same act the new Doctor was recognized by his colleagues and received into the teaching Guild or brotherhood, though at Bologna (as has been explained), by the period with which we are dealing, that admission had ceased to carry with it a practical right to the full exercise of the Doctor's teaching functions.

Arrived at the Cathedral, the Licentiate delivered a speech and read a thesis on some point of Law, which he defended against opponents who were selected from among the students, the candidates thus playing for the first time the part of a Doctor in a University disputation. He was then presented by his Promotor to the Archdeacon, who made a complimentary oration, and concluded by solemnly conferring the license to teach the Civil, Canon, or both Laws as the case might be, by the authority of the Pope and in the name of the Holy Trinity. In pursuance of the license thus conferred, he was then invested by the Promotor with the *insignia* of the teaching office, each no doubt with some appropriate formula. He was seated in the Magisterial chair or *cathedra*. He was handed the open book—one of the Law texts which it was his function to expound. A gold ring was placed upon his finger, whether in token of his espousal to Science or in indication of the Doctor's claim to be the equal of Knights, and the Magisterial *biretta* placed upon his head: after which the Pro-

The Cere-
monial.

CHAP. IV, motor left him with a paternal embrace, a kiss, and a benediction¹. The ceremony concluded, both Universities were required to escort him in triumph through the town, surrounded no doubt by a mounted cavalcade of personal friends or wealthier students, and preceded by the three University pipers and the four University trumpeters².

New
Guildsmen
required to
pay their
footing.

A fuller knowledge of the customs and ritual of the Italian guilds would perhaps reveal a tolerably close analogy between these ceremonies of the *Conventus* and those by which other Guilds of merchants, professional men or craftsmen received a new member into their brotherhood. In obedience to an inveterate instinct of human nature, members so admitted, while welcomed with effusive cordiality, were also expected to pay their footing. The earliest custom was no doubt to send presents of robes to the Doctors,

¹ 'Cum paterna benedictione conferri pacis osculum consuetum; in nomine Patris et Filii et Spiritus Sancti, amen.' *Stat. Florent.* p. 439, where the ring is explained, 'in signum desponsationis utriusque scientie, canonicæ scilicet et civilis.' At Padua we find the ring described as 'signaculum fidei quam debent sacris jussionibus professores.' *Gloria, Mem. di Padova*, 1318-1405, II. p. 267. In the Medical Faculty at Montpellier the Doctor was also invested with a golden girdle. Astruc, *Mém. de la Fac. de Méd. à Mont.* p. 88. At Valladolid, the Doctorand 'gradum sibi conferri humiliter deprecetur, et Patrinus ipsum Cancellarium oratione quadam ad illud faciendum, et dandum sibi facultatem ac potestatem insignia tribuendi, exoret, et mox Cancellarius conferat gradum, quo dato novus Doctor Thronum conscendat,' &c. See *Estatutos, &c. de Valladolid*, 1651, p. 33, where the whole ceremony is minutely described. Here the new Doctor kisses the Chancellor and every Doctor present. The ceremony in Spain included investiture with

gloves, a golden cincture and golden spurs ('non tantum in signum nobilitatis equestris, sed ut magis ac magis per assiduum studium continuumque laborem ad honorem conservandum exciteris'), and finally with the sword ('ut . . . officium et munus tibi concessum tuendi Regem, Legem, et Patriam accurate adimpleas'). See the formula in use at Alcalá, ap. de la Fuente, *Hist. de las Universidades en España*, II. p. 600. Cf. *Cartulaire de l'Un. de Montpellier*, I. p. 373: 'dicunt quod unus doctor non potest incedere comode sine uno scutifero.' Charles V conferred on the College at Bologna the right of conferring actual knighthood upon Doctors, while the Doctors of the College were themselves *ipso facto* knights and counts of the Lateran. At the same time the College received the widely diffused Imperial privilege of legitimating bastards. Gaggi, *ad inil.*

² In the case of poorer students it would seem that these ceremonies were dispensed with. See the *Stat. de recipiente librum in secreto* (p. 119).

