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# Scottish Historical Review

VOL. XIII., No. 1.

OCTOBER, 1915.

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# The Scottish Historical Review

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## The Visitation of St. Andrews University in 1690

IN 1690, after the Revolution, a Royal Commission was appointed to purify the Universities and see to it that education was conducted in accordance with the new settlement. Besides the academic bodies, all schoolmasters teaching Latin throughout Scotland came within the scope of the inquiry. The Commissioners met in July, and deputed four committees to take evidence at the Universities, each of which became the convenient centre of a provincial region where the country pedagogues were to be passed in review. The papers relating to the proceedings of these committees and subsequent acts of the Commission are preserved in the Register House. They contain much curious and lively information regarding the masters and students, their attitude towards the Revolution, and incidents of the time. The following narrative deals solely, though not exhaustively, with affairs at St. Andrews.

The directions framed by the Commission for its committees indicate pretty clearly the object to be attained and the manner of treatment which the senior members of the Universities might expect. First of all, there was to be exact inquiry if any of the masters were 'eronian in doctrine, and as to popish, Arminiane, and Sociniane principles.' Their 'dictates,' or lecture notes, were to be 'searched' for unsuitable tenets, and, failing manuscript evidence, recourse might be had to those who knew them or had heard their eloquence. In the next place, but less important than the propagation of official doctrine, came character and

conduct. Thirdly, there was diligence. It is clear that from almost the very foundation of our Universities the daily round of teaching and supervision was apt to weary the masters into negligence. Questions regarding the number of *conveniendums* or meetings, discipline, and so on, were no new feature ; but, in addition, the visitors were to find out what pains they took to instruct their scholars in the principles of Christianity, what books they taught thereanent, what precautions were adopted to insure attendance at church and subsequent examination upon the discourse. Such investigations were closely connected with a consideration of the 'carriage' of the masters since the happy consummation of the Revolution, and their attitude towards 'the constitution of the King and Parliament.' It was of course necessary to see how far the foundations were honoured by observance, and to broach the delicate subject of financial administration. But these matters were after all secondary to theological and political doctrine, and the important question was to be whether the masters would subscribe the Confession of Faith, take the oath of allegiance to William and Mary, and declare their submission to church government as now established. It was not difficult to infer that alacrity in compliance might cover even a multitude of sins.

The St. Andrews committee of sixteen members, including the Earls of Craufurd, Morton, Cassillis, and Kintore, began sitting on August 20, on which day the University authorities had received due warning to present themselves for interrogation. The visitors—Craufurd in the chair—possibly expected a huddled and nervous entry, but they were startled when the door was flung open and the 'archbeddell' advanced bearing the mace, followed by the Rector and his colleagues in solemn order of precedence. During dinner the committee had time to recover and talk the matter over. When the afternoon sederunt opened with equal ceremony, Craufurd at once took objection to the pomp. It was not appropriate that persons on their trial, and very probably culprits—though he did not put it so broadly—should exalt the standard of independent authority in presence of a Royal Commission. The Rector, Dr. Alexander Skene, professed official ignorance as to the standing of the committee. Whereupon Lord Craufurd read their commission aloud to him, and, after removal of the mace, tactfully observed that this was, of course, no slight to the cherished dignity of the Rector, but a necessary precaution to safeguard the honour of the visitors. The Rector acquiesced, though he doubtless entertained suppressed thoughts of bitterness.



From the very foundation of the University there had been occasions of contention between the academic and the civic authority. In pre-Reformation days a rector, under the papal constitution of the place, could treat a provost with the high hand and citizens with a suitable degree of 'frightfulness.' Under Protestant Episcopacy the spiritual force was a feebler thing, yet there was something in having the support of the Archbishop-Chancellor, even if he was too evidently an emanation of the secular authority of the State. Now the hierarchy was as good as gone, and the president of an inquisitorial committee appointed by revolutionaries was the Earl of Craufurd, himself the very Provost of St. Andrews!

Dr. Skene professed not to be aware—officially—of the status of his visitors, but in his capacity as Provost of St. Salvator's he was fully cognisant of the situation, and, with some inconsistency, had prepared a speech on behalf of the senior members of the University, which he immediately delivered upon hearing the president's statement. If he was unsound politically, he was also a master of dignified English, and his speech deserves quotation:

'My very Noble Lord,

'As we have now heard your Lordships warrant for visiting this University, so we had formerly seen and considered the Act of Parliament for visitation of all the Universities of this Kingdom.

'As to the substance of what is now to be under your Lordships consideration, we find that in the present juncture no man can possesse or enjoy any station or profession in this University without takeing those solemne ingadgements required and particullarly mentioned in the foresaid Act of Parliament; and though we are not ashamed nor weary of the honour we have had in serving God in these our stations, yet seeing we hope never to exchange the peace and integrity of our consciences (which every man must consult for himselfe and for his own actions) with any worldly enjoyments, we take this occasion to declare here, and are ready to doe to all the world, that as yet we are not in conscience cleare to take these ingagements.

'As all of us are conscious to our selves of a quiet and peaceable behaviour at all tymes; so for the event of what we have here declared, we trust to the good constructions of peaceable just and honest men and of Christian charity; but above all to the mercifull providence of Almighty God.

‘ This I speake for my selfe and in name of all the other Masters and Professors of the Universitie except Mr. John Monro.

‘ A. SKENE, Rector of the Universitie of St Andrews.’

Having cleared the ground, the ruthless Earl proceeded to business. Had the Rector prayed publicly and officially for William and Mary? It appeared that the head of the University, artfully abandoning that precision of statement which in Scotland frequently serves to combine advertisement with intercession, had prayed quite indefinitely for ‘ the King.’ When the visitors pointed out the sinister interpretation apt to be put upon omission of ‘ the Queen,’ Dr. Skene declined to enter with them upon a philosophical discussion. This was, he added, a ‘ subtile question’ —as indeed it is. But it soon became evident that he had been making the best of both worlds, and the worst of at least one, when it transpired that the latest degrees had been conferred under the authority of the Archbishop of St. Andrews. It was not difficult to infer which ‘ King ’ was intended.

And what oath had been administered to graduates? None since 1686. From the Reformation to that date men had sworn their allegiance to the Protestant Faith. At Edinburgh, under James II., the oath had been watered down into a thin profession of Christianity, a vague undertaking ill suited to the time; at St. Andrews during these last few years graduates had been turned loose upon the world uncommitted by oath either spiritually or politically. Clearly this was a state of matters which called for action.

Refreshed by a night’s rest, the Academic representatives came furnished with a new expedient of obstruction. They were asked to produce the evidents of the University. Dr. Skene said that most of them were in an old hand, and it was doubtful if the visitors could make much of them. This was probably true, especially if one considers some versions of University documents copied for the edification of subsequent commissions, and duly printed by them; but it was not the thing to say. When the committee promptly refused to be content with the humiliating offer of the more legible transcripts, Dr. Skene and his colleagues found that their consciences as members of the corporate body were too highly strung to permit compliance. Mr. James Fenton, however, Professor of Mathematics and Dean of the Faculty of Arts, was persuaded to deliver up the account-book of the Faculty, and the *Liber Conclusionum* or Act-book, that valuable record which the University has never seen fit as yet to put in print.



The results of refusal to produce the evidents were humiliating for the masters. It was the Earl of Craufurd who enjoyed himself. The magistrates of the city, actually, were ordered at the sight of Mr. James Melvill of Halhill and the Laird of Naughton, two members of the committee, to seize the papers and parchments. Dr. Skene so far unbent as to receive the marauders at St. Salvator's—he was acting as Provost of the College, not as Rector of the University—and open the press. The 'archbeddell' bundled the writs into a trunk, and Skene consented to close the receptacle with his official seal. St. Leonard's was then visited, where Dr. James Wemyss applied his seal as Principal. Dr. James Lorimer, the Principal of St. Mary's, was seriously ill, and refused to be disturbed. His private room had to be broken open; and Mr. Patrick Gordon, third master in the College, attested the closing of the box into which the documents were thrust.

The visitors were not quite certain that they had laid their hands on all the evidents. Some suspicious person thought that certain papers had been abstracted by anticipation; but the Rector was apparently not deeply hurt by the imputation. He admitted that papers from time to time got into the hands of lawyers and were not promptly returned. As to accounts—a matter in which the University authorities did not always long for publicity—the business man of his own College of St. Salvator had departed this life, and, as intricate negotiations were still on foot with the sorrowing widow, the state of affairs could not be shown. Dr. Wemyss, of St. Leonard's, was equally uncertain regarding the completeness of his collection. When asked to swear to it, he found himself 'tender of oaths.' The committee was chiefly concerned, however, to investigate the views held regarding church and state. Little more was said about financial administration. The evidents were left in the hands of the St. Andrews magistrates, to be produced if required by the general body of commissioners sitting in Edinburgh.

Several of the regents, if they joined the procession to the committee-room when the inquiry opened, did not remain to support their seniors. Mr. James Gregory wrote a letter of excuse to the Rector, which the visitors described simply as 'irrelevant.' Mr. John Monro re-appeared; but he was proposing to recognise the Revolution. When, at the sederunt of August 22, the Confession of Faith, the oath of allegiance, and the assurance were set before the masters for their acceptance, it was found,

according to the Rector, that many regents were 'out of town' and could not be reached. After waiting for a few days, the committee announced that these gentlemen would be reported as contumacious. The representatives of the University were a diminished company. Dr. Skene, Dr. Wemyss, Mr. Gordon, Mr. Fenton appeared regularly, and were firm from day to day in their refusal to take the required tests. Mr. Monro had avowed himself a traitor. Mr. Alexander Fairweather, the librarian, and Mr. John Muige, the 'archbedellus,' were not heroically disposed. A deputation of three from the committee attended Dr. Lorimer on his death-bed. They found that he had still sufficient hold upon life to decline the Confession of Faith absolutely, and that he was not 'clear' to take the other engagements.

These repeated refusals made it superfluous for the visitors to deal very closely with matters of subsidiary moment. In their report they went on to say : 'The committie persuant of their instructiones interrogat doctor Skeen, rector and provest of the old colledge, and doctor Weems, principall of St. Leonards colledge, how many conveniendums the regents under their charge keep in a day : answered, the ordinar dyets ; and being further interrogat if they tooke caire that the regents instructed their students in the principles of Christianitie, answered, they did, and censured them if they did it not. And being lykewayes interrogate what caire they wer at in ordering the students to keep the church, answered, they were cairefull to sie them keep the church in the tyme that the Episcopall ministers continoued in them, but thought themselves under noe obligatione to enjoyne them to keep the churches when the ministers of the Episcopall persuasione was not ther, but declaired they never dissuadded the students from keeping the same. And being further interrogate if they themselves teatched any sacred lessons to the students in the common schools of the severall colledges, answered by doctor Skeen that it was out of custome in the tyme of his tuo last predecessors and therefor had not practised it, he acknowledging the same to be a fault : doctor Weems answered he was admitted preacher befor he was principall and did preach tuyse in the week and soe had noe tyme for sacred lessones. Then Mr. Patrick Gordoun, being interrogate for doctor Lorimer, what dictates he had to the students of divinitie in the new colledge, answered that doctor Lorimer had noe dictats, but explained unto his theologs the system of divinitie of Maresius ; and being inter-



rogate for himself what he dictat in the said new colledge, he answered that as third Maister of the new colledge he was onlie professor of Hebrew and soe not bound to have any lessons in divinitie : only upon doctor Lorimers absence or sicknes he did explain the former system of Maresius. After which Mr. John Monroe was called to compear befor the committie, who conform to the committies order gave in his dictats to be considered by them ; wherein nothing was found contrarie to the trew protestant religione or sound moralitie nor concerneing the originall of government or arbitrary pouer nor confirmeing the principles contained in the address made to the laite King James by most of the maisters of the Universitie of St. Andrews. Anent which address doctor Skeen being interrogate if it was recorded in the records of the universitie, he answered that befor that questione could be moved it should be proven that ther was such ane address made, and the president sheuing him his hand att the printed coppie therof he told that his hand printed none. In the mean tyme doctor Weems, not being interrogate, frielie said 'I wish to God that that blott wer wypt of Alma Mater'; and Mr. Monro being called in befor the committie, he declaired his sorrow and regrait for signeing the said address and that he had airlie evidenced his disslyke therof, which was knownen to many in that place and particularly to one of the members of the committie ; and he declaired that doctor Alexander Skeen, doctor James Lorimer, Mr. John Menzies, Mr. Andrew Skeen, Mr. David M'Gill, Mr. William Comrie, and Mr. Alexander Ross had signed the same.'

It had become known that the committee was prepared to receive accusations on matters of character and conduct. At Edinburgh the response was most hearty, though the witnesses afterwards proved somewhat deficient in courage and precision.<sup>1</sup> At St. Andrews the result was different. Individual charges were merged in one general indictment by the civic community, which it fell to the lot of James Smith, as senior bailie, to hand in to the Earl of Craufurd. The situation was a grave one for the University ; and the Rector protested that Craufurd had no business to judge between town and gown, since he was Provost of the city. His sentiments as chairman of the visitors were not likely to be impartial, and, when reinforced by his official proclivities as chief magistrate, might be too readily swayed by the melting tale which Bailie Smith had committed to

<sup>1</sup> *Old Edinburgh Club*, vol. viii.

paper. The University people therefore returned to the charge on the question of the Earl's competence to sit. It was replied that he did not act in his capacity as Provost, which would be admittedly a contravention of the University constitution, but as member of a body with royal authority. The question was not one of civil rights as between town and gown, but of internal administration of the University in the eye of the State.

Bailie Smith said that on January 9, 1689, 'his present Majesties declaratione for Scotland' was to be read at the market cross. The students of St. Salvator's College proposed to break up the assembly, and were on the spot with 'swords and battons' under their gowns. John Lundie, who, though heavily armed, was the sole exponent of military force, was outnumbered, and was even in hazard of his life, while his weapons remained as trophies in the hands of the undergraduates. The masters of the college would do nothing to restore them or punish the offenders; its members took further steps to signify their dislike of the ceremony; citizens were subjected to gross indignities, and country gentlemen who appeared to lend their countenance to the declaration became the mark for snow-balls, a scene upon which the masters smiled approval.

William and Mary were proclaimed upon a day in April. The students concentrated their efforts upon extinguishing the bonfires which good citizens had lighted 'in testimonie of their joy.' One man, who ventured to defend his own contribution to the general illumination, was beaten, wounded, and disarmed. Not only did regents assist in these riotous proceedings, but the colleges, usually demonstrative on occasions of joyous celebration, were themselves wrapped in gloom. They neglected the thanksgiving appointed by the Estates 'for our delyverance from popry and arbitrary power,' but 'forgott not with more than ordinar solemnities to observe the 29th of May, and continoued to pray for the laite King as formerlie.' On that day—the anniversary of the Restoration—there was an unseemly incident. A party of students entered the shop of a bailie, 'useing opprobrious words (not worthie to be mentioned amonge Christians) towards his wyfe, putting violent hands on her by throuing about her armes, threatening her to sell them powder, which she could not doe, haveing non of the shope.' The Rector was quite unmoved by the recital of this wrong, and no satisfaction was given to the indignant bailie and his spouse. The attitude of the head of the University was still further illustrated by the fact that a contribu-



tion appointed to be made for the distressed French and Irish Protestants was not intimated in the College Kirk.

The personal interest of the senior bailie in prosecuting the charges against members of the University came out in the third article. One night several scholars broke one of his glass windows—and the Sabbath as well. Still the Rector was unmoved; nay, masters and students set themselves to devise indignities for all who supported the present Government. It was the playful habit of undergraduates, meeting townsmen or country people in the fields, to make them go down on their knees and pray for the late King and the Bishop.

When the order came to elect a Commissioner to the meeting of Estates, masters and students went round the burgesses and tradesmen 'dissuading them to choyse men who wold be for the interest of their present Majesties,' in the case of tradesmen threatening withdrawal of patronage or refusal to pay for work done. Since the election these threats had been carried out and artisans had actually been imported from other places, to the great hurt of the inhabitants. Robert Watson, a smith, who already had an outstanding account with the college, was further employed to 'dress' the clock of St. Salvator's. He brought away 'nutts' which required oiling and adjustment, 'and becaus he did not returne with the saidis tuo nutts soe soon as they expected, ther came to the said Robert Watson one George Tarvett, a servant of the proviest of the old Colledge, who in a verie ruide and inhumaine mainer did beatt and strick the said Robert Watson in his own chope, and did threw his tools and other work among his hands about the house. Therafter most of the students of both Colledges came to the said Robert Watson his chope with weapons under their gounes, and did most barbarouslie use the said Robert, and carried him by leggs and armes prisoner to the said college. In the mean tyme the Magistrats who wer on the place goeing to the Rector to get redress of the forsaid injurie, he ansuered that they might kill a theiffe when or wher soeever he could be apprehended. They replied that he should have compleaned to them and they wold have redressed him of any wronge he had sustained. He ansuered againe by questioneing their authority, contemptibly sayeing baillies as they wer, or if he might call them soe, commanding one of the baillies to goe doune his staires.'

The King and the Estates had by proclamation forbidden any molestation to the exercise of religion either in church or in

meeting-houses. Yet the students, with the connivance of their masters, 'did frequentlie molest and disturbe those of the presbyterian perswasione (the only persones in the place owning their Majesties authoritie) dureing the tyme of the publict worshipe on the Lords day,' behaving in most unseemly fashion towards the women, distracting both ministers and congregation. The masters could easily have stopped this conduct if they had chosen. At the time when the students intended to manifest their hatred of popery by burning an effigy of the pontiff, they effectually restrained them, and 'moreover these few Sabbaths past the Maisters have kept back their schollars from comeing to the Toune Church, becaus ministers of the presbyterian perswasione are preachers ther, the said Toune Kirk being declaired vaccant by ane act of the Estaits; and the saidis Maisters exacts a fyne from their schoalars if they come to the Toune Church.'

The magistrates of St. Andrews were by the old feu-charter overseers of the Prior Acres, 'and the heretors of the said prior acres being appoynted to be leader of one of the 44 horse ordained by the meeting of Estaits to be leavied in Fyffe, the said Magistrates, as use is, called a meeting of the saidis heretors to choose one of their number to be factor for them to that effect; which was done.' When the collector thus appointed desired payment from the Rector and Masters for their proportional part of the horse, they altogether refused—which they had never done when James II. ruled; refused also to pay the cess of the Prior Acres belonging to them, disowning the said collector, and calling him and the magistrates 'a pack of knaves.'

One or two miscellaneous outrages Bailie Smith had to report. After the battle of the Boyne a day of thanksgiving was appointed, and a congregation was devoutly assembled in the Town Church. Prayers were rudely interrupted by two pistol shots discharged by students in the church-yard with design to alarm. 'All this and the last year they have made it their constant custome and practise to break glass windowes and to cutt and destroy bee scapes in the night tyme.' The Masters would make no redress, or so much as keep the scholars within college bounds, which would have prevented such incidents. Again, when the messengers arrived and posted up intimation of the present visitation, Mr. Gordon, one of the masters, tore off the summons from the gate of the New College within less than half an hour. Finally, regents had been observed in the streets and in the houses of the town undeniably drunk.



Of these incidents, all too summarily recorded by Bailie Smith, we learn additional details from the depositions of witnesses.

Alexander Hamilton of Kinkell, who was charged with the publication of the King's declaration on January 9, 1689, met Strowan Robertson and many other students, including Edzell's son, who inquired by what authority he acted, and of whom he in turn desired to know what business they had to forbid him. It was then that they fell upon John Lundie, who was following Hamilton, 'with a sword by his syde and a gune in his hand,' pulled out his blade and cut him with it, while others battered him so severely that if he had not been rescued 'he had undoubtedly dyed in ther hands.' Mr. James Martine and Mr. David M'Gill, two regents of St. Salvator's, were present; Mr. Martine doing nothing, Mr. M'Gill 'labouring to take off the schoalers but was not able to doe it, as he declared afterwards to the deponent.' Mr. Hamilton had also to say that his windows were broken one Sabbath night by students. Frequently, too, when he was hearing sermon in the meeting-house, students made great disorder 'by affronting the worship of God.' Upon which Mr. Alexander Orrock accompanied him to Dr. Skene, the Rector, on an ineffectual deputation of protest.

Andrew Clerk, Dean of Guild, bore witness to the strenuous efforts of Mr. M'Gill in the *mêlée* round John Lundie, from which he succeeded in extracting two undergraduates. He regretted to add, however, that several regents were in Bailie Moncreiffe's tavern, within sight of the cross, and did not hasten to the rescue. He saw the Laird of Unthank, a student of St. Leonard's, threatening Bailie Ferrier's wife to make her sell him powder, and carrying off a musket to which he had helped himself in the shop. As regarded the militia horse, Clerk, who was factor to the University, was forbidden by the Rector and principal Masters to pay the proportion 'till it came to the hazard of quartering'; 'and as to the cess the deponent receaved the same orders which came the lenth of quartering.' No such orders had ever been given in the time of James II. The two explosions during the time of divine service he had heard, but could not 'condescend on the persones who shott these pistolls.'

George Rymer, bailie, was going down the street and met John Lundie 'comeing to the deponent's house with blood runeing over his head.' The students were in pursuit; and when Lundie was safely indoors these youths beset the entry, hurling snowballs at any who went out or in. The deponent

'was necessitat to sett sentries to his door, and notwithstanding of that the students threatned to beatt the sentinalls.' Bailie Rymer was one of those unfortunates whose illuminations were quenched. There was, indeed, some fighting on the part of his servants; but they were forced to retire, and the bonfire was scattered. His glass, too, suffered on one unhallowed Sabbath night at nine of the clock: 'for which he was obleidged to cover his wyndows with deall boards which stands to this day.' He had received no compensation, and apparently did not propose for the present to speculate in glass. There had been renewed attacks—possibly because the bailie had named an individual culprit to the Rector, an indelicacy which student opinion in St. Andrews has always deeply resented. With regard to college discipline, Rymer said he had heard the gates of St. Mary's opened for undergraduates at eleven or twelve in the night. On one occasion he was convoying Mr. John Oliphant down the Butt Wynde to his horse, and on his return became the mark for a youth named Cheyne, who was standing at the college gate and flung a stone at him. We may infer that the aim was defective, or the bailie would have made more of the affair.

