THE BARONY OF DAUBENEY.

I.

Public Record Office, 6 November, 1886.

Months ago, you may remember,[1] I troubled you about the pedigree of Giles Lord Daubeney, which, after all, I am ashamed to say, I might have found pretty accurately laid down in Burke's *Dormant and Extinct Peerage*. But I have come upon a point which may be of some interest both in connection with this family and in connection with the law of descent in peerage cases; and as such it may be worth the notice of the gentleman who is doing the *Complete Peerage*. I should be glad, therefore, if you will refer this letter to him and ask him what he thinks or knows upon the subject.

In Nicolas's Peerage (which is more accurate here than Courthope's so far as his information goes) we have two Daubeneys who were barons by writ—Elias and Ralph Daubeney. The latter was summoned in 1342; but though he left male heirs they were not summoned, and, so far as I know, never bore the title (though Burke gives the succession), till Giles, the great-great-grandson of Ralph, was created Lord Daubeney by Henry VII, in 1486. No explanation is given of this by any of the authorities; but, I think, one will be found in the Index to the Rolls of Parliament, where, under the name of Daubeney, we meet with a reference showing that Giles, son of Ralph, *born beyond sea*, was enabled to inherit by Parliament. The volume and page are given as "II, 231a"; but, unluckily, there is a misprint, for "II, 231a" contains no mention of Giles, the son of Ralph, and I have tried all transpositions of the figures in vain. Still I presume the fact is correct. What is curious, moreover, is that "II, 231a" does refer to a statute about persons born beyond sea; but the name of Daubeney is not there. I am almost inclined to think the Index-maker must have been led on to some archæological study of his own in connection with the case and confused the references.

JAMES GAIRDNER.

II.

The "explanation" of the above difficulty is similar to that of the phenomenon with which Charles II puzzled the Royal Society, namely, that there was no phenomenon to explain.

Ralph Daubeney, who is here described as a "baron by writ," was never, in the strict sense of the word, summoned to "Parliament" at all. The list of summonses at the bottom of which appears the name of

[1] This letter was addressed to us, by the Editor of the *Calendar of Letters and Papers, Foreign and Domestic, of the reign of Henry VIII.*, in our private capacity, but as the point discussed is one of public interest the communication is now made public with the permission of the writer. Mr. Gairdner's letter was referred to our valued contributor, Mr. J. Horace Round, with whose important notes in "G. E. C.'s" *Complete Peerage* our readers will be familiar, and whose solution of the present difficulty will be found deserving of careful attention by the peerage student.—ED. GENEALOGIST.

Ralph Daubeney, was a list of summonses, not to a "Parliament" but to a "Council." It is strange that this important fact should have been so generally overlooked. Dr. Stubbs, while admitting that "in the long list of barons summoned to Parliament between 1295 and 1485 occur a number of names of persons summoned either once only, or irregularly, not hereditarily, although in writs worded exactly like those of the hereditary peers," reminds us that "some [of these names] occur only in lists of summons to Councils which were not proper Parliaments[1]." This Daubeney summons is a case in point.

The facts of the case were these:—A "Parliament" was summoned 3rd March, 1340-1, and met 23rd April, 1341[2]. The next "Parliament" was summoned 24th February, 1342-3, met 28th April, and sat till 20th May (1343). Between these dates, in the words of Dr. Stubbs, "two years passed without a Parliament[3]."

It was precisely in the midst of this interval that Ralph Daubeney was summoned, not as Nicholas, Courthope, Burke, etc., say "to Parliament" but to a Council. The summons is dated 25th February, 1341-2, and the date fixed for the assembling of the "Council" is the 8th April (Monday after the close of Easter), 1342. But on the 15th March the Council was postponed, and those who had been summoned were ordered to attend on the 29th April (Monday after St. Mark). On the 15th April the seaports also were summoned to send representatives to this Council on the same date.

On the 20th June, 142 merchants were summoned to meet the King in Council at Westminster on the 8th of July.[4]

It would seem that we have no mention of any meeting of the special "Council" summoned as above for the 29th April; and it is remarkable that Dr. Stubbs does not even mention the fact of the summons. Nor, indeed, I believe, have we any record of the meeting that was to take place between the merchants and the (permanent) Council (3 July). Dr. Stubbs merely observes that "during the short visit paid by Edward to Brittany in the winter of 1342 and 1343, an attempt was made by the Regent, his son Edward, to hold a Parliament for the southern counties[5]," and adds, in a foot-note, "The Parliament was summoned for October 16th, the southern convocation for October 5th, and the northern convocation for December 2, 1342; but nothing seems to have been done, and it is not certain that the lay assembly ever met." It is somewhat singular that our great historian should here, against his own principles, have spoken of the intended "Council" as a "Parliament." But he probably looked rather at its constituents, intended, as it was, to include all three estates (the "Commons" being represented by the knights of the shires "citra Trentam") rather than to its actual description in the writ, as "quoddam consilium seu tractatum."

Thus we have three assemblies summoned in this year (1342). First,

[1] *Const. Hist.* (ed. 1878), III, 439.
[2] For these and the subsequent dates see Vol. II of the Lords' Reports on the Dignity of a Peer.
[3] *Const. Hist.* II, 392.
[4] Lords' Reports, I, p. 540.
[5] *Const. Hist.* II., 392.

the "colloquium et tractatum" (of the Daubeney writ) summoned 25th February, to which neither the Abbots nor the Commons were summoned; second, the "consilium seu tractatum," 13 September, at which all the Estates were to be represented; third, a summons to attend the (permanent) Council "super hiis tractaturi," issued on the 17th November.