Bedels, and other officials taking part in the ceremony: CRAP. IV, § 5.
 but by the date of our Statutes these presents were com-
 muned into money payments, though a fixed quantity of
 cloth of a certain specified colour might still be substituted
 for some of them; and in addition to the regular fees there Fees and Presents.
 were also some customary presents,—a cap, gloves, and a pre-
 sent of sweetmeats to each of the Doctors and to the Arch-
 deacon, while the Prior of the College claimed a ring¹. But
 the greatest expense of all was the banquet which the new Banquet.
 Doctor was expected to give to his colleagues and Univer-
 sity friends. Even more magnificent entertainments, such
 as tilts or tournaments, were at times provided by wealthier
 students². At some of the Spanish Universities the in-
 cepting Doctors were required to provide a bull-fight for
 the amusement of the University. The immense scale on

¹ So at Pisa, the candidate is re-
 quired to send each Doctor a box
 full of comfits, of 1 lb. weight (*Sen-
 tulam unam referam Libris una con-
 fecturam*). Fabroni, *Acad. Pisan.*
Hist. l. p. 477. At Bologna the
 Archdeacon received 12 *lib.* 10s.
 from each candidate at each Ex-
 amination (*Stat.* p. 150), the Univer-
 sity 30s., each Doctor 40s. at the
 private and 20s. at the Public Ex-
 amination, the presenting Doctors
 10 or 12 ducats. A host of minor
 officials of the Universities, the Doc-
 tors, and the Archdeacon, had also
 to be remembered. One poor stu-
 dent annually received the Doctorate
gratis (pp. 181, 348). There were
 also certain exemptions for sons
 or brothers of Doctors; and for
 all citizens the fees were much
 lower. *Stat.* p. 145. Many of these
 expenses depended partly upon the
 inclinations of the owner. Thus the
 Statutes of the Spanish College for-
 bid the provision of refreshments for
 the Examiners: 'Panis uero uel
 uinum in dicto priuato examine uel
 in disputationibus uel repeticionibus

per eos fiendis . . . de bonis Collegii
 alicui nullatenus errogetur; ymo
 etiam de proprio facere reprobamus,
 quia tales uanitates et pompe nodum
 in pauperibus scolaribus set etiam
 in diuiditibus (*sic*) sunt per sapientes
 et uiros laudabiles reprobate et per
 statuta uniuersalia (!) studii bonoſ.
 prohibite.' *MS. Stat.* l. 6 b. A
 Statute of Toulouse, on the other
 hand, makes compulsory a payment
 of 8 *grossi* to the Capitouls' jesters
 or mummers ('quatuor mymis domi-
 norum de capitulo eadem die, si dicti
 domini veniant ad aulam'); besides
 a payment to the three ordinary
 'mimi.' Fournier, *Stat. des Univ.*
Franc. l. No. 772.

² These are forbidden by the
 Statutes: 'Nullus autem scolaris, in
 alicuius civis vel forensis scolaris
 publica, se pro chorea vel brigata
 seu hastiludio faciendis vestire au-
 deat vel tunc eques hastiludere';
 and the Doctorand is to swear
 'quod die qua equitat invitando
 pro publica recipienda non faciat
 hastiludere seu brigardare.' (*Stat.*
 p. 116.)

CHAP. IV, which these Inception-rejoicings were carried out may best
 § 5
 be estimated from the fact that the Council of Vienne in 1311 passed a Canon limiting the expense of such entertainments to '3000 pounds Tournois¹.' It should be added that besides the legitimate expenses of graduation, bribery was by no means unknown in the Bologna Examinations².

Survival of Inception-ceremonies. In our English Universities, conservative as they are in many things, every trace of the ceremony of Inception has at length unhappily disappeared; only the preliminary ceremonial of the License survives. Fragments of the old ritual survive in different parts of Europe. In the Scotch Universities Doctors are created by *birettatio*: at Bologna honorary Doctors are still invested with the *anulus*. Still more of the full medieval ceremonial survives in the Spanish Peninsula, and at Coimbra Doctors of Law or Medicine are said even now to enter upon their office with the full medieval pageantry of book and ring, *cathedra*, *biretta*, and *osculum pacis*³.

¹ 'Tria millia Turoensium argenteorum' or 'circa 500 libræ Bononienses.' Clem. s. de magistris. See Savigny's note, cap. xxi. § 8a.

² The Jurist Francis Accursius took the precaution to get a Papal absolution for the 'munera' which he and his father had received from L. Faminando. Sarti, l. pt. ii. p. 96.

³ Some of these ceremonies sur-

vive (I am informed) in Spain, but not the kiss; as to Coimbra, see *Notice Historique de l'Un. d. C.* p. 17a. Oxford still retained the creation of Doctors, by the cap, ring, kiss, &c., in 1654. *Diary of John Evelyn*, ed. Bray, l. p. 290. The ceremonial has also been revived at Louvain, see below, chap. ix. § 9.