Unfortunately, Bailie Alexander Ferrier, out of whose shop the students sought to procure gunpowder, was not present on that occasion. A prudent man, he declined to give any evidence. Mrs. Ferrier may have been put to a little temporary inconvenience; but that was past—and there was the future.

John Mories, Deacon Convener, had an admirable view of the attack on Lundie. He 'was standing at the trone the tyme that Kinkell came by with John Lundie att his back': 'he saw Strowan Robertstone and Edzell's sone come up to the said John Lundie and took first his staffe from him; he offering to defend himself, they struck him to the ground with his owen staffe and after that they had taken the staffe from him they took his gune and suird which he had alonge with him.'

William Moncreiffe, late Dean of Guild, from whose windows regents were said to have surveyed unmoved the sufferings of Lundie, said that to the best of his knowledge no regent was in his house except Mr. John Menzies, and the object of his presence was to partake of dinner. Moncreiffe was interrogated upon his experience of prayers offered in public by dignitaries of the University. While he had never heard intercessions for William and Mary, he had also not heard any regretful allusions



made to the late King 'in express termes' during academic approaches to the Almighty. At the same time, since the abolition of prelacy there had been prayers for the Bishops. Moncreiffe could not remember having noticed that any of the University people observed the thanksgivings or fasts which had been proclaimed. It was true that regents had been in his house after 10 o'clock; but he 'does not mynd that he hes seen any of them in drinck.' William Watson, late Treasurer, deponed to the same effect.

Andrew Phenieson, Town Clerk, stated that when John Lundie was in the hands of the foe he saw two regents in their black gowns surveying the encounter from Bailie Moncreiffe's glass windows, and that these gentlemen did not accede to urgent invitations 'to come doune and rescue the poor man's lyfe.' On occasions he had seen the students 'shoulder' the present magistrates and 'mock them in their toun guairds,' 'and particullarly Mr. George Wisheart, now theologe, drew ane pistoll and snapped the same att the toun guaird.' The witness was appointed collector by the magistrates as 'leader of a troupe of horse.' When he came to Andrew Clerk, factor, the latter declared he was forbidden by the Rector to pay; but the two visited the Rector and informed him 'ther was a partie commanded to quarter upon the deficients and thirfor demanded payment.' It was when he heard that Phenieson was appointed factor by the magistrates that the head of the University characterised them as 'a pack of knaves, lyke the deponent.'

As to discipline, Phenieson had seen students emerging from taverns about eleven o'clock at night, and the college gates 'wer not close.' The gates of St. Salvator's had actually been open at one in the morning, and several scholars had been taken 'by the guaird goeing the round.'

When the musket was abstracted from Bailie Ferrier's shop and was being carried by Mr. George Wood's son to the precincts of St. Leonard's College, Robert Martine, resider in St. Andrews, heroically asked the bailie's permission to pursue, but was refused. This witness was able to contribute some information on the conduct of regents. On the evening of the day on which the 'Semies' were examined a number of the regents, including Mr. David M'Gill, 'whose tongue he knew,' were in Moncreiffe's house after midnight—and the house was a tavern.

Thomas Ferrier, merchant, was able to give some details of the

fighting round the bonfires. He saw several students beat Robert Stevinsone, whose fire they had put out, and he himself, 'being putt into passion,' procured his sword for his own defence. Of this weapon he was forcibly deprived, and it was last seen on the way to St. Leonard's College. Mr. Alexander Ross, one of the regents, far from restraining his scholars, plucked a stave from a bystander and threatened to join in the castigation of the unfortunate Stevinsone, who, according to another witness, suffered 'many sore strokes.'

A brewer named John Durie had seen Mr. Andrew Skene, Mr. David M'Gill, and Mr. John Menzies issuing from taverns after eleven of the clock at night, and was the spectator of one peculiarly painful incident. About five o'clock one morning Mr. Skene was making his way towards St. Salvator's College: he was without his hat, which someone had rescued and was bringing up from the rear. Mr. Skene either mistook a friend for an enemy or desired to have whereon to lean: at all events there was some kind of encounter when they met. Mr. Skene required the full breadth of the street. David Veatch, messenger, described the regent's condition as 'very drousie.' Some women, indeed, who had been spectators, did not hesitate to suggest that he was drunk.

The 'Archbeddell,' John Muige, was interrogated, as a man of rich experience, about the prayers he had heard. William and Mary had been ignored: the late King was never mentioned 'in express termes': bishops had undoubtedly been the subject of intercession since Christmas last. But when it came to mentioning names Mr. Muige's memory at once failed him. William Adamesone, however, porter at St. Mary's College, was a man of sterner stuff. Dr. Lorimer and Mr. Patrick Gordon, he said, 'ordinarlie in giveing thanks after meatt prayed for the laite King James in express termes and continoued soe to doe till the ryseing of the colledge'; and the students did so too 'when they had their homolies and in their publict prayers morneing and evening.'

What exactly Robert Watson had done to incur the enmity of St. Salvator's when he 'dressed' the clock does not appear; but it may be inferred from the Rector's words, when he was interviewed on the subject, that he was regarded as having feloniously detained the 'nutts.' One witness of the attack upon the smith saw the unfortunate man dragged along by the undergraduates. It seemed as if 'they would rive him all in bitts.' They beat



him continually, and at last he disappeared, struggling, through the college gate. As he passed along another heard, but could not answer, the piteous appeal, 'Oh dear, James Pryd, help me!' The only students Pryd could identify were Blebo, junior, and Mitchell Balfour.

After hearing depositions the committee were of opinion 'that the Rector, principalls and regents of the universitie have been negligent in keeping good order in the said universitie and that some of them are guiltie of gross immoralities as appears by the depositiones of witnesses heirwith produced'; also 'that the Rector, principals, professor of Hebrew, and all the regents (except the said Mr. John Monroe) are guiltie of contempt of the authoritie of this meiting, dissaffectione to the government of church and staite now established by law, as lykewayes the said Rector, principalls, the professor of Hebrew, the professor of Mathematticks, who is alsoe dean of facultie of Airts, haveing refused to signe the confessione of faith ratified in the second sessione of this current parliament, to suear and signe the oath of alleadgence, signe the bond of assurance and to submitt to the church government now established by law, have rendered themselves incapable to officiat in the said universitie.'

In Edinburgh, on September 24, the Commission proceeded to deprivation. A printed notice in Latin was circulated, stating that nine *professiones* were vacant in the University, seven of 'ordinary philosophy' and two of *literae humaniores*. All who aspired to occupy these posts were invited to appear in the public hall of St. Mary's College on October 29 at 10 a.m. before his Majesty's delegates to give in their names, learn what themes were to be prescribed and at what time, in presence of suitable judges, they were to put their doctrines to the hazard: *ut tandem ii qui pietate, prudentia, aliisque bonae indolis signis et proborum testimonio se potiores ostenderint, et specimine dato suam eruditionem iudicibus maxime approbaverint, in vacantes supradictas respective professiones sufficiantur.*

R. K. HANNAY.

## The Theory of the Scottish Burgh

TO us Englishmen, the Scot appears to be the creature of logic: we expect him, when once he has accepted a principle, to carry it out to its logical conclusion. That being so, we are not surprised to find that a certain principle appears to have been accepted by the Scots lawyers of the twelfth century as the foundation for their municipal theory, and to have been logically and consistently followed by their successors for four centuries. But the acceptance of this principle seems to have been unconscious rather than conscious, for, as far as I can ascertain, it was not formulated by Scots law until the beginning of the sixteenth century.

English municipal law practically begins with the law of Edward the Elder forbidding extra-urban trading—‘let no man bargain out of port’<sup>1</sup>—and these seven words formulate the principle which can be shown to be the foundation of all Scottish municipal theory.

The commercial intention of the early municipal charters of Scotland is unmistakable: the custumal known as the *Leges Quattuor Burgorum* provided a code of law dealing with the tenure of property within burghs and with the jurisdiction and procedure of the burghal courts, and accordingly the charters dealt mainly with the commercial privileges of the burgesses. Of the sixty clauses in the fifteen Scottish charters analysed in my *British Borough Charters*, no less than thirty-three relate to the mercantile privileges of the burgesses, and of the remainder twelve are concerned with the formation of the burgh. William the Lion granted the monopoly of trading within the sheriffdoms of Perth and Inverness to the burgesses of Perth and Inverness respectively, and like monopolies were granted by his successors to the burgesses of Aberdeen (1214), Stirling (1227), and Lanark (1285). At the end of the sixteenth century the burgesses of Nairn claimed that their predecessors had been accustomed to

<sup>1</sup>Liebermann, *Gesetze*, 139.



prevent unfree men from exercising the rights of burgesses within the sheriffdom of Nairn, and thus apparently claimed the monopoly of trade within the sheriffdom ; but when the King granted them a new charter, he confined himself to a general confirmation of their ancient rights without defining any of them.<sup>1</sup> As late as 1621 the monopoly of trading within the sheriffdom of Peebles was confirmed to the burgesses of Peebles.<sup>2</sup>

Other burghs had smaller districts. The burgesses of Dunbar had the monopoly of trade within the earldom of March,<sup>3</sup> and those of Renfrew within the barony of Renfrew ;<sup>4</sup> the limits of the monopoly of Irvine were defined to be the baronies of Cunningham and Largs.<sup>5</sup> In the last year of the seventeenth century the burgh of Campbeltown was created with the right of holding markets and fairs, 'and also of restraining and preventing all unfree persons from exercising any commerce within the bounds of Kintyre and the adjacent isles between the water of Barderaum and the Mull of Kintyre'; and the King further granted that no other burgh royal or burgh of barony should thereafter be created within the said bounds to the prejudice and detriment of the said burgh ; nor should any market or fair be held within any part of the said territory, but only in the burgh of Campbeltown.<sup>6</sup> It would not be difficult to draw a map of Scotland showing that the country was divided into a number of districts within each of which some specified royal burgh had the monopoly of trade.

But this monopoly was sometimes modified. By the charter of creation of Dunbar, its burgesses were granted the privilege of trade within the constabulary of Haddington—the district in which the burgesses of Haddington had the monopoly—and similarly the burgesses of Haddington were granted the privilege of trading within the earldom of March.<sup>7</sup> And it was possible for the authorities of two towns to grant trading facilities to each other ; thus, in 1372, the merchant gild of Montrose entered into an agreement with the gild of Dundee granting the burgesses of each burgh reciprocal trading rights within the district of the other.<sup>8</sup> Again, the monopoly might be modified by the grant of market rights to the lord of some place within the district of a

<sup>1</sup> *Reg. Mag. Sig.* v. 583.

<sup>2</sup> *Records of Peebles*, 85, 86.

<sup>3</sup> 1369, *R.M.S.* i. 119.

<sup>5</sup> 1397, *R.M.S.* iii. 626.

<sup>4</sup> 1372, *R.M.S.* i. 140.

<sup>6</sup> *A.P.S.* x. 205.

<sup>7</sup> *R.M.S.* i. 119.

<sup>8</sup> *Hist. MSS. Comm.* ii. 206.

royal burgh; thus, William the Lion confirmed to the bishops and Culdees of the Church of Brechin the grant of a market which had been given to them by his father David.<sup>1</sup> But he did not raise Brechin to the rank of a burgh, nor were the inhabitants of Brechin styled burgesses or citizens till the charter of James III. in 1451;<sup>2</sup> in fact, there is a charter of 1370 which speaks of the 'merchants' dwelling within the vill of Brechin and denying to them the style of citizens or burgesses. Brechin is the only example that I can find of the establishment of a non-burghal market before the latter part of the sixteenth century.<sup>3</sup>

A third way in which the monopoly could be modified was that adopted at Kelso, where, before 1174, William the Lion granted to the church and monks of Kelso that their men who dwelt in Kelso might sell fuel, timber, corn, flesh, bread, and beer from their windows in Kelso on every day of the week except the day of the appointed market at Roxburgh.<sup>4</sup> Evidently Kelso was within the district over which Roxburgh had the monopoly of trade, and at common law the monopolists could forbid the existence of a village shop; but the King prevented the exercise of the monopolistic power in this case, although he did not establish a market at Kelso, nor authorise the monks to establish a burgh there; however, there are documents of the fourteenth century showing that in some way or another the monks had succeeded in establishing a burgh at Wester Kelso, although it was not definitely erected to the rank of burgh of barony till 1607. It would be very difficult to find another example of a burgh estab-

<sup>1</sup> *Reg. Brechin*, 1.

<sup>2</sup> *Ib.* 169.

<sup>3</sup> The reasons for this sweeping statement must be given. In 1889 Sir James Marwick prepared for the Royal Commission on Markets and Tolls a list of the markets and fairs throughout Scotland, and included therein the dates of their foundation and the references to the charters of their foundation, and that list has been invaluable in the preparation of this paper. But in that list he does not mention any non-burghal market, except Brechin, as being in existence before 1571. Nor have I found any mention of any other non-burghal market in the chartularies of the Bishopric of Aberdeen, St. Andrews, Aberbrothoc, Brechin, Dryburgh, Dunfermline, Glasgow, Holyrood, Kelso, Melrose, Newbattle, North Berwick, Paisley, Scone and Lennox. Nor is there any mention of a non-burghal market in Sir Archibald Lawrie's *Early Scottish Charters Prior to 1153*, although on p. 450 is printed a charter creating a market at Newbigging, in Northumberland. And it may be noticed that only eight burghs are mentioned in these early charters—Berwick, Dunfermline, Edinburgh, Haddington, Roxburgh, Stirling, Perth and St. Andrews: Linlithgow was not yet styled a burgh. None of these are mentioned in any charter prior to the accession of David in 1124.

<sup>4</sup> *Kelso Chartulary*, 14.



lished in Scotland by a mesne lord without the definite license of the King.

Closely connected with this monopoly of trading was the right of the burgesses to levy tolls in the subject district: when William the Lion confirmed to the burgesses of Inverkeithing the right of taking tolls between the Leven and the Devon he also ordered that no person should carry on trade within these limits except in the burgh.<sup>1</sup> Consequently, it was sometimes necessary when a new burgh was established within the district of an older to restrain the older from taking toll within the new burgh. About 1175, William the Lion granted to the Bishop of Glasgow that he might have a burgh and a market at Glasgow.<sup>2</sup> In 1226 the King had to forbid the men of Rutherglen from taking toll within the vill of Glasgow,<sup>3</sup> and in 1449 this prohibition was extended to the barony of Glasgow and all the land pertaining to the liberty of St. Mungo.<sup>4</sup> The analogy of Inverkeithing would suggest that the establishment of a burgh at Glasgow gave the citizens the monopoly of trade within the burgh.

Thus far we have been dealing only with documents relating to individual monopolies, but there are other documents which show that the system was regarded as universal, and that each royal burgh was the head of a district in which it had a monopoly of trade. In 1364 a charter of David II. granted 'to our beloved burgesses of Scotland the right of buying and selling everywhere within the limits of their own burghs, so that none of them shall trade within the limits of another burgh unless licensed.' He further ordered all persons, clerics and lay, to buy from and sell to none others but the merchants of the burgh within whose district they resided;<sup>5</sup> and in 1503 Parliament passed an Act 'that na person duelland utouth the burrowis use any merchandice . . . and that no man pak nor peill in Leith nor uther places utouth the Kings burrowis.'<sup>6</sup> This Act of Parliament is, I think, the first formulation of what is here contended to be the theory of the Scots burgh.

It is necessary to distinguish this monopoly of inland trade within certain districts from the monopoly of foreign trade which was secured to the burgesses of the royal burghs by the before-mentioned charter of 1364; but Miss Theodora Keith has dealt

<sup>1</sup> *Mun. Corp. Report*, App. 8.

<sup>2</sup> *Brit. Bor. Ch.* 1.

<sup>3</sup> *Reg. Glasgow*, i. 114.

<sup>4</sup> *Id.* ii. 369.

<sup>5</sup> *Comm. on Mun. Corp.* i. 15.

<sup>6</sup> *Acts Parl. Scot.* 1503, c. 27.

so fully with this latter monopoly in the *English Historical Review* (1913, pp. 454, 678) that it is impossible to add anything.

If, then, we take a survey of Scotland in the middle of the fifteenth century, we find that the country was divided into a number of districts, in each of which the burgesses of some royal burgh had the monopoly of trading, and could prevent the opening of a village shop. But as wealth grew and civilisation and trade increased these monopolies were found increasingly vexatious. The villagers complained that they had to go twenty miles to buy a pair of shoes: travellers complained that they could not get refreshment or supplies between one royal burgh and another. How was this evil to be remedied with the least possible interference with the rights of the royal burghs?

One remedy would have been to follow the Kelso precedent and allow the villagers to open shops and sell goods on every day in the week except the market day of the burgh in whose district they lived; or, again, the King might have followed the Brechin precedent and granted market rights to the lords of certain villages; but that both these courses were rejected is a proof of the strength of the principle that 'no persoun duelland utouth the burrowis use any merchandice.'

The solution of the problem was found in the establishment of burghs, with powers of holding markets and fairs, whose inhabitants had the right of trading only within their own burgh. In this way new markets could be set up as required, and the burgesses of the royal burghs suffered the least possible interference with their monopolies; but in so doing the King was following the example of William the Lion when he granted to the Bishop of Glasgow (1175-7) and the Abbot of Arbroath (1211-4) the privilege of having a burgh with a market at Glasgow and Arbroath respectively.

It is astonishing to see how closely the burgh charters from 1450 to the Restoration resemble each other. The majority of them contain seven clauses, the first giving power to the inhabitants to buy and sell certain articles within their burgh, and to have bakers, brewers, butchers, and other craftsmen therein.<sup>1</sup> The second clause creates a class of burgesses, and the

<sup>1</sup> Apparently no person was allowed to follow a craft outside a burgh; for in 1164 Malcolm IV. granted to Scone Abbey 'license to have at Scone three ministers, a smith, a skinner, and a shoemaker, who so long as they remained in the service of the canons should have every liberty and custom enjoyed by the ministers of this character in the burgh of Perth' (*Acts Parl. Scot.* i. 365).



third deals with the government of the burgh, while the fourth, fifth, and sixth respectively establish a market cross, a weekly market, and one or more annual fairs within the burgh, with power to levy tolls. After 1510 a seventh clause appears authorising the lord of the burgh to grant lands within the burgh at fee farm. We can distinguish three classes of clauses dealing with the government of the burgh. In some burghs the burgesses alone had the right of electing the bailies and other officers, in others they made these elections with the advice and consent of the lord, while in a third class these officials were appointed by the lord, and the burgesses had no voice in the matter.

From the commercial point of view, the important clauses were those which empowered the burgesses to open shops and follow crafts in the burgh, and to hold a weekly market and an annual fair therein—clauses which made these new burghs little oases in the districts of monopoly of the older burghs. But most of the charters from 1450 to 1660 are known only from the abstracts thereof printed in the *Registra Magni Sigilli*, and these abstracts always omit the authority to have craftsmen within the burgh, and frequently omit the three words limiting the powers of trading, ‘in ipso burgo.’ But a comparison of the printed copies of some of these charters with the abstracts show that although there may be these omissions in the abstracts, the charters themselves follow what I have ventured to call the typical lines. For instance, the charters to Paisley (1488), Culross (1490), Fraserburgh (1546, 1588), Maybole (1597), Prestwick (1600), and Melrose (1621) are all printed in the Appendix to the second volume of the *Report of the Commission on Municipal Corporations in Scotland*, and all contain the license to have craftsmen and the limitation of trade ‘in ipso burgo’ or in similar words, although both the license and the limitation are omitted in the *Registra Magni Sigilli*. I am therefore assuming that the license and the limitation are contained in the charters although they may be omitted in the abstracts.

The earliest charter of this kind is that granted in respect of the burgh of Strathaven in 1450, and from that date till 1516 the King established fifty-five burghs of this nature, of which four were royal and fifty-one burghs in barony.<sup>1</sup> During this same

<sup>1</sup> I am intentionally using the term ‘burgh in barony,’ as it alone is used in the earliest charters. I have not noticed the term ‘burgh of barony’ at all till the Maxton charter of 1588. For a few years thereafter the two terms appear to be used indiscriminately, but in the later grants the term ‘burgh of barony’ is used alone.

period I have found no charter establishing a market or fair in any place that was not a burgh. In 1517, however, a charter was granted establishing a fair at Clackmannan, a place that did not become a burgh till 1551. The precedent thus set was not followed till 1571, and in the interval the King had founded seven royal burghs and twenty-five burghs in barony on the lines of the Strathaven charter. In 1571 a charter was granted establishing a market and fair at Bowden, and between that date and the Restoration markets and fairs were established in eleven places that were not burghs, as compared with eighty-five burghs with markets and fairs that were founded during the same period. But with the Restoration the balance changes, and between 1660 and 1707 there were created fifty-two burghs with markets and fairs, but there were Acts of Parliament establishing markets and fairs in 246 places that were not burghs.

The differences between these periods can best be shown by a tabular view :

						NON-BURGHAL.		
BURGHs.						Market and Fair in same place.	Separate Market.	Separate Fair.
		Royal.	Regality.	Barony.				
1450-1516	-	-	4	—	51	—	—	—
1517-1570	-	-	7	—	25	—	—	1
1571-1660	-	-	11	2	72	5	1	4
1660-1707	-	-	1	8	43	110	5	131

It is very difficult to account for the change of balance at the Restoration, but this change emphasises the fact that till 1570 there is no record of any market being established in any place that was not a burgh except Brechin, and that during the next ninety years the exceptions to that rule were very few.<sup>1</sup> It is therefore clear that till the latter part of the sixteenth century the Scots lawyers logically and consistently acted on the principle that there should be no trading, and therefore no market, outside a burgh.

