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## THE FOOD AND DRINK OF AN ENGLISHMAN— BY STATUTE

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It is a very common belief that the Englishman thinks more of eating and drinking than one of any other nation. It is proposed in this Paper to examine what his Statutes have to say concerning them.

Magna Carta is silent thereon; and apparently the first statutory provision was made in 1266 by the Act, 51 Hen. III, St. 1, *Assisa Panis et Cervisiae*, the Assize of Bread and Beer. This provides for the weight, at different prices of wheat, of Wastel Bread, Bread Cocket, Simnel (not Lambert Simnel, he came much later to worry Henry VII)—the “Baker in every Quarter of Wheat . . . may gain iv *d.* and the Bran, and two Loaves for Advantage (*ad furnagium*, payment for the use of the furnace, v. Du Cange, *sub voc.*) for three servants 1 *d. ob.* (i. e., 1½ *d.*), for two lads, *ob.* (i. e., ½ *d.*), for Salt, *ob.*, for Kneading, *ob.*, for Candle *q.* (i. e., ¼ *d.*), for Wood ii *d.*, for his Bultel *ob.* (i. e., a half penny for his bolting cloth: not as is given in Blount: Law Dictionary, 1670: “The refuse of the Meal after it is dressed by the Baker,” although this erroneous definition is followed in Phillips, Bailey and some more modern Law Lexicons. See New English Dictionary, *sub voc.* “Bultell”).

At certain prices for grain, “the Brewers in Cities . . . may well afford to sell two Gallons of Ale or Beer for a Penny and out of Cities iii or iv Gallons for a Penny. And when in a Town (*in Burgo*) iii Gallons is sold for a Penny, out of Town (*extra*) they ought and may sell four.”

Bakers and brewers were sometimes no better than they ought to be: and it was found necessary in the same year to pass *Judicium Pillorie*, a Statute of the Pillory and Tumbrel, 51 Hen. III, St., 6. The offenders were only to be fined for the first three offences; but after that, “a Baker to the Pillory and a Brewer to the Tumbrel.” The Butcher who sold “contagious Flesh or that died of the Murren” (or as one text has it *Vel si quis emat carnes de Judeis et eas vendit Christianis*) or the Cook that “sells the Flesh or Fish . . . that

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is not wholesome for Man's Body," did not escape. This Statute as appears from the old records was by no means a dead letter.

Next comes the Statute of York (1318) 12 Edw. II, St. 1, which by cap. 6, forbids every "Officer in City or in Borough that by Reason of his Office ought to keep Assizes of Wines and Victuals," to "Merchandize for Wines nor Victuals, neither in Gross nor by Retale" on pain of forfeiting the merchandise.

By the Ordinance for Bakers, Brewers and for other Victuallers, of uncertain date, a Baker if his bread were "founden a Farthing Weight lacking in Two shillings six pence or under" (i. e., 1 part or more in 120) was to "suffer the Punishment of the Pillory"—the Pillory or Stretch-neck (*collistrigium*) to be of convenient strength. If a Taverner exceeded Twelve Pence for a Sextertium of Wine his "Doors shall be shut up"; but if a Brewer charged too much for Ale after the third offence he went to the Pillory: a Butcher "that selleth Swines Flesh meazled or Flesh dead of the Murrain . . . for the first time he shall be grievously amerced, the second time he shall suffer Judgment of the Pillory and the third Time he shall be imprisoned and make Fine and the fourth Time he shall forswear the Town. And in this manner shall it be done of all that offend (Cooks) in like Case."

Lawyers will be interested to see that this same Statute of York by cap. 1 provided: "En primes pur divers meschefs qeunt estez de ceo qe les tenantz en assises de Novel disseisine ne poent avant ces heures fere attorne. Accorde est qe les tenantz en brefs de Novele disseisine defore puissent fere atturnez"—In the first place, for divers mischiefs which have existed because tenants in Assize of Novel Disseisin could not heretofore make Attorneys, it is Agreed that henceforth tenants in Writs of Novel Disseisin may make Attorneys. So, that any unfortunate tenant in possession of land against whom a Writ of Novel Disseisin had been issued, had thereafter the right to appear in Court by an attorney and not necessarily plead his own case amid the multitudinous pit-falls prepared for unwary litigants by the acute and technical judges—pitfalls that even the wary and experienced could not always avoid. Anyone who has seen the flounderings of a layman conducting his own case in even these enlightened and non-technical days (*absit omen*) can well understand that "diverses meschefs" resulted.

In 1330 the Statute made at Westminster, 4 Edw. III by cap. 12 after reciting that some Taverners sold "corrupt Wines as wholesome" and too dear, enacted that in addition to punishment "touz les vyns

qe ferront trovez purrez ou corruppez soient enfouncez and oster de tut & les toneiles debrusez," all the wines which shall be found rotten or corrupt shall be poured out and wholly taken away and the casks broken.