Thus it will be seen that these three gatherings are all of different character, and that none of them can in the strict sense be termed a Parliament. This last remark must, in any case, apply to the Council to which Ralph Daubeney was summoned on the 25th of February, the formula there employed corresponding precisely with that by which the merchants were summoned (20th June) to meet the Council.

The numbers summoned also speak plainly for themselves. Excluding the Earls, the Barons summoned to the "Parliament" of 1339 (18th October) were forty-four; to the "Parliament" of 1340 (21st February and 30th May), forty-four; to the "Parliament" of 1341 (3rd March), forty-five; and to the "Parliament" of 1343 (24th February), forty. But to the "Council" of 1342 (25th February), there were summoned ninety-six![1]

This being so it becomes of interest to ascertain the *status* of those who received the writs of 25th February, 1342. The result of an enquiry will be to confirm the conclusions already arrived at, and to shew that Ralph Daubeney's case was in no way exceptional or peculiar.

It is a remarkable fact that this list of summonses shews a distinct "tailing off," the hereditary barons being found in the earlier portion of the list, and those only once or occasionally summoned being entered later down. We will, therefore, work back from the last name on the list, that of Ralph Daubeney, and see what Courthope's "Nicolas" has to say of each successive name.

Daubeney, Ralph,—

"Summ. to Parl. 25 Feb. 16 Ed. III, 1342, but never afterwards."

De La Beche, Nicholas,—

"Summ. to Parl. 25 Feb. 16 Ed. III, 1342, but never afterwards, nor any of his posterity."

Hastings, Hugh De,—

"Summ. to Parl. 25 Feb., 16 Ed. III, 1342, but neither he nor any of his descendants were ever afterwards summoned to Parl."

Veel, Peter De[2],—

"Summ. to Parl. 25 Feb., 16 Ed. III, 1342, but never afterwards, nor any of his descendants."

Braose ["Brewosa"] Thomas De,—

"Summ. to Parl. from 25 Feb., 16 Ed. III, 1342, to 15 July, 27 Edw. III, 1353."

Moun, John De,—

"Summ. to Parl. from 25 Feb., 16 Ed. III., 1342, to 4 October, 47 Edw. III, 1373.

[1] To the anomalous gathering of the autumn (1342) there were only summoned (17th September) three earls and twenty barons. Perhaps the others would be absent abroad.

[2] "le" in Courthope's "Nicolas."

HARDERESHULL, JOHN DE,—
"Summ. to Parl., 25 Feb., 16 Edw. III, 1342, but never afterwards."

ARCHEDEKNE ["Lercedekne"] JOHN LE,—
"Summ. to Parl. 25 Feb., 16 Edw. III, 1342, but never afterwards."

WYLINGTON, RALPH DE,—
"Summ. to Parl. 25 Feb., 16 Edw. III, 1342, but never afterwards."

Thus, of the nine names above, seven, we see, received writs on this occasion only. Without going through the whole list, it may be mentioned that there are several other cases in which this was the only writ. Thomas de Hastings was summoned on this occasion, and again on the 20th November in this year (*vide supra*) "but never afterwards." John de Pateshull, John de Handlo, and Thomas de Kirketon, whose names appear in succession, were summoned on this occasion only. So were Nicholas de Stapleton, Robert de Nevill, Constantine de Mortimer, William de Felton, Thomas West, Robert de Ferrars (whose case should be compared with that of Ralph Daubeney), John de Montgomery, and William Trussel. The case of this last is the more remarkable because he was presumably the William Trussel who had acted as the mouthpiece of the *Commons* at the deposition of Edward II (1327), and who again acted as their mouthpiece in Parliament the year *after* he received this writ (1343).

It may be noted, in passing, that "Henry le Scrope" was summoned on this occasion, though the fact is not recognised in the *Historic Peerage*, where Henry le Scrope, of Bolton, is killed in 1336, and Henry le Scrope, of Masham, not summoned till 1350.

But the point I would insist on is this. Remembering that this assembly was summoned not as a "Parliament" but as a "Council"; that the constituents summoned were not those essential to the composition of a "Parliament"; that the number of so-called barons summoned was more than twice as great as that of those summoned to a normal "Parliament"; that there is no proof of the assembly having met; that if it did, there is no record of those who attended and "took their seats"; and lastly, that there is distinct proof that many were summoned on this occasion who were never summoned to a true "Parliament," or, indeed, on any other occasion, ought we not to cease speaking of the writs issued on such an occasion, as constituting a summons "to Parliament?" And still more, should not our "peerage-writers" cease to hold that a barony in fee was created by a writ of summons issued on this occasion only? For the mere fact that "proof of sitting" cannot be supplied on this occasion is fatal, independent of all other considerations, to the existence or recognition of such Barony. Consequently, to speak of such supposed dignity as being "now in abeyance," between the heirs of the party so summoned is surely little less than absurd.

Do not these facts suggest that it is desirable that we should thoroughly reconsider the whole question, and classify these writs of summonses on some definite system? In so doing, we should have to keep in view the distinction between "Parliament" and "Councils[3]."

[3] Compare Stubbs, *Const. Hist.*, II, 260.

and also to sort out, as far as possible, writs received *ex officio*. If this could be accomplished, we should place the subject on a more rational and less empirical footing, and should render much that has been hitherto obscure comparatively clear and consistent.

J. H. Round.