We must emphasise the distinction between a mere market town and a burgh of barony, especially as a few market towns

<sup>1</sup> It should, however, be noticed that some of the documents of the sixteenth century mention a few fairs as being already in existence. In 1584 the Privy Council forbade the holding of the usual fairs at Foulis and Crieff on account of the plague (*Privy Council Register*, iii. 690), and as early as 1506 the King granted a charter dealing with the customs of the fair of Ruthven (*R.M.S.* ii. 596).



were later promoted to be burghs of barony ; although some of the later charters creating burghs of barony contain no specification of liberties other than the grant of market and fair, yet as they conferred the general privileges of a burgh of barony they must have conferred the privileges contained in the five other clauses, of which the most important was the first, enabling the burgesses to open shops and follow crafts within their respective burghs. But against this benefit must be set the burdens of local government, and it may be suggested that the reason which impelled so many landowners to obtain grants of market after the Restoration instead of grants of burghs of barony was that by so doing the inhabitants escaped the burdens and the expense of local government.

On the other hand, a burgh of barony was sometimes raised to the rank of royal burgh, and the difference between the two classes is well shown by the two charters to Pittenweem. In 1526 a charter was granted to the Abbot of Pittenweem erecting the burgh into a burgh in barony, and containing the usual seven clauses.<sup>1</sup> In 1541 the King raised Pittenweem to the rank of a free royal burgh, and, in addition to the powers contained in the seven clauses of the previous charter, gave to its inhabitants power to export wares from the kingdom of Scotland and to import them.<sup>2</sup>

To sum up, we have seen that till 1571 the Scots lawyers consistently adhered to the principle confining all trade to the burghs, whether royal or of barony ; that from that year onwards this principle was infringed by the establishment of markets in places that were not burghs ; that at first this infringement was slight, but that after the Restoration the newly created non-burghal markets and fairs outnumbered the new burghs by 246 to 52. We are therefore able to define the early Scottish burgh as the only place in which trade could lawfully be carried on or a market might be lawfully held.

Over twenty years ago Gross pointed out that it was very mistaken to assume that English and Scotch municipal law were alike, and enumerated several points of difference. To these others may be added.

In the first place, it will be noticed that although the principle followed by the Scots lawyers is first formulated in English law, yet in England it had been abandoned in practice within a century

<sup>1</sup> *R.M.S.* iii. 86.

<sup>2</sup> *R.M.S.* iii. 324.

and a half of its formulation. Edward the Elder forbade extra-urban trading: 'Let no man bargain out the port.' Till the latter part of the sixteenth century the Scots followed that principle by confining all trade and all markets to burghs; but in England, by the time of *Domesday Book* that theory had been abandoned, and Sir Henry Ellis's Index to *Domesday Book* contains reference to forty-two markets of which only eleven were in places that were called boroughs or contained burgesses. And there is scarcely an English monastic chartulary that does not contain royal grants of markets in places that were never styled boroughs by the King or his sheriffs. Another difference between England and Scotland is that in England, with but a few exceptions, the royal license was not obtained for the establishment of boroughs by mesne lords, while in Scotland the King's charter was required to establish a burgh of regality or barony on the lands of any subject. In England a mesne lord created a borough by cutting an area out of his manor, establishing a separate court for that area and granting the building plots within it on burgage tenure; but it is remarkable that the royal grant of a market within the vill very frequently preceded the formation of the borough; for instance, in 1252 Henry III. granted a charter for the establishment of a market in the vill of Wootton under Edge (Glos).<sup>1</sup> In the following year Joan Lady of Berkeley granted a charter to her burgesses of Wootton specifying the area of the burgages, the pasture rights attached to each, and the rent payable for them:<sup>2</sup> evidently the creation of the borough followed immediately on the grant of market rights. In this and in many other cases<sup>3</sup> the grant of a market preceded the formation of the borough: in Scotland, on the other hand, till 1570, when the lord of a village received market rights,

<sup>1</sup> Smith, *Lives of the Berkeleys*, iii 399.

<sup>2</sup> *Id.* i 18.

<sup>3</sup> A few other cases in which the royal grant of market rights precedes the creation of the seignorial borough are

Bakewell	Market	1269,	Creation of borough	1289.
Bolton		1244,		1253.
Hartlepool		1216,		1230.
Kinver		1221,		1272.
Plympton		1206,		1242.
Poole		1238,		1248.
Weymouth		1247,		1252.
Warton		1199,		1246-71.

It will probably be remembered that the bailiff of William fitz Alan granted burgages at Oswestry for the improvement of his market (*ad emendationem mercati mei*) (British *Borough Charters*, 81).



he received them because that village had been raised to the rank of a burgh. To put the contrast more concisely, in England the seignorial borough is often the consequence of a market; in Scotland, till 1571, the market is always the consequence of a burgh.

A second point to be noticed is the differing practice in the two countries with regard to the districts in which certain towns had the monopoly of trade. We have seen that up till the eighteenth century the burgesses of certain Scottish burghs retained the monopoly of trading within certain areas: in England such monopolies are very rare, and cannot be found after the thirteenth century. The earliest English example of such a monopoly is found in Edgar's charter to Peterborough Abbey, establishing a market at Peterborough and forbidding the erection of another between Stamford and Huntingdon.<sup>1</sup> Henry I. followed that precedent by banning all the trade of Cambridgeshire to the borough of Cambridge,<sup>2</sup> and his grandson ordered all foreign merchants in Lincolnshire to repair to Lincoln for trade. More restricted monopolies were those which forbade the manufacture of cloth within ten leagues of Nottingham and Derby,<sup>3</sup> and in all Yorkshire except at York, Beverley, Kirkby, Malton, Thirsk and Scarborough and the other boroughs on the royal demesne.<sup>4</sup> Except for the suppression of the port of Ross in favour of Waterford, there is no trace of any monopoly in the Irish borough charters. Nor do the French municipal charters of Louis VII. and Philip Augustus contain any evidence that any French town had a monopoly of trade within a district in its neighbourhood.

A third point of difference between the two countries has already been noticed by Professor Hume Brown<sup>5</sup>: the Scots burghs were unwallled while the older English boroughs were all walled. Before the Norman Conquest all the land of England was subject to the triple burden of Fyrd, burhbot and brigcbot; the liability to serve in the army, to work at the fortifications of the boroughs, and to repair the bridges: the English charters of the twelfth century refer to the two latter obligations as 'operationes castellorum et pontium,' and this term and this liability appears in the early Scots charters. Thus David I. exempted the men of the Abbey of Dunfermline from 'ab omni operatione castellorum et pontium';<sup>6</sup> but when his son built a castle at Ross, the abbot of his own free

<sup>1</sup> *A.S. Chron.* 963.

<sup>2</sup> *British Borough Charters*, 168.

<sup>3</sup> *Id.* 169.

<sup>4</sup> *Id.* 254.

<sup>5</sup> *Scotland in the Time of Queen Mary*, 28.

<sup>6</sup> *Reg. Dunf.* i 17.

will sent his men to help in the work, and the King granted a charter that this voluntary help should not be considered a precedent to be used against the abbot and monks in the future.<sup>1</sup> The charters of Ayr, Dumbarton and Dingwall state that these burghs had been created by the King at his new castles, and the *Leges Quattuor Burgorum* appear to regard disputes between the burgesses and the inhabitants of the castles as matters of course. Evidently, the Scots considered a burgh as a base of supply for a royal castle whose walls were repaired by the labour of the country folk; in England the castle was a late intruder into the older boroughs, and it was the wall of the borough that was repaired, sometimes by the labour of the country folk, as at Chester,<sup>2</sup> sometimes, as at Oxford<sup>3</sup> and Malmesbury,<sup>4</sup> by the labour of certain of the burgesses who paid rent to and were the tenants of the rural landowners. And this difference is emphasised in the first place by the fact that while there were very many rural properties in England that owned and received rent from appurtenant town houses,<sup>5</sup> this custom is unknown in Scotland; and in the second place, there were in England during the thirteenth century frequent grants of murage, that is, of additional tolls on goods brought into the town which were to be applied for the repair of the town walls; no similar provision can be found in Scotland, and when in 1450 James II. authorised the building of a wall to protect Edinburgh, the expenses were to be raised, not by tolls, but by charges on the burgesses according to the value of their rents and lands.<sup>6</sup> This difference will be further emphasised by a comparison of two deeds: in 814 Coenwulf, King of the Mercians, gave to the Abbess of Lyminge a piece of land in the city of Canterbury 'as a refuge in case of necessity' ('ad refugium necessitatis');<sup>7</sup> in 1383 Robert II. gave to the monks of Holyrood a piece of land in the castle of Edinburgh on which they might build a house for their residence either in peace or war.<sup>8</sup> In 1128 David I. had granted to the church of Roxburgh a measure in the castle of Roxburgh.<sup>9</sup>

All these points of difference show that whatever may have been the theory of the English borough, it differed from that which obtained north of the Cheviots, and that the commercial theory of

<sup>1</sup> *Reg. Dunf.* 32.

<sup>2</sup> *Domesday Book*, i. 262, b. 2.

<sup>3</sup> *Id.* 56.

<sup>4</sup> *English Hist. Rev.* 1906, 98.

<sup>5</sup> *Domesday Boroughs*, 14, 107.

<sup>6</sup> Maitland, *Edinburgh*, 137.

<sup>7</sup> *Dom. Bor.* 107.

<sup>8</sup> *Registrum Sanctae Crucis*, 99.

<sup>9</sup> Lawrie's *Early Scottish Charters*, 152.



the Scots burgh is no evidence against the garrison theory of the English borough.

ADOLPHUS BALLARD.

Woodstock.

## LIST OF BURGHS AND NON-BURGHAL MARKETS BETWEEN 1450 AND 1660.

NOTE.—Royal Burghs are printed in CAPITALS, Burghs of Regality in *Italics*, and Burghs of Barony in ordinary type.

BURGHS.	NON-BURGHAL MARKETS AND FAIRS.
1450. Strathaven.	
1451. Biggar, Carnwath, Whithorn, Spynie.	
1464. Kingussie.	
1467. Menteith.	
1474. Inverary.	
1476. Abernethy.	
1477. Myreton.	
1479. BERWICK.	
1484. Sanquhar.	
1486. KIRKWALL.	
1488. Huntly, Paisley.	
1489. Ersiltoun,     Dunglas,     Old Aberdeen.	
1490. Culross, Duns, Kilmuir.	
1491. Glamis, Newmilns.	
1492. Kethick.	
1493. Rayne.	
1495. Torry.	
1497. Ballinlach, Kinloss.	
1499. Fordyce.	
1501. Aberdour, Clatt.	
1502. LAUDER.	
1504. Fettercairn, Merton.	
1505. Pencaitland.	
1507. KINTORE, Auchinleck.	
1508. Ruthwell.	
1509. Cumnock.	
1510. Kirriemuir, Mauchline, Ter- reagles (or Herries).	
1511. Crawford, Dunning, Hawick, Kincardine O'Neill, Bal- linkelly, Kirkmichaell, Bal- lynard, Wemyss, Auldearn.	

## BURGHs.

1512. Dunkeld, Turriff.  
 1513. Largo.  
 1516. Maybole.  
 1517. AUCHTERMUCHTY.  
 1526. Kirkintilloch, Pittenweem.  
 1527. Kilmaurs.  
 1529. Saltcoats.  
 1532. Findhorn.  
 1539. Leslie (Fife), ANNAN.  
 1540. Dalkeith, Dunning, Drum-  
       moquhoy, East Haven of  
       Panmure, Anstruther  
       Wester.  
 1541. BURNTISLAND, PITTENWEEM.  
 1541. Cowie, Durris, Kincardine,  
       Kinross, Pitlessie.  
 1542. Langton.  
 1543. Arbuthnot.  
 1546. Fraserburgh.  
 1549. Dysart, Newburgh, HAMIL-  
       TON.  
 1550. Portsoy.  
 1551. Clackmannan.  
 1552. Prestonpans.  
 1554. Fordoun.  
 1558. INVERURY.  
 1568. NORTH BERWICK.  
 1571.  
 1572. Anstruther Easter.  
 1581. AUCHTERARDER.  
 1583. ANSTRUTHER EASTER.  
 1587. ANSTRUTHER WESTER, Peter-  
       head, Stonehaven, Gar-  
       mouth.  
 1588. Maxton.  
 1589. EARLSFERRY, NAIRN, Mony-  
       musk.  
 1591. Cockenzie, Tynninghame.  
 1592. Kilmarnock, Skirling.  
 1593. Kildrummy.  
 1594. Alford.  
 1595. INVERBERVIE, Gogo, Stranraer,  
       FALKLAND.  
 1596. Greenlaw, St. Monance.  
 1597. Airth, Eyemouth.  
 1599. Galashiels, Elie, Forgue, Blan-  
       tyre, Fochabers.

## NON-BURGHAL MARKETS AND FAIRS.

Clackmannan.

Bowden.

Bridgend of Lintrethan.

Polwarth.

Bathgate.

Andrews Lhanbryde, Ogstoun.





## An Aberdeen Professor of the Eighteenth Century

THE Scottish Literary Revival appeals to students as a period of special interest. With the Union of the kingdoms, England and Scotland were brought into closer touch than had been possible before. The mutual jealousies and distrust were wearing off. The Universities and Schools throughout the country became centres of great literary activity. To the list of distinguished writers and thinkers of the period, the Aberdeen Universities contributed their fair share. The names of Thomas Reid, founder of the Scottish School of Philosophy, of Beattie and Campbell, staunch opponents of Hume, and of the Gregories, closely linked with the progress of the Science of Medicine in the North, served to shed lustre upon the Universities to which they belonged.

The subject of this Memoir, Professor John Leslie, did not aim at personal distinction, and left no writings to perpetuate his memory. He was contented to remain a teacher in the best sense of the word—to make it his mission to instil into others his own love and reverence for learning. His letters show that he numbered among his friends such men as Robertson the historian, ‘Jupiter’ Carlyle, Colin Maclaurin the mathematician and Robert Foulis of the Glasgow University Printing Press. Letters written to Leslie by these and other men afford interesting glimpses of Social Life, not only at King’s College, Aberdeen, but in the wider circle of friends among whom he moved.

Of his early life comparatively little is known. He was born at Haddington on 11th January, 1727.<sup>1</sup> His father was Rector successively of the schools of Haddington and Dalkeith, and is referred to by Allan Ramsay in the following lines :

“Get seven score verse of Ovid’s Trist by heart  
To rattle o’er else I shall make ye smart”  
Cry snarling dominies that little ken ;  
Let such teach parrots but our Leslie men.’<sup>2</sup>

<sup>1</sup> Haddington Parish Register. The date is erroneously given in Leslie’s obituary notice published by the *Aberdeen Journal*.

<sup>2</sup> Sir John Clerk’s *Memoirs*, p. 252.



Dugald Stewart in his *Life of Robertson*<sup>1</sup> alludes to the elder Leslie as a teacher whose fame attracted pupils from all parts of the country. The following extract from a letter<sup>2</sup> written by Nourse on leaving Dalkeith Grammar School illustrates the cordial relations which existed between Rector and pupil :

‘DEAR SIR . . . . .

‘I delayed writing to you till I should find something that I thought fit sending to you, But I begun to find that, through my excessive modesty or rather bashfulness which I got a habit of at Westminster you know, I should have delay’d it till Doomsday before that Something wd have been found. However as I have been rambling about y<sup>e</sup> country for sometime past, very likely you had rather hear what I can say on that head than upon that of protestations of eternal friendship, upon y<sup>r</sup> own learning & merit & my own inabilities, or in short how much farther I could spin out apologies. But I shall begin at Monmouth . . .’

Here follows a long description of the towns through which he had passed, including Monmouth ‘where are very good stockings knit (though they say y<sup>e</sup> people of y<sup>e</sup> town seldom wear any)’—‘a Parish call’d Weston remarkable for no one thing but that here lives one who is your very humble servant’—Worcester, of which ‘if ever any fortune-hunter of y<sup>r</sup> acquaintance should travel this way you may tell him that here are 2 boarding schools well stock’d with Misses.’

The letter concludes: ‘Excuse y<sup>e</sup> incorrectness of these Remarks for I had not made one of them before I sat down to write to you. If there should be a dearth of News I should be glad to have y<sup>e</sup> place of it supply’d with an account of what fine passages you have met with in your reading. I should have been apt to send you the same but I have scarce look’d in an author since I have been in y<sup>e</sup> Country. But I design to grow a better boy when I get to Oxford which will be next week where if you will favour me with answer pray direct to me at Baliol Colledge.’

Under the inspiring guidance of his father, Leslie’s mind was early drawn towards a study of the ancient Classics. It was a period when everyone who aspired to be a man of culture should,

<sup>1</sup> Stewart’s *Life of Robertson*, p. 2 ; see also Sinclair’s *Statistical Account of Scotland*, 1794, vol. xii. p. 24.

<sup>2</sup> Letter, J. Nourse to Mr. John Leslie, October 6th, 1739.

in the words of Dr. George Traill,<sup>1</sup> 'acquire a thorough knowledge of both Languages these being the foundation for Literary attainments.'

The first letter to Leslie introduces him at the age of sixteen holding the post of Governor to the Earl of Dundonald. The writer is George Petrie, a former school-friend, who complains bitterly of his uncongenial surroundings :

'Things have not,' he writes, 'succeeded here to my wish. The Gentleman I was to be recommended to has never thought of going abroad yet, and I have lived with M<sup>r</sup> Ogle only as a friend: I have been used very well indeed, but could expect nothing else, as he has not at present £100 a year free to himself—Such is the fate of poor scholars, but I hope things go very happily with you. I have made my Retirement as pleasing as possible by dividing my time between the sports of the field & my Books. I luckily met with two or three good old Grecians who have been most agreeable Companions, & also with some of the best moral philosophers. 'Tis to these I owe any Improvement I have made, and not to the Company and Conversation of this Country, which is remarkable for loud Tongues & empty Heads. poor Will Ogle is too much in Danger of being infected with it, for nonsensical Conversation is a kind of Epidemical Distemper here . . .

'Though I desire much to hear from you I cannot bid you write me till you hear from me again, because you may be assured I want nothing but an offer of Business to leave this place.'<sup>2</sup>

Leslie, too, was meditating a change. He was conscious that his pupil's thirst for knowledge by no means corresponded to his own desire to impart it. He mentions that in November of the same year he had almost made up his mind to resign his post, but in deference to Lady Dundonald's earnest desire he consented to stay.<sup>3</sup> It was the inducement held out in a letter from Colin Maclaurin the mathematician which eventually overcame his scruples :<sup>4</sup>

'You wrote to me last year that you had some thoughts of leaving the place where you are. I had a letter last week from

<sup>1</sup> Letter, Dr. George Traill to Professor John Leslie, November 12th, 1773.

<sup>2</sup> Letter, George John Petrie to John Leslie, July 25th, 1743.

<sup>3</sup> Draft letter, John Leslie to Professor Colin Maclaurin, April 1744.

<sup>4</sup> Letter, Professor Colin Maclaurin to John Leslie, April 17th, 1744.



Lord Morton<sup>1</sup> wherein he tells me that he inclines to send his son to Eaton & would be satisfied to have you with him.'

Such a prospect was doubly attractive to Leslie. Apart from the fact that the Earl of Morton was well known as a patron of letters, there was a special bond between them, Leslie's father having acted as the Earl of Morton's tutor at the time when the latter was a student at Marischal College.<sup>2</sup> Leslie intimated that it was the height of his ambition to serve Lord Aberdour,<sup>3</sup> and after the necessary preliminaries had been settled he took up his new duties in Lord Morton's family.

To a man of Leslie's literary tastes it must have been a great pleasure when it was decided in 1751 that he should accompany Lord Aberdour to Leyden University. The matriculation roll contains the following entry:

'1035 Rectore Francisco van Oudendorp 1751 Sept 20 Sholto Carolus Douglas Dominus de Aberdour Scotus. Ann ac J. Joannes Leslie Scotus 29 J.'

A passage in a letter from Robert Foulis of the Glasgow Printing Press<sup>4</sup> refers to a visit which he paid to Leslie:

'The pleasure I had in the very agreeable Company of the Gentlemen at Leyden, makes me wish much to return that way. I have seen very few so accomplish'd so polite, with so much Solidity of Understanding & benignity of heart as Mon<sup>r</sup> De Boissie.<sup>5</sup> As I am very sensible of my Obligations to his Civilty & M<sup>r</sup> Tavel I beg you will return them thanks in my name in the warmest manner, & we beg that these Gentlemen would take the trouble of making our Compliments acceptable to their friends, whom we had the honour to be in Company with.'

In 1753 the time spent at Leyden drew to a close, and with it Leslie's appointment as tutor. Foulis writes of Lord Aberdour on the 21st of September of that year:

<sup>1</sup> Fouchy, in his *Histoire de l'Academie*, 1770, writes of James, sixteenth Earl of Morton, that he was 'a true lover of science and a warm friend of all who adorned it ... It may truly be said that no person ever existed who possessed the friendship and esteem of literary men more than he did.'

<sup>2</sup> Family Papers, Discharge, Mr. John Peacock to Mr. John Leslie, 7th September, 1718.

<sup>3</sup> Draft reply to Professor Colin Maclaurin, April 1744.

<sup>4</sup> Letter, Robert Foulis to Mr. John Leslie, February 3rd, 1752.

<sup>5</sup> In the same letter Foulis suggests that if Leslie would translate a little pamphlet which had pleased him so much, with Monsieur de Boissie's preface, he (Foulis) would 'take care to have it printed neatly and thrown in the way of people to whom it may be useful.'

‘His manner and application has done you a great deal of honour both at home and abroad, and I hope will one day do you a good deal more not only by the private ; but the public virtues which form the truly good & great man.’ That Lord Morton was satisfied is to be inferred from the fact that he settled on Leslie an annuity of £40 Scots.<sup>1</sup>

Meantime Leslie’s abilities had not escaped notice. In 1754 a deputation called upon him. Reference is made to it in a letter written by Principal Chalmers<sup>2</sup> of King’s College, Aberdeen, to Leslie under date 30th of April of that year :

‘DEAR SIR

‘By appointment of the University I write you this to acquaint you that we have unanimously elected you to be our Professor of Greek. I doubt not but you know that when Mr Reid<sup>3</sup> and I had the pleasure of seeing you we had no powers but to make Inquiry and report otherwise we would have talk’d to you on the Subject at that time.