Quite the most interesting of the Statutes in respect of Food is one not found in its place in the Statutes of the Realm but printed in the Appendix of Vol. 10 at p. 33 taken from the Rolls in the Tower of London.

It is headed in this Volume *Statutum de Cibariis utendis*, editum apud Nottingham, Anno 10 Edw. III, Stat. 3 & Anno. 1336. Ex Rot. in Turr. Lond. m. 24.D

It is in Law French, a truly hideous language. I translate as literally as the idioms of the two languages will permit.

"Statute concerning Foods to be Used, issued at Nottingham (1336) 10 Edw. III, Stat. 3.

For that before this time (*ces heures*) by outrageous and too many kinds of costly meats which the people of the Realm have used more than anywhere else, many mischiefs have come upon the people of the said Realm. For the great by such excesses (*outrages*) have been much injured and the middle classes who are simply compelled to imitate the great in this way of living are much impoverished so that they are unable to assist themselves or their liege lord in time of need as they ought. And many (*assez*, literally, plenty) other ills have come as well upon the souls as the bodies—and the above-mentioned things and ills have been laid before and show to our Lord the King in his Great Council held at Nottingham (*Notyngh'*) on Monday next after the Feast of St. Matthew the Apostle. (September 21) in the tenth year of his reign (1336), he being prayed by the Prelates, Earls, Barons and Commons of his Realm, there assembled by his command that for the advantage of his people, he would be pleased to ordain a proper remedy, our said Lord the King, desiring the common advantage as well of the great as of his commonalty of his Realm and considering the ills, grievances and mischiefs aforesaid, by the common assent of the Lords and Commons aforesaid who were there for the honor of God and the amendment of the state of the commonalty of his Realm, has ordained that none of whatsoever estate or condition cause himself to be served in his hostel (*houstel*) or any place else to eat at dinner or supper or at any other time beyond two courses, each being of two kinds of meat at the most whether of flesh or of fish with common potages without sauce or other kind of meat—and if anyone wishes to have sauces

for a course, he may have them if they are not made at great cost and the flesh or fish to be placed therein should be not of more than two kinds of flesh or fish at the most and stand instead of a course—except on the great Feasts of the year, that is to say the Vigil of Christmas (Christmas Eve), Christmas (i. e., Old Christmas January &) St. Stephens Day (December 26) New Year's Day (*del an renoef*), the Days of Epiphany (*Tiphaynei*, January 6,) and of the Purification of Our Lady (February 2) the Vigil and Day of Easter (*Pasche*), and the morrow of the said Day of Easter, the Day of the Ascension (May 26), the Day of Pentecost (June 5) and the morrow, the Day of the Trinity (June 12) the Day of the Nativity of St. John (June 2nd) the Day of St. Peter and St. Paul (June 29), the Days of the Assumption and the Nativity of Our Lady (September 8), the Day of All Saints (November 1) upon which Feast, and Days anyone may have served three courses or more in manner aforesaid.

And our Lord the King wills and commands with the assent aforesaid that this ordinance and statute commence to hold throughout the whole Realm on the Monday after the Feast of All Saints (November 1) next to come and be proclaimed in every County and that everyone of whatever estate he may be the ordinance and statute aforesaid do keep and observe in manner and form aforesaid without evasion or fraud thereto by cunning art or skill or by interpretation of words or other color whatsoever upon the faith and allegiance which they owe to our said Lord the King and to his heirs, Kings of England and so as they love the honor of God and also the honor and profit of the King and the profit of the Realm aforesaid and upon his peril if anyone should be found doing the contrary of what is made by the common assent of all and for the so great profit of the Realm."

(Of course some of the Feasts, etc., are movable.)

Added in Latin (with contractions) "The King to the Sheriff of York: Greeting. A certain ordinance and statute by us in our Great Council called at Nottingham on Monday next after the Feast of St. Michael the Archangel now last past with the assent of the prelates, earls, barons and all the commons of our kingdom there being for the common advantage as well of the prelates and magnates as of the people of the said kingdom, given forth, we send to thee under our seal, commanding this ordinance and statute in thy full County (Court) and in the cities, boroughs, vills, markets and other places in thy bailiwick where to thee it seems expedient as well within as without liberties, lawfully and publicly to be proclaimed and that

thou, so far as in thee lies, do cause the same to be firmly observed.  
T. R. at Auckland, October 15.

By the King himself."

