

Government of the Anglo Saxons pag 197 says that the King sent his Sheriffs into such Counties as had no Earls to administer justice in his Name and Seal. These were called in Latin *summi prepositi, custodes provinciarum* and afterward *vicecomites*, not that they were under the Earls or Counts, but because they performed the Office of one. However the Earls had *vicecomites* under them in their own Counties. The first Earls in Scotland are thought to be of the *Malcolms* or *Macdonalds*.
 Viscount (called in Latin *vicecomes*, because anciently *vicecomitis gubernabat comitatum*) was Lieutenant ^{on Earl}. After these *vicecomites* came to be ranked among the Peers of the Realm, under the Title of Viscounts, the Name of Sheriff ~~was~~ and *vicecomes* were continued to some inferior Officers, who in each County the Duty of the ancient *vicecomites*. A Viscount is stiled right honourable and truly noble or potent Lord. Sir Robert Brent was the first Viscount created in England, by K. Henry 5. in the fifth Year of his Reign: the some will have John Belemonte or Beaumont to have been the first Viscount who was created by Henry 6 in the 18 Year of his Reign. This Honour was in Scotland first conferred by James 6 who created Thomas Lord Friskin Viscount of Jelton. So that the Title of Viscount is ancient to the Office, but modern as to the Dignity.

Lord with his or Baron in England is the lowest Degree of a Peer, tho it be due cumulative to those of a higher Degree, and given in Courtesy to all the Sons of Dukes and Marquises and to the eldest Sons of Earls. whence this Word Lord is sprung remains yet doubtful. Some think it a primitive and original Word of it self sprung out of the Saxon *Hlafdor*, which is interpreted Lord; others suspect that it came out of Burgundy from *Mlodium*, which signifies free and discharged from all Homage and Service, whom the Germans by a proper Circumlocution call *freckenon free Lords* i.e. Lords having free jurisdictions and Territories. These are the same whom Cesar calls *regulos* in France, where some of the most ancient Barons by a certain Right of their Baronies contend for Precedency with the new Earls. A Lord is stiled right noble Lord. Lords are ordinarily made by Patent, and sometimes by the Kings Write calling them to sit in the higher House of Parliament. The eldest Sons of Viscounts and Lords are in Scotland called Masters with their Father's Titles annexed, as the eldest Son of the Lord Forbes is stiled the M^r of Forbeston. The Erection of Lands into a Lordship doth not give such a Lord a Right of Regality 9 July 1713 D. Montrose contra M^r ~~Malcolms~~ ^{Malcolms}.

Inferior Titles are always included in the superior. So that every Duke is at the same Time Marquis Earl Viscount and Baron. All Subjects of the Realm are prohibited to receive any Title of Honour or Dignity of the Gift of any foreign Prince or Emperor, without the Consent of their own Sovereign who is the Fountain of Honour in Britain.

In France Nobility is not only conferred by the Kings Patent, but also there are several Offices, as Offices of the Crown, which convey perfect Nobility. The general Rule of Precedence of Peers and their Sons is thus established.

The

1. The Princes of the Blood viz: the Sons Grandsons Brothers Uncles or Nephews of the King.
2. Dukes according to their Creation.
3. Marquises according to their Creation.
4. Dukes eldest Sons.
5. Earls according to their Creation.
6. Marquises eldest Sons.
7. Dukes younger Sons.
8. Viscounts according to their Creation.
9. Earls eldest Sons.
10. Marquises younger Sons.
11. Lords or Barons according to their Creation.
12. Viscounts eldest Sons.
13. Earls younger Sons.
14. Lords eldest Sons.

All Nobles of the same Degree, take place as such according to the Seniority of their Creation. For regulating whose Precedency, K. James 6. granted a Commission in March 1666 to some Noblemen, who upon Citation pronounced a Decree ranking the Nobility of Scotland: and any who conceived themselves injured thereby, used to raise a Requisition of it before the Court of Session; containing a Conclusion of Declarator, to have it found and declared that they ought to take place of the Noblemen cited by them in such a Process. The Rolls of Record of Parliament were not found to be a sufficient Document of Precedency between Peers therein marked present 23. 24. January 1706 E. Sutherland contra E. Crawford. Because the Nobility were not therein ranked according to the Order of Antiquity, but in the Order they came up to the Parliament or Court intercurrent. But ~~Precedency of~~ ^{Precedency in} Parliament were sustained as legal Interruptions of Precedency *ibid.* In a Requisition and Improbation at the Instance of one Earl against another for reducing and improving the Talents of Honour Charters and other Writs granted to the Defender or his Predecessors containing any Title of Dignity in Order to declare the Pursuer's Precedency to the Defender, the Lords refused to grant Certification against such Datents 16 January 1672 E. Sutherland contra E. Errol. Because Certification and Improbation, takes only place where the Pursuer hath an express Right to that whereof he would reduce the Title of another. Whereas in this case, the Pursuer had no express Right mentioning his Dignity to be anterior to the Defender, and the Precedency was not contained in any Gift, but only pretended to be drawn by consequence from Evidences. In Poland all the Nobles are equal as to their Birth, where Precedency is only to be attained by Preferments to which it is annexed and ascertained by Statutes Dr. Connor's Hist. of Poland vol. 2. lett. 1.

The Wives and Daughters of all Dukes Marquises Earls &c. take the same place as the Husbands and Sons do.

By the Civil Law Women who have Precedency by their Birth or Descent take it if they marry Plebeians *C. d. ff. de Senator.* Because it was thought absurd that a Wife should have more Dignity than her Husband who is her Head, and might be despised by her if it were otherwise. But in Scotland and England, Women who are Noble by Creation or Descent, remain Noble and take place as such, tho they bestow themselves in Marriage to Knights or Gentlemen who are of an inferior Order: because, by the Feudal Law, the Dignity annexed to a noble Fee once vested in a Woman is incommunicable to her Husband who is not in Fee. But if they

they