‘I shall be extremely glad if this Office is to your Taste. I hope it is & from the Character we had of you from many different hands I doubt not but we have made a right Choice. As it comes to you in an easier and more honourable way than by the ordinary track of Interest and Sollicitations I hope your Conduct will both justify our Choice & the Character which your friends have given us of you.’

The duties of a Professor of Greek, as defined by the Scottish Universities Commission of 1700, involved special charge of the Bajans or first-year students, whose chief subject of study was the Greek Language. He was expected to teach Greek Grammar without touching upon the structure of the Syllogism or anything else belonging to Philosophy. In the Semi or second year the student entered the class of one of the philosophical professors, and was conducted by him through the full course of Philosophy,

<sup>1</sup> Note by Professor Leslie, of debts due to him, of which he may expect payment. October 2nd, 1784.

<sup>2</sup> Dr. John Chalmers was appointed a Regent of King’s College in 1640, and became Principal six years later. He was a man of considerable learning, but, according to Paton, devoted himself chiefly to country pursuits. He died at his farm at Sclattie in 1800, having held office in the College for sixty years. (*King’s College Officers and Graduates*, pp. 27, 28 ; *Kay’s Portraits*.)

<sup>3</sup> Professor Thomas Reid the philosopher, author of *Inquiry into the Human Mind*, 1764. He was Professor of Philosophy and Regent at King’s College from 1751 till his transference to a Glasgow Chair in 1763.



continuing at the same time his attendance at the classes of the Professor of Greek. Under the Regulations of 1753 it was further provided that a Professor of Greek should lecture for three hours to his pupils on each Monday, Wednesday and Friday, two hours each Tuesday and Thursday, and one hour on Sunday evening.

Apart from the question of teaching his class, one of the most important duties of a professor was to get together the students who were to form it. The rivalry existing between King's and Marischal Colleges made this a necessary preliminary if the class was to be well filled. Principal Chalmers writes :

'It is a fine thing for you and Rory to sit at Dalkeith & talk of Bejans Œconomists<sup>1</sup> &c. You will find all these things just where you left them. I do not believe that Mr Reid will go the length of the Bridge of Dee to look after a Bejan tho' our neighbours are very alert so that you must eyr bring them with you or want.<sup>2</sup> I have got one for you and have him here. & am told he is a fine Scholar.'<sup>3</sup>

As Leslie's work lay chiefly among first-year students, it is only to be expected that a number of the letters in the collection were written by parents or others, either commending pupils to his charge or asking for information as to their progress. As a specimen of the contents of the 'Parents' Drawer,' the following letter, written by Dr. George Traill, Minister of Dunnet, is given :

'DEAR SIR

'Your much esteemed favours of the 23<sup>rd</sup> Current was Delivered to me by my son, who arrived in this Country friday last. The favourable accounts which you give me of him are very encouraging, and will induce me to prosecute his accademical [*sic*] studys; But I neither know how to express the obligation I am under, nor how to make suitable Returns for the Uncommonly Generous manner in which you have Behaved towards him, and the particular marks of regard you have shown to them both.

<sup>1</sup> The duties of an Economist, as defined in the Nova Fundatio, lay in attending to all matters relating to the revenue of the College and the purveying of the necessities of life to its members.

<sup>2</sup> In a pamphlet written in 1786 dealing with the proposal to unite Marischal College with University and King's College, it was urged by the objectors that, under the then existing conditions, 'if a Professor in one of the Colleges be negligent, students can be instructed by the corresponding professor in the other at the same expence and only the distance of a mile.'

<sup>3</sup> Letter, Principal John Chalmers to Professor John Leslie, July 8th, 1755.

‘My solicitous Concern for preserving their Virtuous Dispositions from being sullied by the Contagion of Bad Examples in places of public resort, determined me at first to chuse a more Retired seat of Learning for their Improvement; and I think it best to Continue this plan, untill principles have taken deeper root in their minds; It has been of a long time a settled sentiment of mine, that a man makes but a very sorry purchase who acquires an Enlightned understanding at the Expense of his Virtue.

‘My sons tell me that you rather incline to Grow Corpulent, would not a Jaunt to the North during the Recess be of service to you. Your Friend M<sup>r</sup> Morton lives in my neighbourhood, not above a mile’s Distance. You would perhaps lay in a stock of Health by such an Excursion, And it would be doing me a most acceptable favour if for a month or Two of the summer you would be so good as to make my House your Home.’<sup>1</sup>

The fact that the professor had to be actively concerned in getting together his pupils, and that they were then personally commended to him, established a close tie. The professor was expected to give his best advice when needed, to direct him as to the course of his private reading or preparing for his public exercises, to let him know anything needing to be corrected, to state frankly his sentiments about him, to define the direction which he thought best for his after-studies<sup>2</sup>—in fact, to give such attention to each of his class as might be expected from a private tutor. He was also the natural recipient of any complaint, as in the following letter :

‘DR SIR

‘It gives me no small pleasure to understand that you have got a nephew of mine Johnie Grant into your class, because I am very sure that he is in good hands while under your tuition. Meantime it gives me some pain that by the regulations of your University he should be obliged to sit at your second table when his Father was willing to pay for the first.’<sup>3</sup> The Boy does not

<sup>1</sup> Letter, Dr. George Traill to Professor John Leslie, March 28th, 1774.

<sup>2</sup> Letters from Dr. George Traill, November 12th, 1773, and from Professor Alexander Morton, October 16th, 1780, to Professor John Leslie.

<sup>3</sup> During the seventeenth and eighteenth centuries there were two tables at King’s College, one for the richer who paid an extra fee, the other for the poorer. The fare at the second table was a subject of complaint in 1763. (Rait’s *Universities of Aberdeen*, pp. 203-6; Dunbar’s *Social Life in former days in Morayshire*, p. 7.)



want spirit. I know it will bear a little hard on him, as he has always been used to the best company in his own Country. I saw a Letter from him lately wherein he regretes this thing, but at the same time expresses a very strong sense of his obligations to your civilities, for which I render you my most hearty thanks & begg you'll be so good as, in my name to thank Principal Chalmers whose civilities he mentions in like manner. You will I persuade myself, continue to give him your countenance if he deserves it. I should be extremely fond of an opportunity of cultivating our short acquaintance begun at Ed<sup>r</sup>. If you make an excursion into this country I will expect to see you in this house . . .'<sup>1</sup>

A letter from Dr. George Traill shows that the efforts of the Professor for the welfare of his pupils sometimes met with acknowledgment :

'Sometime in the month of April or May last M<sup>r</sup> Thomas Steedman Officer of Excise at Wick shipped on Board a salmon smack an Anker of our Country Spirits with a permit for the same as it had paid Duty, but unluckily he has forgot the masters name, and none of the masters of these smacks give Receipts, but he says he can prove the Delivery. The Cask was addressed to you, and I hope it has before now come safe to hand ; or if you order any Person to Inquire at M<sup>r</sup> John Burnets about it, he will probably find it out. I wish the spirits may please, it being a small acknowledgment of the sense I have of your particular proofs of friendship.'<sup>2</sup>

The Professor of Greek at King's College taught English reading and recitation as well as Greek. Latin was not included among his subjects, but was undertaken by the Professor of Humanity. Those students whose Latin was not sufficiently far advanced for his classes were expected either to attend the private classes of a professor or to enter for a year or two at the Old Aberdeen Grammar School, in which a five years' course of Latin was provided.<sup>3</sup>

<sup>1</sup> Letter, Mr. Patrick Grant, Minister of Urray, to Professor John Leslie, November 28th, 1755.

<sup>2</sup> Letter, Dr. George Traill to Professor John Leslie, June 30th, 1777.

<sup>3</sup> Kennedy's *Annals of Aberdeen*, ii. 355, 358, 388 ; Dunbar's *Social Life in Morayshire*, i. p. 5 ; *Memoirs of the Rt. Hon. Sir James Mackintosh*, by his son, pp. 9-12.

Like its parent institution this school was at times in danger of feeling the effects of competition. A letter from Principal Chalmers, written to Leslie in June 1771, describes some of the difficulties under which it laboured :

‘DEAR SIR,

‘It is with very great Concern that I write this to inform you of the Death of our worthy friend M<sup>r</sup> Orcharton than whom I know not a better nor a more deserving man. This untimely event came very unexpectedly upon us & is greatly lamented by all who were acquainted with him here . . .

‘You know our Situation as well as I & how difficult nay how impracticable almost it will be to get this place so properly filld. We have no time to lose because if we lose time we lose our School & therefore I write this to desire you will be at pains to get yourself informd in the best way you can where we can find a Successor. M<sup>r</sup> Diverty by good luck is just come here & we think to get him to take up the School for some weeks in order to keep them together because we think if our boarders should leave us it would be a great chance if we could bring them back & without them you know there are not boys enough in this town to make it worth a man’s while to attend upon a School. It was at first proposd to advertise but I got that set aside for the same reasons we had for not advertising last. Advertising ought to be our last shift because it exposes us to numberless sollicitation & brings false testimonies adduced in favours of the Candidates whereas the way of private inquiry tends to get at the true character of the man we think will suit our purpose. We might get a man that is fit to be Schoolmaster anywhere but we must have a man that is fit to be Master of a family as well as Master of a School & who has either a wife or some friend with him that is fit to keep a boarding house. The only man in that way in this part of the Country is Fullarton at Fetteressoe, who is I believe a very good teacher. He was at the burial today but I think there is something diminutive in his appearance that makes me doubt of his being able to keep a proper degree of authority among such boys as we have.

‘The only other that has been thought of is one Smith at Chanry<sup>1</sup> who I am told is a brisk enterprizing young man & a

<sup>1</sup> Sir James Mackintosh, who attended his school at Fortrose, describes him as a man ‘who if I may trust my recollection was not wanting in abilities.’ (*Memoirs*, p. 3.)



good teacher. That he beat the people of Inverness & had a [ ] School for many year till he turned politician & overset Sir Alexr Grant's election. [ ] I am told raisd an odium against him & hurt his [ ] but if that is all he may be Provost of the old town if he pleases for me providing he is a good Schoolmaster. I am told he was M<sup>r</sup> Dunbar's<sup>1</sup> master & that Donald MacLeod Guineas<sup>2</sup> was his scholar. Pray will you make inquiry at Donald Macleod about him as for M<sup>r</sup> Dunbar I know not where he is We suppose him to be in Murray . . .<sup>3</sup> We all join in best wishes to you & your fellow travellers & I am yours

‘Jo: CHALMERS.’

That canvassing and the exercise of personal influence were not unknown in the eighteenth century is shown by several letters. Alexander (‘Jupiter’) Carlyle<sup>4</sup> writes on the 19th of May, 1760, to Professor Leslie:

‘DEAR SIR,

‘The intention of this letter is to beg a favour of you and of your Brethren of the University; as I am acquainted w<sup>t</sup> very few of them, I have employ’d my Friend M<sup>r</sup> Dalrymple to write to Principal Chalmers, and I must beg the favour of your aid in procuring me the Degree of D<sup>r</sup> of Divinity from your College.—It is neither to Grace the title-page of a New Book; Nor to gratify my vanity that I make you this request. The real truth is that I have reason to believe that such an addition to my Name, will have some influence in a matter on which my private happiness depends, and which I shall explain to you, when we meet.<sup>5</sup> If you therefore think I deserve such an honour, I

<sup>1</sup> Mr. James Dunbar was Regent of King's College from 1765 to 1795.

<sup>2</sup> An owner of property in the neighbourhood of Tain.

<sup>3</sup> Neither candidate was successful. Mr. John Gray was appointed to succeed Orchardton.

<sup>4</sup> ‘Jupiter’ Carlyle, Minister of Inveresk, was a very prominent figure in literary as well as in ecclesiastical circles. He is perhaps best known for the part which he took in the production of Home's *Tragedy of Douglas*, which earned for him the censure of the General Assembly. He died in 1805. His memoirs give a most interesting picture of the social life of the period.

<sup>5</sup> Carlyle had the degree of Doctor of Divinity conferred upon him by King's College on 27th May, 1760, and married Mary Roddam on the 14th October

shall hope from your Friendship that you will concur w<sup>t</sup> Principal Chalmers & D<sup>r</sup> Gregory in obtaining it for me I am D<sup>r</sup> Sir  
 ‘yours most sincerely,

‘ALEX<sup>R</sup> CARLYLE.’

Another letter deals with influence exerted on behalf of Carlyle by Principal Robertson the historian. It is to be noticed that fitness for the post is used merely as a subsidiary argument :

‘DEAR SIR

‘I presume so far upon our old acquaintance as to beg your countenance & vote in favour of my friend D<sup>r</sup> Carlyle to be Moderator of Assembly<sup>1</sup> He has had the merit of conducting the negotiations at London concerning the window-tax<sup>2</sup> with so much ability, that the Clergy will be relieved of this burden. The manner in which that will be accomplished I explained to Principal Campbell in a letter by last post. He will communicate it to you, if you have any curiosity about that matter.

‘D<sup>r</sup> Carlyle’s merit in this successfull embassy entitles him to any distinction which can be bestowed upon him by the Society which he has been the instrument of relieving. He is, beside, a man of worth & ability, well qualified for the station to which your friends here destine him. I flatter myself that you will approve of our motives for proposing him, & that we shall have the pleasure of seeing you on the Wednesday before the Assembly at farthest. I hope you will forgive this liberty which I have

following. His memoirs contain this entry : ‘After nine months’ courtship, at first by silent and imperceptible approaches, and for three months by a close though unwarlike siege, I obtained her heart and hand, and no man ever made a happier conquest.’

<sup>1</sup> Carlyle was elected Moderator of the Church of Scotland in 1770.

<sup>2</sup> There was a great complaint at this time about the heavy burden which the window-tax laid upon the poorer clergy. In 1769 Carlyle took it upon himself to voice their grievances to the King’s Ministers and the Lords of the Treasury, offering his services without expense. In course of his visit to London he advocated their cause with energy and persistency, and interviewed, among others, the Archbishop of Canterbury, the Duke of Grafton, the Bishop of London, the Earl of Mansfield, and a large number of Scottish noblemen and Members of Parliament. Mr. Montgomerie, the Lord Advocate, could give no assistance, but Carlyle refused to give up hope, and renewed his activities in the following session. The negotiations were long and tedious, and it was not till 1782 that the clergy obtained the desired remission. (Carlyle’s *Autobiography*, pp. 353-4, 496-537.)



taken & receive my letter with the indulgence of an old school-friend.<sup>1</sup> I ever am with great truth,

‘Dear Sir

‘your faithfull & most

‘obedient servant,

‘WILLIAM ROBERTSON.<sup>2</sup>

‘College of Ed’

‘May 4th 1770.’

Interesting glimpses of the lives of the professors in Old Aberdeen are contained in some of Principal Chalmers’ letters. On May 5th, 1755, he writes to Leslie :

‘D. S.

‘Another Summer you say—and then.—Yet a little sleep says the Sluggard, a little slumber,—and a little folding of the hands to sleep. It woud appear that you do not know what a summer is. For this, instead of Eustachius, please consult the 5th Chapter of the Proverbs. You may also consult for your Edification the same author in many passages of his works.

‘I suppose you are a very cunning Fellow & in order to make every thing secure you are to spend this summer in making out a book of Statutes the next in revising these Regulations and a third or perhaps a fourth in obviating & devising difficulties & possibilities that never will occur . . . :<sup>3</sup>

‘If you are wearied or doing nothing where you are pray return quickly. I am quite wearied. The Doctor is considering the

<sup>1</sup> Robertson and Leslie both received their education at the Dalkeith Grammar School under the latter’s father. (Stewart’s *Life of Robertson*, p. 2.)

<sup>2</sup> Robertson the historian was born in 1721. After some years’ ministry, first at Gladsmuir, then at Lady Yester’s Church, Edinburgh, he was elected to the First Charge of the Collegiate Church of Greyfriars. He published in 1759 his *History of Scotland during the reigns of Queen Mary and James VI.* Its success was immediate. Robertson was appointed one of His Majesty’s Chaplains in Scotland, and was chosen Principal of Edinburgh University and Historiographer for Scotland. He was for a long time the recognized leader of the Moderates in the General Assembly. He died in 1793. (Kay’s *Portraits* ; Chambers’ *Eminent Scotsmen* ; Stewart’s *Life of Robertson*.)

<sup>3</sup> In 1753, an *Abstract of some statutes and orders of King’s College in Old Aberdeen* was published. The proposed changes related to an increase in the length of the session, the amalgamation of some smaller bursaries, some alterations in the system of regenting as well as the arrangement of classes, and an obligation placed upon students to lodge and dine in College. A supplementary code of rules was published not long afterwards, and it is to this revised code that reference is made. (Rait’s *Universities of Aberdeen*, pp. 199-202.)

state of the Church & Mr Burnet<sup>1</sup> out of Town so that it is a very solitary Time . . . '

In another letter<sup>2</sup> he writes :

' . . . Mr Reid sits & bums at Tonser & studies Musick : I scarce think that he will cut his Hay. The old Boy is closs<sup>3</sup> with Appie & has never been in Town since you left us. The Doctor has had a Six weeks Lent which was a time of great mortification to himself & Mr Gellie. He supererogated it this time by keeping it three or four Days longer than usual. He open'd the Club in this Town on Tuesday last week where he was very moderate ; He went to Aberdeen next night & sat till six in the morning & is very bad. Mr George Gordon<sup>4</sup> is shut up in the repairs of his new house. Dr Catanach<sup>5</sup> is employ'd as usual. Professor Lumsden<sup>6</sup> labours at Turrentin & the Humanist<sup>7</sup> and I at the Teinds and the Charter chest, where we have had a busy time for some weeks. Everyone is taken up in his own way you see. Rory and you are as busy as any of us I suppose and we are all so much taken up that the Œconomy is never thought of . . . '

That Leslie himself was not a good correspondent is to be inferred from passages in Principal Chalmers' letters :

' You make a fine Representative in the Assembly not one word have you wrote us of your proceedings nor do we know what you have been about . . . ' <sup>8</sup> And again : ' Mrs Chalmers offers her Compts to you both & says it seems you could not read her Letter else you would have answered it.' <sup>9</sup>

Professor Thomas Gordon<sup>10</sup> appears to have taken his duties as a Representative more seriously, and writes to Principal

<sup>1</sup> Alexander Burnet, Sub-Principal of King's College.

<sup>2</sup> July 8th, 1755.

<sup>3</sup> Constantly.

<sup>4</sup> Professor of Oriental Languages.

<sup>5</sup> Civilist.

<sup>6</sup> Professor of Divinity.

<sup>7</sup> Mr. Thomas Gordon.

<sup>8</sup> May 5th, 1755.

<sup>9</sup> July 8th, 1755.

<sup>10</sup> Mr. Thomas Gordon, Humanist and Regent at King's College, was commonly known as 'Humorist Gordon.' He is described in the text to Kay's *Portraits* as a man of jovial turn, fond of anecdote and a great humorist. 'On one occasion he had given dire offence to Professor Leslie, who in consequence sent the humorist a challenge : Gordon accepted but claimed the privilege of choosing the weapons. He chose anyone of the Greek Tragedians and pledged himself to foil Leslie at his own weapons, adding, 'Gif ye dinna beat me, I'll tak' the tawse to your hurdies !' The encounter never took place.' (Kay's *Portraits*, i. 78, 79.)



Chalmers an interesting account of the Assembly of 1773 which he attended.

‘As to the Assembly—’ he writes, ‘The Commissioner<sup>1</sup> delivered his speech with a dignity & propriety that struck every body. He shows all his Russian finery in his throne dress & attendance, but is in bad health. The first day he wore the Coller of the Thistle. Tuesday was the great day of battle. We did not break up till 7 at night. There were full 212 members present. It was the St Ninians cause,<sup>2</sup> which we carried hollow two to one.<sup>3</sup> This has so damaged Mr Freebairn<sup>4</sup> & his Associates, that they have not called for a vote since. The speeches are nothing remarkable. One young Orator appeared on the adverse side who attracted the attention of all—a Bryce-Johnson<sup>5</sup> a Minister near Dumfries. We call this an assembly of bulls: Freebairn made the first slip:—He warmly recommended a collection for the bridge over the North-water, *in order to save*

<sup>1</sup> Charles Lord Cathcart was the King’s Commissioner in 1773.

<sup>2</sup> Mr. Thomson, Minister of the neighbouring parish, Gargunnoch, received in 1766 a presentation to St. Ninians from Sir John Stuart of Allanton. Mr. Thomson was an able man and had done good service in the Church, but was alleged by his opponents to be ‘in the decline of life, of a weak voice and still weaker constitution.’ The people resolved to choose their own minister and elected Mr. Mackie.

The Presbytery had sympathy with the people, and litigation lasted for seven years. In the end the Assembly adopted peremptory measures, and enjoined the Presbytery to induct the presentee. The Presbytery then met on the 29th of July, 1773. The admission of Mr. Thomson resolved itself into a violent attack upon him, and he was conjured by the grace which he might wish to have in his dying hour to give up the parish. Mr. Thomson replied forgiving the preacher for his attack, but told him to execute the orders of his Superiors. After Mr. Thomson’s admission a great body of parishioners left the church and built a meeting-house of their own. Mr. Thomson died in 1787. (Story’s *Church of Scotland*, iii. 721-2; Scott’s *Fasti*; *Scots Magazine*, May 1773.)

<sup>3</sup> The Assembly by 133 votes to 69 ‘did appoint the Presbytery to admit Mr Thomson as minister at St Ninians the last Tuesday of June next.’ (*Scots Magazine*.)

<sup>4</sup> John Freebairn, Minister at Dumbarton, was the leader of the popular party in the Church. ‘He possessed infinite native humour and a ready and plentiful fluency of speech; he had the happy talent of enlivening a debate by his display of humour . . . to a degree seldom equalled. These talents he uniformly applied in the General Assembly against the vigorous exercise of Church patronage.’ (Scott’s *Fasti*.)

<sup>5</sup> Bryce Johnson, who was at this time twenty-six years of age, was Minister of Holywood, in Dumfriesshire, from 1771 to 1805. He occupied a prominent position in the Ecclesiastical Courts, always supporting the popular cause.