Passing over the prohibition in 1337, 11 Edw. III c.4. of all but those of a certain rank "ore use peleure en ses draps"—not to use fur on their clothes; and that in cap. 2 against wearing cloth "qe ne soit fait en Engleterre . . .," which was not made in England—(by the way, how was that for Protection?); and the penalty of hanging given by cap. 10 to a gaoler who by duress or pain inflicted, causes a prisoner to become approver; and the Statute of 1346, 18 Edw. III, cap. 1 which forbade Judges to take fee or robe from anyone but the king; and by cap. 2, ordered the Barons of the Exchequer to proceed reasonably and without delay "saunz estre tariez nounduement sicome ad este fait en temps passe," without undue tarrying as has been done in time past (how delightful it is to know that no modern Judge merits such a rebuke, they all "facent delivrer le poeple raisonablement et saunz delay"—proceed to deliver the people reasonably and without delay): and the Statute of Labourers 1349, 23 Edw. III which by cap. 2 sent a servant or workman to gaol if he left his service before his time was up, cap. 5, or if he took more wages than had formerly been usual or (1350, 25 Edw. III, cap. 7) went from one County to another (this also by 1360, 34 Edw. III, cap. 10) and the tyrannous Statute of 1360, 34, Edw. III, which by cap. 8, actually forbade a juror taking any reward (except, of course, the *mens conscia recti*) for his verdict: the much violated Statute (*crede experto*) of 1362, 36, Edw. III, which by cap. 15, directed that in the Courts "all Pleas . . . shall be pleaded, shewed, defended, answered, debated and judged in English . . ." (en la lange Engleise), we come to (1363), 37, Edw. III, which by cap. 3 fixes the price of a "jouene chapon," young capon, at 3 d. of an old one 4 d. "dune gelyne deux deniers dun pountyn un denier dun awe qatre deniers," of a hen, 2 d., of a pullet, 1 d., of a goose, 4 d.

Cap. 8 of this Statute regulates not only the apparel but also the diet of servants—in view of the "outrageous and excessive apparel of several people," it ordains that servants and apprentices "soint serviz de manger & boire unfoith le jour de char ou de person & le remenant d autres vitailles come de lectee furmage bure & autres tiels vitailles accordantz a lour estat"—be served with food and drink, once a day with meat or fish and at other times with other victuals, as milk, cheese, beer and other such victuals according to their station.

Whether it was *pro bono publico* or *pro bono civium*, the Statute of 1368, 42, Edw. III, by cap. 4, forbade any but Londoners to sell victuals by retail (I presume in London but the Act does not say so).

In Richard's time we find that the Act of 1381, 5, Ric. II, by cap. 4, fixes the price of different foreign wines "in Gross or by Retale"—I shall not translate, the enumeration of the wines would only exasperate post-Volstead people and the prices would break a bootlegger's heart. Well, I shall give one example and one only: good Rhine wine was not to be sold at more than sixpence a gallon. By (1382), 6, Ric. II, cap. 7, sweet wine was allowed to be sold at the same price as Rhine wine: and (1390), 14, Ric. II, cap. 4, malt sold in London was to be cleaned "de poudre et de tout autre ordure," of dust and all other filth.

Richard II lost his throne and soon suffered a horrible death: comes Henry IV in 1399—he in (1402) by 4, Hen. IV, cap. 4, agreed not to grant lands "sinon a ceux persones qe le deservont," except to those who deserve it—a truly appalling resolution and opposed to "honest graft"—cap. 14, he would not let laborers engage by the week; and, cap. 18, it was ordained that none should be appointed Attorneys unless "bons & vertuouses & de bone fame," good and virtuous and of good fame, the characteristics of all attorneys from that time down to the present: cap. 30, the Welsh were to get no victual from England, but Englishmen were not further interfered with. In the reign of his son Henry V by (1413): 1 Hen. V., cap. 8, Irishmen were to get out of England by November 1 (1421), 9, Hen. V, by cap. 8, banished certain Oxford University men for hunting with dogs in divers warrens, parks and forests.

In the times of Henry VI (1423), 2, Hen. VI, cap. 7, a cordwainer was not to use the mystery of a tanner: (1424) 3, Hen. VI, cap. 1. Masons were not to form Chapters (Masonic Lodges in embryo); and (1429) 1 Hen. VI, cap. 2. Danes could enter England only at Northbarn: (1439), 18, Hen. VI, cap. 18, captains (*horresco referens*) were not to keep part of their soldiers' wages: (1448) 27, Hen. VI, cap. 15, the Gauger was to have his Gauge-penny when the wine was gauged and not before—then in 1445, 33, Hen. VI, cap. 4, no one brewing ale or beer in Kent was to make more than 100 quarters (800 bushels) of malt for his own use—O tempora, O mores!

It is now time to stop: but much entertainment may be had from the statutes at large.