*the many lives which were lost in that impetuous stream.*<sup>1</sup> P[ ] fell next into a similar blunder;—at this rate of going on, says he, *Mr Thomson shall be dead before he is settled Minister of St Ninians.* We meet today about the Widow's Scheme<sup>2</sup> Sir James Stuart pays great attention to these matters & is expected to speak on this subject. He is reckoned a remarkably good speaker. Indeed I was much pleased with his appearance in the committee that was appointed to report on that matter, of which I happened to be a member.

'I see Mr Daune<sup>3</sup> here & well. My best compliments to Dr Gerrard<sup>4</sup> & acquaint him we are likely to make nothing of the Synod's overture about Ministers accepting tittles to fictitious votes at Elections of Members of Parliament.<sup>5</sup> Let Mr<sup>s</sup> Gordon know I am well—Compliments to all our Colleagues & kindest respects to Mr<sup>s</sup> Chalmers & Miss —— from Dear Principal

'yours &c

'THO<sup>s</sup> GORDON.'<sup>6</sup>

Another letter from Gordon<sup>7</sup> refers to Dr. James Gregory :

'—As to anecdotes I'll tell you one. The speculative society were disputing some days ago about the thin partition or rather no partition, according to an honourable Judge,<sup>8</sup> that divides betwixt man & the brute part of the creation & it was the general opinion that speech was the most distinguishing property

<sup>1</sup> The reference here is to the projected building of a bridge across the North Esk, which was necessitated by the dangerous condition of the ford. As the funds collected were insufficient to meet the whole cost, the assistance of the General Assembly was solicited. (*Scots Magazine*.)

<sup>2</sup> Certain changes proposed by Dr. Webster in connection with the Ministers' Widows' Fund, one of which allowed the Widow of a contributor to retain her annuity if she married as her second husband a Minister or Professor who was a contributor. (*Scots Magazine*, May 1773.)

<sup>3</sup> Minister of Kincardine O'Neil.

<sup>4</sup> Professor of Divinity at King's College, and author of *Essay on Taste*.

<sup>5</sup> The Synod of Aberdeen submitted an overture expressing disapprobation of the 'designs on foot for inducing clergymen to accept of qualifications for voting in the election of Members of Parliament, upon splitting of valued rents, and conveying superiorities and thereby acquiring a title which may be looked upon as nominal and fictitious.' It was agreed that the overture from the Synod lie on the table. (*Scots Magazine*, May 1773.)

<sup>6</sup> Letter from Professor Thomas Gordon to Principal Chalmers, May 28th, 1773.

<sup>7</sup> May 1st, 1776.

<sup>8</sup> Lord Monboddo.



in favour of man, since tails were now found by legal evidence to belong to both. Young Prof Stuart<sup>1</sup> stood up & acquainted the society of a happy experiment that was likely to decide the controversy;—that his Grace of Buccleugh had got a veritable Orang Outang, & had generously resolved to bear the expence of his education under M<sup>r</sup> Braidwood; And as he doubted not of the proficiency of this stranger, he begged leave to recommend his being enrolled as a member of the speculative society as soon as his education was completed.—My young friend D<sup>r</sup> Gregory<sup>2</sup> sat by the Professor. He rose up & observed that the gift of speech & in our own language was undoubtedly a necessary qualification in any foreigner who aspired at being a member of their society; but with all deference he begged leave to propose that in the present case before the candidate was admitted the Learned Professor should certify that he had put him over the *pons asinorum*—Nota, D<sup>r</sup> Gregory nor none of his friends know of my being informed of this bon mot. I had it in a publick company where my connexion with my young friend was not known.<sup>3</sup>

‘My kind compliments to M<sup>rs</sup> Lesly your young family, the Principal & our other Collegues.—

‘Yours affectionately,

‘THO<sup>s</sup> GORDON.’

Professor Leslie is probably best known as figuring in Kay’s caricature of the ‘Septemviri Sapientes,’ or seven wise men of King’s College, who were opposed to the scheme of 1786 for a Union with Marischal College.<sup>4</sup> Three times in the eighteenth century plans for Union were discussed. In November 1754 the two colleges came to terms, reserving the question of the location of classes, about which they asked the Duke of Argyll’s help. The Earl of Findlater was appointed arbiter with reference to the Seat of the University. He decided in favour of Aberdeen

<sup>1</sup> Dugald Stewart, Mathematician and Biographer.

<sup>2</sup> Dr. James Gregory came of a family closely associated with the progress of Medical Science in the North. Appointed at an early age to an Edinburgh chair, he held the professorships successively of Medicine and of the Practice of Physics with great success. Apart from his medical works, he was the author of a *History of the West Highlands and Isles of Scotland*—a permanent memorial of his learning. Paton writes of his classical attainments, and alludes incidentally to his epigrammatic talents. Gregory died in 1821. (Kay’s *Portraits*, i. pp. 339-342.)

<sup>3</sup> Gregory’s father was a Colleague of Gordon in King’s College before being appointed to the Chair of Medicine in Edinburgh.

<sup>4</sup> Kay’s *Portraits*, i. 76.

as against Old Aberdeen. King's College thereupon withdrew from the negotiations. The question is alluded to in a letter from Principal Chalmers of the 8th of July, 1755 :

'I had this day a Letter from a Gentleman of my Acquaintance which pleas'd me much giving an Account of a conversation with the Duke of Argyle anent our Union & the Prosecution thereof. He laughs at penalties &c approves of every thing we have done except submitting which he says we ought not to have done to anybody far less to — & seems to hold his Broyr Peer in great Contempt for this pitiful & low effort in Politicks.'

As a teacher Leslie appears to have inherited the talents of his father. Sir James Mackintosh<sup>1</sup> remembers Leslie's instructions as good. Like other Scotsmen of his day, he used dialect in his speech, but according to Mackintosh his pronunciation was such as he could not have acquired without some residence in England. His powers of declamation were considerable, and Mackintosh records the lasting impression made upon him by Leslie's recitation of the lines describing Adam's feelings after the Creation :

'As new waked from soundest sleep,' etc.

He was credited by Paton with having made it his boast that he had rendered the Greek tongue vernacular from Aberdour to Aberdeen. Principal Chalmers, in a letter dated June 1771, describes Leslie as 'the only man in the Society that can be of use in assisting & supporting an interim teacher in his authority.'

The last letter in the Collection is an intimation<sup>2</sup> from Professor Robison to Leslie that he has been elected a member of the Royal Society of Edinburgh. In 1789 Professor Leslie appears to have been in failing health, and Mr. Robert Eden Scott was appointed to take his duties for the next winter.<sup>3</sup> Leslie died on the 24th of May, 1790, at the age of sixty-eight. A last tribute to his memory appeared in the *Aberdeen Journal* of June 1790. 'His attachment to his pupils, and his unwearied exertions to instruct them in the principles of languages to preserve order and regularity in their behaviour and to enforce the practice of every moral and religious duty will render his memory dear to all who have been under his care.'

J. G. BURNETT.

<sup>1</sup> *Memoirs*, pp. 9-10.

<sup>2</sup> June 23rd, 1783.

<sup>3</sup> *King's College Officers and Graduates*.



## Andrew Symson

Preacher, Printer and Poet

THE ecclesiastical convulsions in Scotland during the second half of the seventeenth century had as one of their strangest effects that they drove certain men from the pulpit into the profession of bookselling and printing. Those who thus changed their career were clergymen who had been parish ministers while the persecutions lasted, but who were unable to take the necessary oath of allegiance to the government of William III. when the Revolution set him on the throne. In this way Henry Knox, a reputed grand-nephew of the Reformer, who had been minister of Dunscore and Bowden, became a bookseller in the Luckenbooths of Edinburgh, his name appearing in the imprint of a few books. It was perhaps natural that Knox should take to that line of life, for his father had been a book-binder in Edinburgh before him,<sup>1</sup> but the same could not be said of David Freebairn, the father of the better known Robert Freebairn. He had been minister of several charges in Strathearn, and on his ejection from the last set up as a bookseller in Edinburgh, where his shop was over against the Guard—a business which he relinquished on returning to the ministry as a clergyman (and ultimately as a bishop) of the Episcopal Church in Scotland. A third was Andrew Symson, the subject of this paper. It is worthy of note that the names of all three occur frequently in the same imprint, Symson being the printer and the other two being associated with him in the sale of the book.

Symson belonged to a family which had occupied an important place in the ecclesiastical history of Scotland since the Reformation. None was more eminently entitled to the description 'levitical,' for it gave many sons to the ministry of the Church. The list of books that can be assigned to them is long, and a

<sup>1</sup> Scott's *Fasti Eccles. Scot.* i. 272, 545, 579; but see Aldis's *List*, p. 115. Knox was entered a burgess and guild brother of Edinburgh as early as December 11th, 1678.

useful bit of Scottish bibliography would be to disentangle the individuality of the various writers and assign to each the volumes he produced. Much confusion at present exists in regard both to their personalities and to their literary activities. Library catalogues, even that of the British Museum, are full of blunders concerning them.

Symson's great-grandfather threw in his lot with the Reformation party, and became successively schoolmaster at Perth and minister and schoolmaster of Dunbar. He acquired a somewhat left-handed fame for the part he played in bringing his fellow-presbyter, the minister of Spott, to justice for the murder of his wife, a famous case in the criminal annals of the country. A more solid ground for remembrance is to be found in the fact that in 1580 he published *Rudimenta Grammatices*, a Latin grammar popularly known as the 'Dunbar Rudiments,' and used in the Scottish schools for many years thereafter. Of Symson's sons, five became ministers and four of these authors of books that were more or less well known.

The son named Alexander, the grandfather of our printer, was successively minister of Muckhart, Alva and Merton in Berwickshire, and wrote *The Destruction of Inbred Corruption*, London 1644. So far as can be ascertained, Alexander's son, Andrew, though he describes himself as a 'Minister of God's Word,' never occupied a pulpit in Scotland. He followed the tradition of his family and wrote two learned treatises—an Anglo-Graeco-Latinum Lexicon and a commentary on 2nd Peter. In January 1704, his son, our printer, presented copies of these works to the library of Glasgow University.<sup>1</sup> In each he inserted a printed inscription of dedication, detailing his reason for the gift. The books were intended

'Ad  
Orthodoxam Fidem confirmandam,  
Bonos Mores promovendum,  
Rem literariam excolendum,  
Patris τοῦ μακαρίτου Memoriam perpetuandum,'

not less than to show the donor's own good-will.

According to Hew Scott, Andrew Symson was born about

<sup>1</sup> *Mun. Univ. Glasg.* iii. 447. Nine years before, Symson presented another volume. *Ibid.* iii. 442. No reason is apparent why he should have been interested in the Western University. The copy of the *Lexicon* in Edinburgh University was presented to the library by the author on its publication in 1658.



1638,<sup>1</sup> but no information is available as to where. The probability is that he was born in England, where his father may have been engaged in some ministerial duties. It is noteworthy that the two books of the latter were published in London and that the Commentary was dedicated to 'the Master, Wardens, Assistants and others of the Worshipfull Companie of Stationers'—which seems to argue some personal acquaintance and familiarity with them.<sup>2</sup> Andrew was the youngest son, and according to the insertion in the books presented to Glasgow University, acted as an amanuensis to his father while the latter was engaged on them. He was educated at the High School of Edinburgh, for he speaks of Hugh Wallace, 'qui per annos, 1652, 1653, 1654, 1655 [fuit] Scholarcha Edinburgensis, quem ego puer Praeceptorem in Grammatica habui.'<sup>3</sup> He credits this teacher with the authorship of an anonymous poem on Sir William Wallace, which he afterwards printed, but in this he is probably mistaken. Symson refers to the author as being a west-country man, a description that does not fit in with what is known of Hugh Wallace, but is appropriate to William Wallace, who was a schoolmaster in Glasgow and a poet.

Some time during the closing years of the Commonwealth, Symson became a student of Edinburgh University, where he had the 'honour to be Condisciple' of Alexander, Earl of Galloway,<sup>4</sup> from whose family he was destined to receive much kindness. He graduated in Arts on July 19th, 1661,<sup>5</sup> but before he was laureated he was appointed Latin master, or 'usher,' as he himself names his office, in the Grammar School of Stirling<sup>6</sup>—no doubt

<sup>1</sup> *Fasti*, i. 735.

<sup>2</sup> The dedication has certain amusing touches. The author, after pointing out how many prefer light literature, 'whereby they are so bewitched, that a Tale of Robinhood, pleaseth them better than a Chapter of Job, a filthy Ballad than one of the Davids Psalmes,' he continues, 'but of you, whom I conceive to be endued with no small store of Knowledge, at least who have the means thereof in greater plentie than any others, I hope better things. Starve not your selves (Tantalus like) amidst the variety of such choyce dainties. Oh that the Libraries were but furnished with the Crums that fall from your Table.'

<sup>3</sup> *De Gestis . . . Gulielmi Vallae*, Prolegomena, p. 8. Symson is inaccurate in the dates he gives. Wallace was appointed Rector, July 3rd, 1650, and died, while still holding the office, September 11th, 1656. Cf. Steven's *Hist. High Sch. Edin.* pp. 59, 61, etc.

<sup>4</sup> Symson's *Tripatriarchicon*, Dedication, p. 6.

<sup>5</sup> *Catalogue of Graduates . . . of Edinr.* p. 163.

<sup>6</sup> Hutchison's *High School of Stirling*, p. 75.

through the influence of his brother Matthias, who had been minister of the town from 1655. The appointment was made on March 2nd, 1661, at a salary of £100 Scots per year, and he bound himself 'faithfullie to discharge his office as well as any uther Latin doctor of the said schoole had done hereto fore.' He did not continue long in Stirling, for he formally resigned on May 4th, 1663.<sup>1</sup> He had been licensed to preach by the Bishop of Edinburgh in the preceding January,<sup>2</sup> and had already been appointed to a parish. In his letter of resignation he asked the clemency of the Town Council, in whose gift the post was, for not giving timely notice of his intention to retire, and, again probably through his brother's influence, the patrons were pleased to agree and released him from his engagement. It would be interesting to know how his pupils had fared in the interval, for their tutor had been busy elsewhere for some months before he resigned.

The time was the beginning of that sad period in Scottish history which coincides with the reigns of Charles II. and James II. Among other legislative pronouncements of the beginning of Charles's reign, it was enacted that all ministers should, before September 20th, 1662, receive presentation from their legal patrons and collation from their bishops, or quit their parishes. Three hundred and fifty ministers chose the latter alternative. Symson's grandfather, the minister of Merton, had been committed to prison for his straight dealings with the king,<sup>3</sup> but our preacher had no difficulty about taking advantage of the many openings that were thus created or about doing so under the wing of the Government. In the spring of 1663 he and several others were sent to supply the vacant congregations in Galloway. 'Upon our arrival,' he says, 'we found several Parishes not only *vacantes* but *vocantes* . . . I do not assert that we had a formal and explicit Call from the Parishioners,' he continues, ' . . . yet we had it virtually and upon the matter.'<sup>4</sup> After preaching in the district for at least seven Sabbaths he was settled over the parish of Kirkinner on the shores of Wigton Bay. He declares that his 'entry was so peaceable, so orderly and so very generally assented to'<sup>5</sup> that he experienced no trouble whatever from the people.

<sup>1</sup> Hutchison's *High School of Stirling*, p. 77.

<sup>2</sup> Scott's *Fasti*, i. 735.

<sup>3</sup> Calderwood's *Hist. Ch. Scot.* vii. 470, 511.

<sup>4</sup> *Tripatriarchicon*, Preface.

<sup>5</sup> *Ibid.*



Symson, in fact, emphasises the friendly relations he continued to have with his parishioners up to the end of his official connection with them. In his preface to his *Tripatriarchicon*, he wrote : ' As for those few that were Dissenters, we us'd all peaceable Christian methods to gain them : So that when the Commander of the Forces that lay in the Stewartrie of Kirkcudbright . . . wrote to us to send him a list of them, we absolutely refused him and sent him two of our number, yet living, to signify the same to him ; upon which account we were complained of as Enemies to the Government and obstructors of the settlement of the Peace of the Country.' In almost every notice of Symson this magnanimity is referred to with much approval, and he is given credit for the risks he ran in consequence.<sup>1</sup> But it is to be feared that he did not always maintain a bold front to the authorities. A tell-tale document in his handwriting still exists wherein he gave in a list of the ' disorderly ' in his parish in the year 1684. Among those named is Margaret M'Lauchlan, one of the two women known as the ' Wigton Martyrs.' It is unfortunate that Symson has even this remote connection with that deplorable case.<sup>2</sup>

However undemonstrative the people were at his settlement, it is certain that they did not continue to wait on his ministry. As time went on attendance at church was reduced to less than a handful. In an elegy he pronounced over David Dunbar, younger of Baldoon, he speaks of the support he received from him :

' In that unhappy time, I say, when I  
Was almost drown'd in deep perplexity,  
When many persons would no longer stay,  
And all my summer birds flew quite away :  
Yet he, brave soul, did always constant prove.

He was no schismatick, he ne'er withdrew  
Himself from th' house of God ; he with a few  
(Some two or three) came constantly to pray  
For such as had withdrawn themselves away.

So that my muse, 'gainst Priscian, avers  
He, HE alone, WERE my parishioners.'<sup>3</sup>

<sup>1</sup> Cf. e.g. Dobson's *Hist. of the Bassandyne Bible*, p. 213, and Dunlop's *Book of Old Edinburgh*, p. 57.

<sup>2</sup> Arch. Stewart's *Hist. vindicated in the Case of the Wigton Martyrs*, 2nd edit. 1869, pp. 27, 71.

<sup>3</sup> *Elegies*, p. 25 ; quoted in *Large Description of Galloway*, preface by Maitland, p. vii. etc.

In spite, however, of their apathy, Symson declared himself on the whole well satisfied with the treatment he received at Kirkinner. 'I must acknowledge,' he says, 'that as my lot was cast in a very pleasant place, so I had to do with a very well natur'd people, who, following the example of the Gentry, their Landlords, payed me great deference and respect, for which people, for I hate ingratitude, I shall have a kindness as long as I breath.'<sup>1</sup>

He was not, however, free from the troubles that would necessarily befall a supporter of the Government in a district whose sympathies were mainly with the Covenanters. More than once he was in danger, but he always received timely warning and was able to go into hiding till the hazard was past. The year 1679 he singles out as one of special trial to him. Archbishop Sharpe was assassinated in May; the Battles of Drumclog and Bothwell Bridge were fought in June, and there was general unsettlement among the Covenanting party in the south-west of Scotland. For a time the lives of none who sided with the Government were safe. Had it not been for the friendship of the Earl of Galloway, Symson might have fared ill in the temporary triumph of the hillmen. 'When things were come to that hight,' he says, 'that the publick owning of us was almost look'd upon as a Crime, and I for my safety was necessitate to retire to a quiet lurking place, his Lordship accidently lighted upon me, took me home with him to his House, and kindly entertained me there.'<sup>2</sup>

It was perhaps during one of these periods of forced retirement from his parish that Symson acted as amanuensis to Sir George Mackenzie, that lawyer, statesman and author who is best known in Scotland through the epithet 'Bluidy' attached to his name. In 1678 Mackenzie published his *Laws and Customs of Scotland in Matters Criminal*, a second edition of which Symson saw through the press in 1699. In a preface he makes the interesting statement: 'I crave leave to say, that I, being his Amanuensis, and writing these Papers as dictated from his own Mouth, have often admired his Memory and Readiness in that he dictated the same into loose Papers, which being transcribed were immediately sent to the Press.' For Mackenzie Symson had always the greatest admiration. At his death he pronounced an eulogy on him that shows the most generous appreciation of his character and work. Speaking of his hero's relation to the Faculty of Advocates, he says:

<sup>1</sup> *Tripatriarchicon*, Preface.

<sup>2</sup> *Ibid.* Dedication, p. 7.



‘He was their worthy Dean, and in that Trust,  
He well deserv’d the Epithet of Just.  
His love to Learning, and their Faculty,  
Gave being to a gallant Library,  
In which the very books wrote by himself  
Deserve the fairest, and the highest Shelf.  
Yea and these learned Books which he hath writ,  
Though but a small, are a great part of it.’

During the greater part of his ministry at Kirkinner, Symson acted as clerk to the Synod of Galloway, ‘an office for which,’ the late Principal Lee said, ‘he was better fitted than for the functions of a poet or a historian.’<sup>1</sup> The register in which Symson kept the records of the Synod disappeared and was not recovered till 1846, in which year it was found by Archdeacon Meadow, to use Hill Burton’s pseudonym for him, in an old bookshop in Edinburgh. It is said that the volume had crossed and recrossed the Atlantic before it was thus secured. Principal Lee appears to have sold it to the Synod of Galloway about the same time, and it therefore once again came into possession of its rightful owners. The register was thus described: ‘The penmanship is beautiful and quite legible, and the whole volume is in a state of excellent preservation . . . It is a thin folio.’ In 1856 it was printed and published by J. Nicholson, Kirkcudbright, under the title of *The Register of the Synod of Galloway from October 1664 to April 1671*. In the sale catalogue of the library of the late Prof. William Stevenson it is entered as having been edited by ‘Milligan,’ i.e. the Rev. John Milligan of Twynholm.

According to the *Register*, Symson acted as clerk *pro tempore* from October 25th, 1664, to May 17th, 1665. On the latter date, however, he was chosen permanent clerk, the Synod ordaining that for salary ‘out of every Kirke he shall have halfe a crowne in the year, that is to say ye summe of fifteen shilling Scots at each Synod and this present Synod to be the first of them.’<sup>2</sup> He was still clerk when the MS. ends at April 27th, 1671. Symson was present at all the meetings held during his term of office.

It cannot be said that Symson’s parochial duties at Kirkinner made a heavy drain on his energies, and he accordingly had ample leisure to satisfy any craving he might have for literary pursuits. He states that he received little stimulus towards work of this

<sup>1</sup> In a letter transmitting the records of the Synod to their successors.

<sup>2</sup> *The Register*, p. 23.

kind from his surroundings, for he was located 'in a remote part of the Kingdom where the Author's Books were not many and his Books of English Poems very few.' Yet it was to poetry that he turned his attention. He set himself to produce a metrical version of the lives of the Jewish patriarchs. The poem was written in sections and then pieced together, the whole being published long afterwards in 1705 from his own press under the title of *Tripatriarchicon: Or, the Lives of the three Patriarchs, Abraham, Isaac & Jacob. Extracted forth of the Sacred Story, and digested into English Verse*. Symson was under no delusion as to the quality of his work. 'The Author,' he says, 'does not in the least expect to be classed with our famous modern English Poets. No, no; the height of his Ambition is to be ranked *inter Minores Poetas*, or if that seems too bigg, he is content to be lifted *inter minimos*: Providing ordinary ballad-makers, Country Rhymers, mercenary Epitaph-mongers, and several others of that tribe be wholly excluded the Number.'<sup>1</sup> Posterity has endorsed his verdict by leaving his verses in well-deserved obscurity. He appears even to have found pleasure in the fact that his compositions brought him pecuniary loss. 'Neither did I,' he wrote in withering language to an opponent, 'before I published my poems make use of that mercenary way that an author whom I could name lately did who although he had a greater stock than I ever had and a profitable imployment beside, yet he procured as many subscriptions for his Book and that at a rate dear enough as would sufficiently defray the expences of the whole impression and something over, which I shall not name, as not being at leisure to cast up a just calculation.'<sup>2</sup> The day was yet more than a century distant when authors could look with self-respect on an income derived from their pens. George Chalmers says that the *Tripatriarchicon* 'was very unsuccessful; a great part of the impression remained on hand at his death.'

While at Kirkinner, Symson also began and largely completed the work by which he is probably best known to-day—his *Large Description of Galloway*. In September 1682, Sir Robert Sibbald was appointed Geographer Royal for Scotland, and at the same time commanded to prepare a descriptive account of the whole country. He appears to have sent out a circular in all directions asking for information. One of these fell into the hands of Symson. He was attracted to the subject, and in 1684 forwarded

<sup>1</sup> *Tripatriarchicon*, Preface.

<sup>2</sup> *A Letter from A. Symson to Mr. William Forbes*, p. 4.



his account of his own district to Sibbald. Sibbald evidently considered it of some value, for he specially mentions it in his autobiography, where it is spoken of as 'a full account.'<sup>1</sup> Symson, however, was not satisfied with it, for in an advertisement which he added to an enlarged version he tells how he was led to revise his papers. 'Severall of them being only written in short notes,' he says, 'which were to have been afterwards extended ; but the travels which very shortly thereafter did ensue, occasioned these Papers to be cast by, yea, and almost forgotten for some years. Being at length desired to extend and transcribe the same, I severall times set about it, but was diverted ; however, having here time and leisure enough, I have transcribed them : wherein are inserted here and there, severall particulars, which were either wholly omitted at first, or of which I had not so full information as I have since procured from many persons, on severall occasions.' The note is dated 'Dalclathick in Glenartnae, June 28, 1692,' and the cause of his leisure is quite apparent.

It is somewhat strange that the *Description* was not printed during Symson's lifetime. He must have known Sibbald personally, for he afterwards did work for him and set up at least two of his treatises on local topography—*The Description of the Isles of Orkney and Zetland*, Edinburgh 1711, and *The History Ancient and Modern of the Sheriffdoms of Linlithgow and Stirling*, Edinburgh 1710, besides other geographical essays.<sup>2</sup> The fault may not have been Symson's, for it was apparently Sibbald's plan to use the material supplied to him by his correspondents in working up a complete account of his own, and death may have overtaken them both before Galloway was reached. In any case, Symson's manuscript remained unprinted, and ultimately passed into the possession of the Advocates' Library. It was not published till 1823, when it appeared under the editorial supervision of Thomas Maitland, afterwards Lord Dundrennan.<sup>3</sup> In 1841 it was

<sup>1</sup> *Remains of Sir Robert Sibbald, Knt., M.D.*, p. 28.

<sup>2</sup> It is apparent that some of Sibbald's treatises did not meet with a ready sale, or a larger edition than was necessary was produced. In 1739 a curious collection of them appeared. Two printed by James Watson in 1707 and 1710 and three printed by Symson in 1710 and 1711 were bound together in one volume and provided with a general title which bore the imprint : 'Edinburgh : sold separately, or bound together, by Hamilton & Balfour in Company, John Paton, Alexander Symmers, and Alexander Kincaid, Booksellers in Edinburgh, and John Barry Bookseller in Glasgow. MDCCXXXIX.'

<sup>3</sup> By a curious slip, Scott attributed the editorship to Charles Kirkpatrick Sharpe. —Introduction to *Bride of Lammermoor*.

incorporated by the Rev. William Mackenzie in his volumes on Galloway.<sup>1</sup> More recently it has been printed by the Scottish History Society as part of the Macfarlane Geographical Collections.

After being at Kirkinner for the long period of twenty-three years, Symson was presented to the Parish of Douglas, where he was settled at the beginning of 1686. He was not allowed to remain long in his new sphere.

When or how Symson came to leave Douglas is somewhat obscure. Hew Scott says he was instituted there on the 12th of January, 1686, 'continued 2nd May, 1688, and was outed by the people soon after the Revolution (at any rate previous to 20th October, 1691), as he had been "obtruded upon them, without their consent and lawfull call," and the church was ordered, 23rd March, 1692, to be declared vacant.'<sup>2</sup> This indicates a process continued over many months. On the other hand, Symson's own statement is quite clear. In the printed dedication which he prefixed to the books presented by him to the library of Glasgow University, he says he was twenty-three years at Kirkinner and three years at Douglas—an enumeration which gives 1689 as the date of his leaving the latter parish. This is confirmed in the explanatory preface which Sir Alexander Seton wrote for his *Treatise of Mutilation and Dismemberment*, a volume which was prepared and printed under the supervision of Symson, and was not likely, therefore, to contain misstatements concerning him. There the author says that Symson 'in the year 1689 retired to Edinburgh.' The date is all the more likely to be accepted as correct when the political and ecclesiastical events of that year are recalled.

There is also a difficulty in connection with the circumstances under which Symson relinquished his charge. In a pamphlet published by William Forbes in 1706, he was offensively described as an 'abdicat Preacher.' Symson took up the phrase and wrote: 'As for the word *Abdicat*, sure I am, you cannot justly apply it to me, take it in what sense you please, either actively or passively or in any of the Acceptations of *Abdicatio* & *Abdicare* to be found in Calvins Lexicon juridicum (*sic*), or any other *Philologist*

<sup>1</sup> In the notice of Symson which occurs in Mackenzie's book, our printer is mixed up with his father in inextricable confusion. For this the author was not responsible, as the account was inserted without his approval.—*Statement of Facts as to the Writing, Printing, and Publishing of the History of Galloway*, by J. C. Mackenzie, p. 30.

<sup>2</sup> *Fasti*, ii. 325.



or *Lexicographer* ; for neither did I abdicat, nor was I abdicated. It seems that because this word has been of late, and perhaps justly, applyed to some persons, therefore you thought it might also be applyed to me ; forgetting that sure Maxim, *a quibusdam ad omnes non valet consequentia*.<sup>1</sup> In all probability Symson simply left the parish and allowed a vacancy to be created by default.

Seton quaintly sums up the reasons which prevailed with Symson and induced him to proceed to the capital. 'He resolved,' says Seton, 'according to the Apostles advice (*a*) to be quiet and to do his own business, and to work with his own hand, that so (*b*) he might not be chargeable to any ; but (*c*) eat his own bread ; and (*d*) have to give to him that needeth. And in prosecution of this virtuous Resolution, having taken himself to a Trade, he well understood, of publishing and selling of Books, desir'd from me and his other good Friends, to give him such Encouragement as might fall in our way.'<sup>2</sup> Symson's own reasons were that 'per casus varios, & per discrimina rerum' he became 'Bibliopola et Typographus' in the city of Edinburgh, 'ad otium effugiendum, otiiq : dira concomitantia.' With the exception of short intervals, he seems to have spent the remainder of his life in the capital. Thus we find him in Stirling in 1690, and, as already stated, in 1692 he dates his account of Galloway from Glenartney.

It would appear that Symson set up as a bookseller almost at once on reaching Edinburgh, although his name has not been found in the imprint of a book till 1698. It is probable that he occupied the same premises from first to last, a tenement 'in the Cowgate near the Foot of the Horse Wynd.' It is said that both his printing-office and his dwelling-house were on the second floor. The building was removed some time ago to make way for a new street—Guthrie Street. Later, Symson had an auction room in the Royal Exchange, High Street, where he probably disposed of books only. The kind of stock that filled his shelves is indicated by an advertisement that appears in one of his publications. He speaks of his shop as being a place 'where a vast collection of good books consisting of Divinity, History, Herauldry, Philosophy, Law, Medicine, Sermons, Pamphlets, and other books of all sorts and subjects, may be had at reasonable rates, at any

<sup>1</sup> Letter to William Forbes, F. 4.

<sup>2</sup> Seton's Treatise, Address to Reader.

time.' He appears to have been admitted a burgess of the city. George Chalmers gives the date 1697, but the register of the Edinburgh Town Council has been searched in vain for the appropriate entry of it during that year.

While still only a bookseller, Symson began about 1696 his special career as an editor. In an address to his readers, published in that year, he declares his pleasure in such work. Books of the kind, he says, 'are my delight, my heart, worth nectar and ambrosia in my right hand, believe me a very feast. By their aid I drive away mordant cares and ennui. Through them I beguile the night and deceive the day. With them I learn how to despise both the threats and the allurements of the world. Girt round with paper walls, with walls of books on all sides, I dwell safe as in a fortress.' What was apparently the first of these literary efforts was a reprint of eight Latin versions of the 104th Psalm, which he published under the title of *Octupla*. The versions were those of George Buchanan, George Eglisham, Thomas Reid, Arthur Johnston, Henry Henrison, William Stuart, Ninian Paterson and Walter Deniston, and the whole forms a queer little book.<sup>1</sup> The imprint bears that it was printed and published by the Heirs of Andrew Anderson and sold by Henry Knox in the Luckenbooths. The original imprint has in some copies been covered by another pasted by a slip over it. It is strange that Symson's own name does not occur as one of the sellers of the book.

Bound in the same volume is a reprint of Thomas Dempster's Latin translation of Montgomerie's *Cherry and the Slae*—*Cerasum et Silvestre Prunum*, first published in 1631. It carries the same imprint, and the title-page has been dealt with in the same way as that of the principal treatise. It has been affirmed that Symson edited this re-issue, but the booklet is simply a reprint and bears no evidence at all of an editor's hand. The only apparent ground for the conjecture is that it is found bound up with the *Octupla*, the compilation of which Symson ostentatiously acknowledges.

During these early bookselling days Symson succeeded in forming intimate relationships with what we now call Parliament House, for in 1699 he responded to the advice of certain members of the Faculty of Advocates and produced the second edition of Sir George Mackenzie's *Laws and Customs of Scotland in Matters Criminal* already referred to, and the same author's *Observations upon the XVII Act Parliament XXIII K. James VI against Deposi-*

<sup>1</sup> The paging, e.g. is placed on the inner corners of the page.



*tions Made in Defraud of Creditors*.<sup>1</sup> To these he added Sir Alexander Seton's *Treatise*, from the preface to which quotation has already been made. The three prints were issued with separate titles, signatures and pagination, but are usually found bound together in one folio volume. They were printed for the publisher by the Heirs of Andrew Anderson.

Symson showed his interest in the Advocates' Library by presenting 'this impression,' as he calls it, of the *Laws and Customs* to the Faculty so that copies might be on their shelves, and in his prefatory letter to 'Mr. Robert Bennet, Dean, and the other worthy Gentlemen of the Honorable Faculty of Advocats,' setting this forth, he adds the following interesting note: 'I find by your printed Catalogue some years since,<sup>2</sup> that there were many curious and rare Books then in it, but it is now much enlarged, both by your own Diligence, and the never enough to be commended Generosity of Noble Benefactors. As for my part, if among the vast Multitude of old Books, that almost daily pass through my Hands, there shall be found any curious Pieces (and sometimes a Pearl may be found in a Dunghill) which you want; I shall be very willing to have them transplanted from my obscure Nursery to your more publick and pleasant Garden; and for that end I shall have distinct Alphabetical Catalogues, of such as come to my hands, lying patent, that so any of your Number may, at any time, peruse the same.' It is open to conjecture whether Symson meant this notice as an advertisement of his stock, or a generous offer to the library to help itself from his shelves!<sup>3</sup>

Symson had married Jane Inglis, concerning whose origin and family nothing has been discovered, and by her he had three sons.<sup>4</sup>

<sup>1</sup> Published also in the preceding year as an 8vo by the Heirs of Andrew Anderson, 'for Mr. Andrew Symson.'

<sup>2</sup> *Catalogus Librorum Bibliothecae . . . Edinburgi*, Ex Officina Typographica Georgii Mosman, 1692.

<sup>3</sup> From the preface to the treatise on *Mutilation* we learn that it was the author's intention to issue his book anonymously. 'When I gave the first of the following sheets to Mr. Andrew Symson, that he might publish them,' he says, 'twas my Desire that my Name should be conceal'd . . . but the Publisher by some mistaken Apprehension [has] prefix'd my Name . . .' On November 11th, 1697, Symson had received from the Privy Council copyright in the two books for the space of nineteen years, a fine of 500 marks and forfeiture of all copies being imposed on any who might infringe his rights.

<sup>4</sup> On October 15th, 1684, the household in the Manse of Kirkinner was certified by the minister to be—'Mr. Andrew Symson, Jane Inglis, Andrew Symson, David Symson, Esther Wright, Jennet Kairly, Ellen M'Murrie, and James Russel.' Matthias was not apparently included as he was under twelve years of age at the time.

One of them, Matthias, afterwards acquired a certain celebrity as an author and dignitary of the Church of England. He was born about 1672, and took his degree at Edinburgh University on June 23rd, 1699.<sup>1</sup> In 1708 he settled in England, where he was successively rector of Moorby and Wennington and a canon of Lincoln. In 1738 the degree of D.D. was conferred upon him by his Alma Mater as 'hujus Academiae per quinquennium olim alumnus.'<sup>2</sup>

In 1700, while still a student of divinity, Matthias set up a small printing-press in Edinburgh, and from it produced at least a dozen works of superior craftsmanship. None of them bears a printer's name, the nearest approach to a revelation of his identity being his monogram on the title-page. George Chalmers says this peculiarity was 'owing to the delicacy of his situation as a student of divinity,' but the reason carries no weight with it. Young Symson's interest in the business was well known. Some of the publications that bear the monogram of Matthias were 'printed for' his father and Henry Knox.

Matthias retained the press for less than two years when, according to James Watson, 'he designing to prosecute his studies left the House to his father Mr. Andrew, one of the Suffering Clergy.'<sup>3</sup> The elder Symson's name began to appear as printer in imprints in the year 1702, and during the next ten years his press produced the usual miscellaneous publications associated with the printers of his day. It is probable that he sent out many a pamphlet anonymously, for conflict with the censorship established by the Privy Council was not a thing to be lightly encountered. These can perhaps be identified through the various ornaments they carry. His acknowledged books are of all sizes, and range from octavo pamphlets on the ecclesiastical and political controversies of the time to solid treatises on law and topography. He was one of the recognised printers for the Episcopalian party to which he belonged, and his controversial publications are accordingly mostly representative of their views. He also printed several devotional works. A glimpse is given into his printing-office in the preface to the *Tripatriarchicon*. He was attempting to meet possible objections that might be brought against the want of uniformity of spelling and punctuation in that book, and

<sup>1</sup> *Catalogue . . . Graduates at Edinburgh*, p. 163.

<sup>2</sup> *Ibid.* p. 241.

<sup>3</sup> Watson's *Preface*, p. 18.



he adds : ' In regard our greatest critics have not, for anything I know, given us an exact standart, either for the one or the other, and these sheets being set by two or three compositors at the same time, and each of them spelling differently, when it came to me to revise, I was not very nice in making several alterations of what they had done, knowing that I could produce sufficient authority from learn'd authors for each of them.' Divided counsel thus run into the printing house was responsible for several inconsistencies and incongruities.

After lying on his oars for some years, Symson resumed authorship in 1705. In that year he edited, printed and published *De Gestis Illustrissimi Herois Gulielmi Vallae, Scotiae olim Custodis, Collectanea Varia*. From the Latin preface it would appear that in 1701 Symson had been approached, evidently by his son, to prepare a volume on the Scottish champion, in which there might be incorporated Peter Panter's unfinished poem on Wallace, Blair's *Relationes* and some other documents, which up to that time had not been printed. Symson hesitated for four years, but ' meam tandem reluctance Vir de re literaria bene meritus expugnavit,' and with many misgivings the volume was at length published in the year named. It has certain peculiarities, for at least one section of the book was printed as early as 1701, and bears the monogram of Matthias Symson on its title-page.

In 1706 Symson became involved in a controversy with William Forbes, an Edinburgh advocate. He had printed a pamphlet on the prevailing ecclesiastical disputes by James Gordon, parson of Banchory, and the challenge thrown down in it was taken up by Forbes. Gordon replied, and Forbes published a rejoinder. To make it known, he advertised it in several numbers of the *Courant* in the following provocative fashion : ' These are to give notice, That a late scuril Pamphlet, Intituled, Some Just Reflections on Mr. Forbes's Remarks, penned and published by two of the wise men of Gotham, viz, Mr. James Gordon, Parson of Banchry, and Mr. Andrew Symson, an abdicat Preacher turned Poet, and Sole Printer to Bedlam ; is now fully and facetiously answered in a Letter from the said Mr. Forbes to a Gentleman in the Country, &c.' This brought Symson into the fray with a twelve-paged pamphlet which he restrainedly named *A Letter from A. Symson to Mr. William Forbes*. He takes exception to the short title which his adversary gave to Gordon's production, and prints it in full. It should run thus : *Some just Reflections on a Nonsensical and scuril Pasquill, against the Parson of*

*Banchory*, penned by a Brainsick Bigott, named William Forbes, *Advocat*. He declares that his only connection with the pamphlet criticised was that he printed it, Gordon being the sole author. There is a certain dignified restraint about the *Letter* that makes it compare favourably with much of the controversial literature of the time. In the course of his reply Symson gives an interesting glimpse into what he considered the true ethics of the printing-office in dealing with MSS. committed to its care. 'When I was printing the "Charitable Observations,"' he says, 'an intimat acquaintance of Mr. William Forbes's came to me, but whether sent by him or not, I did not enquire; however, he with the greatest earnestness did solicit me, to give him a sight of the Book that the Parson of Banchory had sent me to be printed against Mr. Forbes's Treatise of Church Lands and Tithes, or at least to let him see such of the printed Sheets as were passed the Press, all which I perremptorly refused to do.'<sup>1</sup>

One of the most interesting books that came from the Symson press was John Frazer's 'Δευτεροσκοπια, or, A brief Discourse concerning the Second Sight, commonly so called.' Frazer was Episcopal minister of the Island of Tiree on the west coast, and had married Symson's niece, the only daughter of his brother Matthias, minister of Stirling. While on a visit to Edinburgh in 1700, Frazer happened to mention to Symson that he had the treatise ready, and Symson begged him to send it to him with a view to publication. It duly arrived, and 'I at my own conveniency put it to the Press, but before it was finish'd I received an account that the Author was dead; whereupon I forbade the publishing of it till I should get an account of several passages concerning himself and family.' The book accordingly did not appear till 1707, when it was published with an introductory notice of the author from Symson's pen. The volume is useful both because of its biographical contents and for the subject of which it treats. It was dedicated to the Earl of Cromartie.

In the same year our printer sent out his second long poem, the *Unio Politico-Poetico-Joco-Seria*. *Written in the latter end of the year 1703: and afterwards, as occasion offered, very much enlarged, in severall Paragraphs...* Edinburgh. Printed by the Author.' The poem runs to thirty-two quarto pages, with 36 lines to the page, and therefore extends to more than 1000 lines. It can hardly be termed poetry, for it is nothing but very inferior doggerel. The printing, too, is poor; single lines being occa-

<sup>1</sup> p. 6.



sionally set up from a smaller fount without any special reason for the change being obvious, a practice Symson adopted in other prints that were issued from his press. The author's position on the political question may perhaps be indicated from the title-page motto, a line from Virgil to the effect that—

‘Tros Tyriusve mihi nullo discrimine agetur.’

More definitely he says :

‘... By a Union, honestly intended  
And duly manag'd, bygones may be mended ;  
All ground of future Jealousies prevented,  
And all well meaning people well contented ;  
And that our fears will quickly melt away  
Like Morning dew in a hot Summers Day.’

The poem ends with the words :

‘*En fine*, this poem mainly doth intend  
Peace, Truth, and harmless Mirth. And thus I end.  
And if you ask the Authors name, here 'tis,  
A. S. PHILOPHILUS, PHILOPATRIS.’

—which is the only form of acknowledgment of the authorship made, except that on the title-page he places ‘By the Author of *Tripatriarchicon*.’<sup>1</sup>

Another of Symson's works was published about this time, and deserves special notice because of its reputed scarcity and because it has become permanently associated with English literature through Sir Walter Scott. This is his so-called *Elegies*, although the name is a description of the contents of the booklet rather than a title for the whole. Lord Dundrennan had a loan of Scott's copy, and made copious extracts from it in his edition of *The Large Description of Galloway*. George Chalmers, who does not appear to have seen a copy, calls it a quarto, and suggests that it was ‘probably printed and published by the author together with the *Unio*.’ It is an octavo, and is usually found bound up with the *Tripatriarchicon*.

The pamphlet runs to thirty-two pages and never seems to have had a title-page : page 1 of the text carries the signature ‘A’ in Old English letter. The elegies are thirteen in number, and, with the exception of those on Archbishop Sharpe and Sir George Mackenzie, are all written on Galloway personages. The composition that has given the booklet more than a passing celebrity is the dialogue entitled : ‘On the unexpected Death

<sup>1</sup> The *Unio* was published in two sizes, 8vo and 4to.

of the Vertuous Lady, Mrs. Janet Dalrymple, Lady Baldone, Younger.' There is no reason to doubt that Lady Baldone, who was the daughter of Lord President Dalrymple, was the prototype of 'Lucy Ashton' in the *Bride of Lammermoor*, and that Scott owed the suggestion of his plot partly to Symson's verses on her tragic death. In his Introduction to the novel, Scott quotes largely from Symson, and declared that the sub-title of the elegy, 'Nupta Aug. 12. Domum ducta Aug. 24. Obiit Sept. 12. Sepult. Sept. 30. M.DC.LX.IX.,' affords 'the precise dates of the catastrophe which could not otherwise have been ascertained.' Another of the elegies was on the 'Bride's' husband, Sir David Dunbar, who was killed on March 28th, 1682, by falling from his horse. Scott quotes largely from this second poem, and at the same time says that Symson's verses 'are not of the first quality,' which is an extremely lenient judgment.

That these printed works do not comprise all the literary efforts of Symson seems obvious. Several must have remained in manuscript. Thus Chalmers speaks of a volume of elegies in Symson's autograph which he possessed. They were evidently of the same kind as the printed elegies, one of them being on the author's brother Matthias, the minister of Stirling. A writer in *Notes and Queries* says that he owned *Ane Alphabetical Account of all the Churches or Paroch Kirks in Scotland by Mr. Andrew Symson*, and adds this description of the document: 'The work appears to have been intended for an index to all the different parishes in Scotland. The names of the several churches are written, as the title indicates, in their alphabetical order, and the following particulars are generally given: the county, diocese, and presbytery within whose bounds each parish is situated. The names of the several patrons are also generally given.'<sup>1</sup> It was about this manuscript and another that Bishop Nicolson wrote in 1702: 'There is also in the neighbourhood, [though what neighbourhood is not very clear] a Villare Scoticum, in imitation of Sir H. Spelman's Anglicum, lately drawn up by Mr. Andrew Symson, . . . who has also collected an account of the patrons of all the parochial benefices, and will shortly, I hope, oblige the public with both.'<sup>2</sup> It would be interesting to know where all these manuscripts now are.

His pen may also have been active journalistically. During the whole time he owned a press, Edinburgh was most fertile in

<sup>1</sup> *N. & Q.* 1st Ser. xii. 452.

<sup>2</sup> *The Scottish History Library* . . . W. Nicolson, p. 7.



the production of newspapers. It would accordingly have been strange if he had escaped the contagion and refrained from dabbling in the periodical press. In 1707 he began the issue of *The Edinburgh Flying Post*, of which only two numbers are known to survive. In the same year he printed the *Edinburgh Courant Reviewed*, No. 1, probably for James Donaldson, who used the sheet to defend his suspended *Gazette* against the envious and slanderous attacks of its contemporary, the *Courant*.<sup>1</sup> The conjunction of the names of Symson and Donaldson in any venture is exceedingly interesting, because in 1689 the one was a 'rabbled curate' and the other a captain in the Cameronian regiment raised by the Earl of Angus to oppose Claverhouse.

In addition to those already named, Symson has been credited with several other printed works. He has had assigned to him the *Spiritual Songs*, published originally in 1686 by the Andersons, and republished in part by James Watson when he was an exile in the Gorbals of Glasgow, but the author of that work was probably Patrick Simson.<sup>2</sup> Hew Scott adds *The Song of Solomon*, Edinburgh 1705, and, with a query, *A New Vocabulary, English and Latin*, 2nd edition, Edinburgh 1707.<sup>3</sup> Alexander Gardyne in a very useful collection of bibliographical notes on Scottish poetry, preserved in the Mitchell Library, Glasgow, assigns to him without date or remark the *Good Expedient for Innocence and Peace*, but no trace can be obtained of the print. In Sir Walter Scott's library at Abbotsford there was a small octavo, dated 1723, with the title : *True and Impartial Account of the Most Rev. Father in God, Dr. James Sharpe, Archbishop of St. Andrews. With a Narrative of his Murder*. No author is given, but in the index of the library catalogue the print is ranged under the name of Andrew Symson.<sup>4</sup> It was a subject that would have been congenial to him, as we know from his elegy on the murdered prelate, but if the composition belonged to him it must have been published posthumously. A tract—*Parainesis pacifica; or a persuasive to the Union of Britain*. Edin. M.DCC.II, 4to—has been

<sup>1</sup> Couper's *Edinburgh Periodical Press*, i. 225-6.

<sup>2</sup> The balance of evidence is in favour of Patrick Simson, who was minister of Renfrew and a near relative of our printer, although MacMecken (*Hist. of Sc. Metrical Psalms*, p. 75) names Thomas Crawford as the reputed author.

<sup>3</sup> *Fasti*, ii. 325. The *Song of Solomon* was probably part of the *Spiritual Songs* to which Andrew Symson had no claim.

<sup>4</sup> *Catalogue of Abbotsford Library*, p. 78. The British Museum Catalogue gives the author as 'D. S.'

ascribed to Symson, but as Dr. David Laing pointed out: 'From a letter of Sir Robert Sibbald to Wodrow, it appears that Lord Tarbet, afterwards Earl of Cromarty, was the author. "The Lord Tarbet," he says, "hath printed *Paraneses pacifica*, a nervous discourse upon the union, but it is not yet exposed to sealh (sale)."' <sup>1</sup> Wodrow names 'A. Simson who wrote on *Some Penetential Psalmes*,' <sup>2</sup> but this was Archibald Simson, minister of Dalkeith. His book was published in London in 1623, and again in 1638, and was entitled *Sacred Septenarie, or a Godly & Faithfull Exposition of the Seven Penitentiall Psalmes*.

Symson died somewhat suddenly on January 20th, 1712, and was buried in Greyfriars Churchyard. His books were disposed of in the summer of the same year. A catalogue of them was prepared, the title-page of which runs: '*Bibliotheca Symsoniana*, a Catalogue of the vast collection of books, in the library of the late Reverend and learned Mr. Andrew Symson. The first Part. Containing such of his books as are to be exposed by way of Lottery, upon the [31st] day of [July] 1712. This consists of near four thousand volumes in diverse Languages and Faculties, divided into 440 parcels, according to an equal number of tickets to be delivered out, at five shillings sterling per ticket. So that there being no blanks at all every one is sure to get something for his money. Edinburgh, printed in the year 1712.' The pamphlet is a quarto and consists of 36 pages.

'The terms of the Lottery,' says George Chalmers, 'are explained on the back of the title-page. The overseers were Dr. William Lauder, Mr. Henry Knox, Mr. James Walker, Mr. David Freebairn, Mr. Robert Coult and Mr. Robert Freebairn. It was intimated that tickets were delivered "at Mr. Symson's house, near the Horse Wynd, or at his auction place, in the West end of the Royal High Exchange; at Mr. Knox's in the Luckenbooths, at Mr. David Freebairn's, over against the Main Guard, Mr. Robert Freebairn's in the Parliament Close, and by most booksellers." Notwithstanding the low price of the tickets and every one was to obtain a prize of a lot of books, many of which would be considered cheap at ten times the price of the ticket in the present day, yet little more than one half of the 440 tickets appear to have been sold. From a printed leaf appended to the end of the Catalogue, it appears that 207 lots remained undisposed of,

<sup>1</sup> Halkett and Laing's *Dictionary of Anonymous and Pseudonymous Literature*, s.v.

<sup>2</sup> Wodrow's *Analecta*, i. 165.



which were sold by auction.' <sup>1</sup> The catalogue was called a first part. No second part has ever been heard of, and it is probable that the remainder of the stock was disposed of by private bargain.

As a printer, Symson cannot be given first rank. Many of his books were produced from poor types and are neither neat nor clean, though a few have a certain dignity of style. The paper, as a rule, is inferior. The printing-house does not seem to have ceased work on Symson's death, although it has not been discovered into whose hands it fell; probably one of his sons carried it on for a time. In 1714, that is, two years after Symson's death, there was published a small religious pamphlet entitled *Christ, King of Zion, or the intrinsick Power of the Church asserted*, the imprint of which was 'Edinburgh, printed at the foot of the Horse Wynd.' This was probably Symson's former property.

On the whole the picture of Symson is that of a kindly man with few harsh thoughts against a world that had not been for many years on the most affectionate terms with him. He could indeed blaze out on occasion, as witness his lines of accumulated vituperation on the assassins of Archbishop Sharpe. He had his little peccadillos, for he was ever eager to see himself in print, and was continually casting his thoughts into rhyme, Latin or English. He kept hold on his scholarship till the very end, as is testified by the frequent use he made of Latin and the many classical allusions with which his writings bristle. Bishop Nicolson calls him a 'learned Episcopal divine.' He appears to have lived a peaceable life and to have escaped litigation, that pitfall of the printers of his day—negatively a most creditable performance. What part he might have taken in the dispute over the office of King's Printer that arose in the year he died, it is impossible to say, for he was bound to both sides by political sympathies: it is somewhat curious that there is no evidence that he ever had any professional dealings with James Watson.<sup>2</sup>

As an author he hardly succeeded in climbing the lower slopes of Parnassus, but he belonged to a literary family, and he did his best to keep its traditions of authorship alive.

W. J. COUPER.

<sup>1</sup> Chalmers's MS. *Collections on Scottish Printing* (Advocates' Library), to which, though not perfectly reliable, all students in this field are indebted.

<sup>2</sup> In conjunction with James Watson and three other Edinburgh printers, Symson petitioned the Privy Council in 1704, complaining of certain restrictions put upon them by the Magistrates of the city. The petitioners were unsuccessful. —*Maitland Club Miscellany*, ii. 236-40, where a fac-simile of Symson's signature is given.

## Parliamentary Representation in Scotland

### V. THE LORDS OF THE ARTICLES

THE earliest mention of a Committee of the Estates occurs in the records of the Parliament which met at Scone on the 27th September, 1367, and sat at least until the 2nd October (*A.P.* i. pp. 501, 527). The three Estates assembled—we do not know in what numbers—and ‘certain persons were elected by the said Estates to hold the Parliament, and leave was given to the rest to return home, on account of the harvest.’ The ‘certain persons’ included some fifteen clergy, sixteen barons (of whom three were contumaciously absent) and thirteen burgesses. There is no evidence as to whether the full Parliament did anything more than elect the Committee; the urgency of the excuse for a journey homewards renders it very probable that the members who were not on the Committee did not linger at Scone. The King, David II., in a writ ordering a decision of the Parliament to be carried out, says that it was made by the three Estates, and the same phrase occurs in a statute (*A.P.* i. pp. 502-3). We cannot, however, infer that these Acts were passed by the whole Parliament, because the authority of the three Estates was naturally claimed for the acts of the Committee, *e.g.* an act about Regalities, undoubtedly made by the Committee (*Ibid.* p. 502), is described in a writ as a decision of the three Estates (*A.P.* xii. pp. 15-16).

The business of this Parliament was of the first importance. It is recorded to have been summoned ‘super tribus punctis determinandis.’ These three ‘points’ or ‘articles’ were concerned with the royal methods of government and with the management of the King’s Household, and the political circumstances of the time may be connected with the innovation in Parliamentary procedure. But we are meanwhile concerned with the details of the new machinery. We possess the record of the proceedings of the Committee. Each of the three ‘points’ is stated, and the decision arrived at is described in terminology



which is new to our Parliamentary records. Records have been preserved of Parliaments which met in November 1357, March 1364, January 1365, July 1365, December 1365, May 1366, and July 1366. The results of their deliberations are described in the ordinary enacting terms—‘concordatum est et assensum per tres communitates,’ ‘ordinatum est,’ ‘concordatum fuit,’ and so forth. But the decisions of the Committee of 1367 are introduced by the words ‘dicti domini congregati deliberant per hunc modum, videlicet...’ The importance of this formula will become apparent; it is possible that we have in it or in an equivalent form an indication of the existence of a Committee. The next Parliament met on the 12th June, 1368, and sat for at least ten days (*A.P.* i. p. 531). The initial paragraph of the record of its proceedings gives no hint of the appointment of a Committee. We are told that there were present the prelates, barons, and burgesses who could conveniently attend, that some appeared by procurators, and that others were contumaciously absent. The terminology of the decision varies. Sometimes we find ‘ordinatum est’ and sometimes ‘Item deliberant’ or ‘videtur dictis dominis congregatis.’ In March, 1369, we are again told about the election of a Committee. The procedure still required an explanation, and, this time, certain persons were elected to hold the Parliament and the rest got leave to go away ‘propter importunitatem et caristiam temporis.’ The three Estates are recorded to have been present, and to have taken part in the elections, but no names of burgesses are to be found in the list, either of the Committee ‘ad tractanda generalia negotia’ or of a Committee for Justice, appointed, apparently, for the first time. As in June, 1368, there is a variation in the terminology of the decisions of the General Committee; we find sometimes ‘deliberatum est,’ sometimes ‘ordinatum et statutum,’ and sometimes ‘deliberatum et ordinatum.’

In February, 1370, a Committee was again appointed to do the work of Parliament. No special circumstances are pleaded in the record. We are told that it did not seem expedient that the whole Parliament should take part in the business. Two Committees were appointed, as in 1369; the Committee for Justice included burgess members, but there were none in the General Committee, which was composed of five clergy and eleven barons, along with other persons chosen by the King. They were elected by the common consent of the three Estates ‘to treat and deliberate upon certain special and secret affairs of

the King and kingdom, before they come to the notice of the said General Council.' The composition of this General Committee and the description of its work introduce a new complexity. The appointment of members by the King suggests a connexion between this Committee and the Secret Council, of which we shall find later instances, and the instructions given to the Committee contain a suggestion of the later practice by which the report of the Committee was confirmed in a full meeting of Parliament; it is difficult to see how such a meeting could have been held on this occasion, for the usual leave to go away had been given (*A.P.* i. p. 534). This Parliament of 1370 is important in many ways, and not least because we possess two separate records of its proceedings (*A.P.* i. pp. 507-509 and 533-537). One of these is in the 'Blak Buik' transcript. It treats all the Acts as made by the whole Parliament, and it numbers them consecutively, beginning with a decree relating to the membership of the Council, which must almost certainly have been passed by the full Parliament. The acts of the Committee are usually given in statute form—'ordinatum est,' or an equivalent phrase. The other record, preserved in an original roll of Parliament, and printed in the Appendix to the Acts of David II., gives the decree relating to the membership of the Council in statute form ('et primum et principaliter fuit ordinatum quod'), but elsewhere employs the terms 'deliberatum est' or 'videtur eis,' which occur very rarely in the 'Blak Buik.' It is possible, therefore, that in the Parliamentary roll we have the original report or recommendations of the Committee, and that the Black Book provides us with a recension in statute form. This would explain the variations which we have noticed in the terminology employed in the records of the Parliaments of 1368 and 1369, and would create a probability that there was a Committee in 1368, thus giving a continuity to the institution from its introduction in 1367. It must, of course, be admitted that variations in formulae of enactment afford a very uncertain basis for the construction of a theory; but the stress of my (very tentative) argument is laid, not so much upon the variations themselves, as upon the coincidence that we find the form 'videtur eis' introduced at a date when we know that the Committee of the Articles was being established in the fourteenth century, and that (as we shall see) we find a translation of that phrase re-introduced at the time when we know that the Committee of the Articles was being revived in the fifteenth century.



The next Parliament about which we have any knowledge met in March, 1372. The precedent of 1370 was deliberately adopted. Again, it did not seem expedient that the whole community should take part in, or wait upon, such deliberations, and it therefore seemed good to follow the order and method adopted in the Parliament held at Perth in the fortieth year of the late King David, of pious memory. Two Committees were again appointed by the general and unanimous consent and assent of the three Estates assembled. The General Committee was again elected to treat and deliberate upon certain special affairs of the King and kingdom before they come to the notice of a general council, and leave was given to other members of Parliament to go away. The names of the Committee were enrolled 'in another Register,' which has not been preserved. Some acts are given in statute form, and then there follows a series of enactments for the punishment of the crime of murder. They are described as being passed 'de consensu et assensu trium communitatum per presidentes sive per personas electas ad determinationem negotiorum in parlamento eodem.' The whole record is taken from the Black Book, and the enactments are in statute form; the 'deliberatum' or report form is not found. But there is an interesting statement that the barons present ordained, with the consent of the King and of the Estates 'ut supra,' that this legislation should continue only for three years, unless the King and the Council should order otherwise (*A.P.* i. p. 548). There were, apparently, no burgesses on the Committee.

From this date until the return of James I. from his English captivity we have no detailed information, but there are some indications of the appointment of Committees. In 1384 we have a series of statutes made in a Council held by King Robert II., with the advice and consent of the three Estates assembled as if at a general council ('tanquam ad consilium generale' *A.P.* i. p. 550). The occurrence in these statutes of the phrase 'per advisamentum sui consilii' or 'de consilio et ordinatione sui consilii' suggests that the Council which made the laws may have consisted, as in 1369, of members elected by Parliament and of persons chosen by the Crown; but the evidence is very slight. Again, in 1389, we have a statement that the under-written articles were ordained by the Council of the King to be treated by the three Estates in Parliament (*Ibid.* pp. 556-7). In 1398, 'domini nunc presentes in consilio' made an addition to a statute passed a

few weeks previously at Stirling (*Ibid.* pp. 570-1) in a Council General which had elected members to sit in the King's Council (*Ibid.* p. 572). In January, 1399 (*Ibid.*), we find again the appointment of the Special Council by a General Council. Its members were, naturally and inevitably, also members of the three Estates.

From the imperfect evidence before us, we can infer only that there was a tendency, exemplified in 1370, in 1372, in 1398, and possibly in 1384, for the General Committee to be very closely associated with the Secret Council. The attempts of Parliament, in the reigns of David II., Robert II., and Robert III., to nominate the Council, prepared the way for a coalescence between the Council and the Committee elected by Parliament to do its general business. That this Committee had a continuous existence during the time when our records are not extant, may be inferred from the fact that when detailed information again becomes available, in 1424, the Committee is found to be elected as a matter of course, and has acquired its technical name of the Articles. The word 'articuli' had long been familiar as a term for the business of Parliament, *e.g.* in 1365 we find 'ad primum articulum seu punctum,' but it is not employed to describe the work of the Committee until our records again become available—for the Parliament of May, 1424, summoned after the return of James I. from England. We are then told that, the three Estates being assembled, certain persons were elected to decide upon the Articles presented by the King, and that the other members of the Parliament were permitted to go away (*A.P.* ii. p. 3).

The initial formulae of the twenty-seven enactments of the Parliament of 1424 show a great variation. We find 'it is statut and ordanyt,' 'the parliament statutes and the kyng forbiddes,' 'it is consentyt throu the haill parliament,' 'it is consentyt throu the thre estates of the realme,' 'taxis ordanyt throu the counsale of parliament.' We also find 'it is seyne speidfull' and 'the lordes of parliament consentis.' The original rolls have not been preserved, and the text has been constructed from the printed edition of 1566 and from the MSS. on which that edition was based. It is possible that the phrase 'it is seen speedful,' like the 'videtur eis' of 1370, has been taken from the report of the Committee of the Articles, and that the other formulae represent a recension of this report in statute form. In the next Parliament, which met in March, 1425



(*Ibid.* p. 7), there is no indication of the existence of a Committee. We are told that sundry articles for the quiet and good governance of the realm were propounded to the three Estates of the realm, and that to these articles 'it was answeyrt in maner as eftir folowys.' The manner which after follows is the manner of a statute; 'it is ordanyt.' Once we find 'the Parliament thinks it spedful'; but this terminology may be different from 'it is seen speedful.' In view of what followed, it is natural to infer that King James dispensed with the customary Committee in 1425, though it is quite possible that this impression is due simply to the chance that the enactments of this Parliament have all been preserved in statute form. There certainly was a Committee of the Articles in the Parliament of March, 1426 (*Ibid.* p. 9), when 'to the articles presented to the said lord the king to the prelates, mighty lords of the parliament, earls and barons, to be determined by certain persons thereto chosen by the three estates, it is answered, ordained, statute, and decreed in manner and form as after follows.' The manner and form is usually that of a statute, but 'it is seen speedful and ordained' occurs once, the bare 'it is seen speedful' twice, and once we find a form which I regard as specially significant, 'it is seen speedful by the King's Council.' The Committee of the Articles formed a commission of the Parliament and met again in September, 1426.

From this date until after the end of the reign of James I. we have no indication of the appointment of a Committee of the Articles. But the enacting formulae often contain references to the King's Council as distinguished from his 'council general' or Parliament, e.g. 'the King with consent of his whole Parliament and Council'; 'the King and the Council has interpreted and declared that there be a statute made in this Parliament'; 'the King of deliverance of his Council by manner of statute forbids.' These instances are all taken from the record of the Parliament which met in March, 1428, which also affords a single instance of the term speedful—'it is seen speedful, and the King with the whole Council has ordained'; the particular Act was to last only for a year. The enactments of the Parliaments of July 1427, March 1430, October 1431, and October 1436, are all in strict statute form. The records of other Parliaments are fragmentary. The Parliament of October, 1431, appointed a Committee 'to ordain and commune upon certain statutes profitable for the common good of the realm.' It met in May, 1432, and passed some police measures, which are all preserved in statute form. But

this Committee, elected for the special purpose of revising the law of murder, is clearly differentiated from the Lords of the Articles.

It has generally been supposed that the Committee of the Articles fell into disuse under James I., and a fresh study of the evidence supports this conclusion. It is very unlikely that, if the Committee had continued to exist, every indication of the fact would have been omitted from the records of so many successive Parliaments; and, further, the known policy of the King was antagonistic to its continuance. His attempt to introduce the office of a speaker 'to propose all and sundry needs and causes pertaining to the Commons in the Parliament,' if it had been successful, would have tended to the destruction of the system of Committees. If, as seems probable, James wished to introduce English Parliamentary methods, he must have contemplated a division of the uni-cameral Scottish Parliament, and, indeed, there is in his reign plenty of evidence of separate deliberations and recommendations of the three Estates. From the point of view of the King, the Committee of the Articles may have appeared to be an intrusion of elected members into the Secret Council, which, after their disappearance, became a body of advisers chosen by the Crown. James certainly had no intention of diminishing the power of the Council, and we have seen indications that he intended it to perform some of the functions of the Lords of the Articles. So far was he from being a 'Constitutionalist' that, in one instance, he obtained the power of revoking a statute at his pleasure, a device which he might easily prefer to the traditional custom of limiting its duration (*A.P.* ii. p. 23).

The Committee of the Articles was revived about the end of the reign of James II. or the beginning of the reign of James III. It may, indeed, have been restored at an earlier date, for the records of the reign of James II. are very fragmentary. We have in 1450 a further instance of the relations between the Secret Council and Parliament in a list of statutes, 'super quibus consilium avisabitur,' an unusual formula which it would probably be fanciful to connect with the royal veto in England, 'le roy s'avisera.' In the same year a Committee was appointed to codify the laws and to report to the next Parliament (*A.P.* ii. pp. 33, 36). In October, 1451, we have a report upon coinage, which is described as 'the avisement of the Deputes of the three Estates touching the matter of the money, etc.' It begins 'that



they think it expedient,' instead of 'it is statute and ordanyt,' the regular formula since the disappearance of the Lords of the Articles. In 1455 the form 'it is seen speedful' recurs again; in 1456 there is a report upon the Articles, in which we find 'the three Estates thinks,' and 'it is thought speedful'; in 1457 we have a similar report with the phrases 'it is seen speedful to the King and the three Estates,' 'the lords of the three Estates thinks,' 'it is seen speedful,' 'the lords think speedful.' The sudden recurrence of this formula and the appearance of the statutes in the form of a report make it possible that the Lords of the Articles had been revived by the year 1455. There is no trace of the existence of a Committee in the next Parliaments (October, 1466, and January, 1467), about which we have detailed information, except the phrase, 'the lords refers these matters to the hamecoming of certain lords now being in England,' in connection with the King's marriage, but in October, 1467, we have, on the third day of the Parliament, a list of the Committee of the Articles, with their instructions 'to avise and conclude' upon certain matters. In the three statutes which have been preserved, 'statute and ordained' occurs twice, and 'it is seen expedient by the lords' once. In January, 1468, we have again a statement that powers had been 'committed to certain persons under-written to avise, commune and conclude upon the matters after following.' Their first enactment begins 'it is avisit and concludit'; the others are in statute form. In a later Parliament, in 1468 and in 1469, we have again a record of the appointment of the Committee, and again we find instances of the occurrence of 'the lords think speedful.' From this time onwards we may probably regard the Committee of the Articles as an invariable part of the Parliamentary machinery; even when we are not told of their election, a phrase like 'the lords thinks' suggests their existence (*A.P.* ii. p. 103), and in 1478 a quorum for 'the Lords of the Articles' was fixed.

This establishment of the Committee might be expected to give it a definite status as a Parliamentary institution, but the tendency to connect it with the Secret Council almost immediately recurred. In 1489, on the accession of James IV., an Act was passed to regulate the Secret Council, the appointment of the members of which was claimed by Parliament (*A.P.* ii. p. 215). We have no evidence to enable us to judge of the effect of this Act under the rule of James IV., but in the minority of his son we find a close approximation between the Articles and the Secret Council. In

July, 1525, we have a record of a meeting of the Articles. It is entitled 'sederunt domini electi ad articulos,' but the first enactment begins 'the lords of the Secret Council decerns' (*Ibid.* p. 294). Again, in January, 1526, the Lords of the Articles 'devised, ordained and concluded that all Acts and statutes made before anent the guiding of our sovereign lord's most noble person, his authority, and matters concerning the weal of his realm be ordered by the lords of his Secret Council to be observed and kept.' (*Ibid.* pp. 299-300.) These pages in the second volume of the Acts of Parliament might, in fact, equally well have been printed in the Register of the Privy Council. It is impossible to distinguish between the activities of the two bodies.

This tendency to combine the Articles with the Council was confirmed by an Act of 1535, which increased the power of the Committee. It recites the necessity of making Acts 'for good rule, justice and policy,' and the waste of time and money involved in keeping the whole 'three Estates in session, and it empowers 'the Lords of the Articles to devise and make such Acts, statutes and constitutions,' and to legislate upon whatever matters the King may lay before them. Their enactments were to have 'the same form, strength and effect as [if] the same were made and statute by all the three Estates being personally present.' The King was also empowered to consult other great men of the realm, so that he might have 'the greatest of his prelates and barons counsel.' It is not clear that the other prelates and barons were to sit with the Lords of the Articles, but, if the suggestions of this act were carried out, there must have been some connexion between them. (*A.P.* ii. p. 340.)

The extant records of the Privy Council begin in 1545, and it would be of interest to compare the lists of councillors present at the meetings with the lists of Lords of the Articles at the same date; but, unfortunately, the evidence fails us in a most tantalizing way. There is, however, sufficient information to show that, in the second half of the 16th century, there was a tendency for members of the Privy Council to be also members of the Committee of the Articles. The names of two of the three bishops, of five of the seven abbots or priors, and of all the ten earls and lords who were on the Committee of the Articles in December, 1567, appear about the same time in lists of the sederunt of the Privy Council. In October, 1579, the Lords of the Articles included nine representatives of the clergy and nine



great barons. Six of the clerical members and eight of the lords were also members of the Privy Council. In May, 1592, all the nobility who were on the Articles were also in the Council. By that date lairds were represented in Parliament, and three of the eight lairds whose names appear in the lists of the Articles also sat in the Council (*A.P.* iii. pp. 4, 128, 530). There are other instances in which the connexion between the two bodies cannot be shown so clearly, and James VI.'s policy of making the Privy Council a small body of officials tended to sever it. In the closing years of the 16th century it becomes more difficult to trace any continuous approximation between the Council and the Articles; but that approximation was always liable to recur, *e.g.* in 1607, all the nine clerical members, all the nine earls and lords, and one of the lairds who sat on the Articles were members of the Council, and, in 1609, six of the eight bishops, seven of the eight noblemen, and two of the eight lairds (*A.P.* iv. pp. 365, 413).

At the dates of the Parliaments of 1612, 1617 and 1633 the *sederunt* of the Council was so small that no evidence is available; but when, in 1661, the machinery of absolute government had to be re-created, we find once more an approximation between the Privy Council and the Articles. All the twelve noblemen elected as Lords of the Articles in 1661 were members of the Privy Council, as were also the eight noblemen elected in 1663, and seven of the eight noblemen elected in 1669 (the eighth, the Marquis of Douglas, became a Privy Councillor before the Parliament was dissolved). Some of the bishops and lairds on the Articles were also members of the Council, *e.g.* in the first Parliament of Charles II. Sir John Gilmour, President of the Court of Session, Sir George M'Kenzie of Tarbet, and William Scot of Ardrross, sat both on the Articles and in the Council, and the Clerk of the Council, Sir Peter Wedderburn of Gosford, was also a member of the Articles. Finally, in 1681 and again in 1685, all the noblemen on the Articles were members of the Privy Council, as were also, on each occasion, four of the eight lairds.

It must be observed that, in most of the instances we have quoted, Privy Councillors formed a majority of the Lords of the Articles; in December, 1567, there were seventeen out of thirty; in October, 1569, fourteen out of twenty-seven; in 1607 nineteen out of thirty-five. In 1609 the Privy Councillors and the officers of State formed twenty-two out of thirty-nine members

of the Articles ; in 1661 twenty-three out of forty-one ; in 1681 and in 1685 nineteen out of thirty-seven.

Burgess members of Parliament sat on the Articles, but, with one exception, they were not (unless, possibly, as officers of State) members of the Privy Council. That exception was the Provost of Edinburgh, who sometimes formed a link between the Council and the burgess members of the Articles. The representation of the burgess Estate in the Committee of the Articles was necessary if the Articles were to be equivalent to the three Estates, and it is almost continuous. There were burgesses in the first Committee of the Articles in 1367, and only in 1369, in 1370, and perhaps in 1372 is there reason to suspect that burgesses did not form part of the Committee. The number of burgess members varied, and it may be significant that in the troubled later years of James III. the proportion of burgess members was very much smaller than under the strong rule of James IV.

A further point of interest connected with the early history of the Lords of the Articles is the confirmation of their reports by the full Parliament. We have seen that in 1370 and in 1372 a confirmation by a General Council was contemplated, though we have no evidence that it took place. The phrase 'before they come to the notice of a General Council,' which occurs in early references to the Committee is difficult to interpret. It cannot mean that the Committee met before the Parliament assembled, because it was appointed by and in Parliament. There is no evidence that the Committee reported to the Parliament which elected it, most of the members of which had gone home. The decisions of the Committee seem to have been operative before the next Parliament met, and there is no hint of confirmation by a later Parliament. Our information is so scanty that it is not possible even to hazard a guess on the subject, and the next reference which suggests the possibility of a confirmation does not occur until after the revival of the Committee of the Articles in the middle of the 15th century. In 1469, and again in 1471, we find that Commissions of Parliament were appointed, apart from the Articles. At the close of the Parliament which met in November, 1469, power was given to certain persons to 'avise and commune' upon some specified topics and upon 'all other Articles that shall be thought speedful for the honour of our sovereign lord and the common good of the Realm.' They were not given executive power, for they were instructed 'to refer again to the next parliament or general



council.' They were to meet in Edinburgh on the first Monday of Lent, 1470. The *personnel* of this Committee was quite different from that of the Articles. Each Committee consisted of four prelates, four barons, and four burgesses, but only the Bishop of Aberdeen and Lord Hamilton were on both Committees (*A.P.* ii. p. 97). There is nothing to connect this Committee with the Articles, yet the circumstance of its being instructed to report suggests that reports may have been customary. In May, 1471, a similar Committee was appointed, but it was given full executive powers 'to avise, determine, treat, and conclude . . . upon all matters' which had been discussed but not decided in the Parliament, and upon 'other matters that shall occur for the time for the welfare of our sovereign lord and the common good of the realm.' They were allowed to add to their numbers four members of the Parliament. This Committee numbered thirty-four, and included fourteen out of sixteen members of the Articles. It met in August, 1471, and passed at least one statute. Its initial formula runs: 'It is statute and ordained by the lords having the power committed to them by the whole three estates and the body of parliament' (*A.P.* ii. pp. 100-101). The emphatic declaration made in this statute again suggests that executive powers were not ordinarily conferred upon Committees, and, therefore, that the reports of the Lords of the Articles were generally submitted for confirmation; but the first actual instance in which confirmation is recorded does not occur until 1485. In that year Parliament met on the 9th May, and the Lords of the Articles were appointed on the following day. On the 26th May a series of statutes were made and approved by the three Estates. They are given in the report form—'it is advisit and thought speedful by the Lords of the Articles' (*A.P.* ii. p. 170). Again, in 1487, Parliament met on the 1st October. There is no record of the election of the Articles, but on the 13th October, in a full meeting of Parliament (at least eighty persons were present), a series of statutes was made and approved. Many of them begin, 'it is thought expedient and statute and ordained' (*A.P.* ii. pp. 175-177). From this time confirmation is frequently mentioned, *e.g.* in 1488, 1489, 1490, 1491, 1492, and 1493. The statutes thus approved vary in their initial formulae from 'it is concluded and ordained' to 'it is advised and thought speedful by the Lords of the Articles.' Again, in 1526, the Parliament met on the 12th June and elected the Lords of the Articles on the next day. We

have records of their sitting by themselves on the 14th, 19th, and 21st June, but on the 20th they sat, 'along with the other prelates, barons, and commissioners as on the second day of Parliament' (*A.P.* ii. pp. 300-308).<sup>1</sup> In 1535, however, the acts of the Committee were to be promulgated in the King's presence on a date to be appointed by him. (*Ibid.* p. 340.) I am indebted to Dr. Neilson for drawing my attention to the significance of this alternative method of confirmation. It may have been the usual method in the earlier history of the Committee. Its employment in the sixteenth century was only temporary, for, in 1543, Parliament met on the 3rd December, and on the 4th elected the Lords of the Articles, which met frequently as a Committee, but the full Parliament sat on the 10th, 11th, and 15th December<sup>2</sup> (*A.P.* ii. pp. 427-444). Randolph, in describing the meeting of Parliament in 1563 (Randolph to Cecil, 3rd June, 1563, *For. Cal. Eliz.*), suggests that the full Parliament met only on the first and the last day of its session, but, half a century later, in Lord Haddington's 'Order and Progress of the Parliament, October, 1612' (*Maitland Club Misc.* iii. pp. 112-118), there are indications of meetings of each of the Estates by itself in the course of the deliberations of the Lords of the Articles, and the author of the Appendix to the 1677 edition of Spottiswoode's *History* writes about the approval of the whole report of the Lords of the Articles on the last day of Parliament as an ancient custom which had fallen into disuse. He claims that 'of late times matters have been at full length and freely debated in Parliament,' and it is clear that the Lords of the Articles made their reports by instalments.

I venture, very tentatively, to offer a conjectural outline of the history of the Lords of the Articles. Their origin is, I think, to be attributed to a number of causes. There were, in the first place, constitutional reasons for such a development. The composition of Parliament, though quite strictly defined as regards the classes of members, was entirely vague as far as numbers were concerned. There was, so far as we know, no rule about the numbers of the lower clergy; there was no limit to the numbers of barons or freeholders; there was no restriction upon the number of representatives which a royal burgh might send. It

<sup>1</sup> There was a similar arrangement in 1525. (*A.P.* II. p. 293.)

<sup>2</sup> On the 10th and 11th December the Articles sat after the Parliament had adjourned for the day.



is true that the tendency was, not for too many, but for too few of the lower clergy, lairds, and burgesses to attend Parliament, and complaints about their unwillingness to bear the burden of attendance were made. But the burgess Estate was only beginning to be recognized as an integral part of Parliament, and it was also possible that they might be present in overwhelming numbers; in 1367, when the business was very important, burgesses were present in such numbers that two members were elected from each of six of the towns. I am not prepared to lay much stress upon this, but it is possible that the greater barons wished to have some method of dealing with the new and uncertain burgess element, and the appointment of a Committee unquestionably made the Parliament a more workman-like and efficient body of councillors. It is, perhaps, more important that, in the second place, pecuniary and other difficulties in the way of a large attendance were likely to be a permanent bar to the operation of the constitutional theory of the kingdom, and that some device was required to render it workable. These practical difficulties were insisted upon when the first Committees were appointed; they occur again in connexion with the extraordinary Committees of 1469 and 1471; they are stated as the reason for the extension of the power of the Lords of the Articles in 1535. Preambles have never been regarded as remarkable for their veracity, but there can be no doubt that 'it was baith tedious and sumptuous to the haill Estaits to abide and remane.' These practical difficulties occurred in an acute form on the first occasion on which a Committee was appointed: a late harvest made an urgent demand upon the attention of members of lower rank. But, at any time, the burghs grudged the payment of the expenses of their commissioners, and it was always desirable that these expenses should be as low as possible.

In the third place, it is not unlikely that the special circumstances of the year 1367 brought to these general conditions the impetus of a special necessity, and thus gave form and reality to the possibilities of the situation. The King had just been guilty of an attempt to sell the freedom of Scotland. He had done so because the burden of his ransom was telling very heavily upon the national resources, and because the consequent want of money restricted his own extravagant expenditure. The remedies proposed were to control the expenditure of the Court and to repudiate royal grants, which had diminished the revenue of the

Crown. Such a policy would be most efficiently carried out by a small Committee, and it must have met with interested opposition in a large Assembly. Government by Committees was a familiar expedient, and obvious parallels from English history at once occur. The device adopted in 1367 was found to suit, not only the special circumstances of that year, but the general conditions of a Scottish Parliament, and it became a permanent institution.

During the same period we have evidence of the existence of a council which can be distinguished from the *Consilium Generale*, and which, acting as an executive, could grant dispensations from a Parliamentary statute (*e.g.* *A.P.* xii. p. 11). This Council was likely to include among its members some of the great men who found places in a Committee appointed to do the work of Parliament. An approximation between Council and Committee was, therefore, a natural development, and such an approximation is characteristic of the history of the Lords of the Articles. We find the earliest instance in 1370, when the King was permitted to add to the membership of the Committee of the Articles; there is a suggestion of it again in 1372, when the King and the Council were empowered by the Committee to determine the period during which its Acts should be binding, and there are, as we have seen, further indications of such a connexion in the end of the 14th century. James I. wished at once to increase the power of the Council, and to obtain the support and authority of a full Parliament, and he discontinued the Committee of the Articles, preferring that the Council should present his measures for Parliamentary approval. But the system of a powerful Committee was too firmly established, and it was too well adapted both to the constitutional position and to the exigencies of successive political situations to fall into permanent disuse, and it was revived within twenty years of his death. The natural effect of its being in abeyance would be to differentiate it from the Council, but we have seen that the Act of 1489 about the appointment of the Secret Council was followed, in the 16th century, by something like an amalgamation of the Council and the Articles, and that this tendency was encouraged by the Act of 1535. In the later part of the 16th century, and in the 17th, the Secret Council and the Lords of the Articles are quite clearly defined institutions. The Articles were a Committee of Parliament, and there is no suggestion of any formal connexion with the Secret Council. But, except for the period when James VI. and I. had reduced the Council to a mere body of officials, and for



the first years of the Great Rebellion, there was an approximation in membership between the two bodies, and members of the Council, with (or sometimes without) the officers of State, generally formed a majority of the Lords of the Articles.

The history of the Lords of the Articles, if there is any substance in my conjecture, is thus a series of experiments in government by Council.

ROBERT S. RAIT.

## Reviews of Books

THE REGISTER OF THE PRIVY COUNCIL OF SCOTLAND. Edited and Abridged by P. Hume Brown. Third Series. Vol. VII. A.D. 1681-1682. Pp. xxxii, 967. Imp. 8vo. H.M. General Register House, Edinburgh. 1915. 15s. net.

MISGOVERNMENT, blind and obstinate, was exhibited in headlong career in volume vi. (noticed *S.H.R.* xii. 84) and the sequels of Drumclog and Bothwell Bridge fill volume vii. with a record of 1681-1682 little less distressing. At all hazards the Test was to be enforced, and the Council had its hands more than full with the task. Their difficulties, the reluctance of almost the entire people and the passionate refusal of many to affirm on oath the unconditional doctrine of non-resistance, and the pressure thus laid upon the consciences of bold and determined men, still gave occasion for abundant incident, though not again reaching the pitch of arrayed battle. Refusal to subscribe the Test involved deprivation of office. Magistrates and officials of burghs and local administration everywhere were among the recusants.

In Glasgow, for instance, the Trades and their Convener were prosecuted for electing deacons who declined to swear; there was trouble with the maltmen, and a judicial order was necessary to get over the difficulty of an unsworn 'visatour' to be nominated by the magistrates; the town clerk refused to extract judgments against offenders; the provost declared that he alone pursued 'the fanatic and schismaticall persones,' and the dean of guild and he together sought to allocate the fines imposed; some when they did submit did 'subscribe the Test in a most indecent and disorderly manner with their heads covered and without either swearing the samen ... or kneeling or repeating the words of the said Test.'

And what happened in Glasgow was typical of Scotland. In consequence of 'the possessours their not taking the Test' ten hereditary sheriffships and a round dozen or more of baronies of regality were declared to have fallen by forfeiture into the king's hands. It was a magisterial, conciliar, and judicial strike on the most serious scale. At Lanark the 'treasonable insolence' went so far as the burning of the Test at the cross, which the 'desperat and wicked vagabonds and villaines' broke up with forehammers. The venting of seditious and disloyal principles was industriously practised. Donald Cargill's Covenant and the declaration of Sanquhar, Rutherglen, and Lanark were burnt by the hangman at the cross of Edinburgh. The country was really put under martial law. Lanark was heavily fined; Donald Cargill was executed; the Duke of



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Argyll was sentenced to death, but for the time escaped ; vast numbers of people were imprisoned ; so great a person as Sir James Dalrymple of Stair, president of the Court of Session, was summoned to appear before 'Captaine Grahame of Claverhouse,' acting as a sort of military magistrate in Galloway, and had to urge objections to the citation which led to the suspension of the proceedings. Notwithstanding, the learned president thought it prudent to cross the North Sea till a convenient season came for the resumption of his judicial functions.

Such repressive activities engrossed much attention from the Privy Council, which in thus enforcing the policy of the Duke of Lauderdale enjoyed the distinction of the constant attendance at its meetings of the heir-apparent to the throne, the Duke of York. The deliberations included other themes than the suppression of conventicles or the penalties of malignancy, or even the occasional abjuration of 'damnable and seditious principles' by certain of the sect known as 'Sweet Singers' associated with Donald Cargill, and at least once styled 'the sweet quorum.' The multifarious things of normal administrative action, the maintenance of the king's peace, the indications of trade, and the symptoms of colonial ambition, offer a thousand features of history which, though seldom very attractive, are at least not overcast by the sombre shadows of Lauderdale and His Grace of York.

There is not much lightening of the picture of Scotland. Almost the sole touch of the humorous is that unconsciously supplied by a solemn enough birthbrieve, attested by Sir George Mackenzie. It carries the gorgeous pedigree of Signior Rostainus Cantelino, 'master of the camp to his Spanish Majesty in Flanders,' back into the dim ages, through Eberard, the youngest brother of 'Malcolme Kanmoore,' and the long antecedent line of shadowy kings, until at last it links this gallant campiductor with Fergus I., the 'first King of the Scots, who was crowned three hundred and thirty year before the Conception of the Blessed Virgin.'

The order of the Riding of Parliament in 1681, a proclamation for observance of the game-laws, notices of bridge-building over Clyde, Water of Urr, and Fifeshire Leven, instructions as to military guarding of Loch Ness, some cases of challenge to duel and public defamation by placards, certain dark dealings in poison tablets (apparently love potions), the scandal of rioters in Canongate and the suburbs of Edinburgh going by night 'in masquarads'—these may be instanced among the business. Sir James Douglas of Kelhead, under distress by his creditors, gets license to attend 'the funeralls of his deceist faither.' The present reviewer notes with curious interest a commission to (amongst others) 'George Neillson,' a baillie of Dumfries, for a trial for child murder. A great array of miscellaneous papers in a long appendix contains a discussion evidently by some victim of the Test as to some preliminary difficulties he has about the oath. Buchanan *de jure regni*, Beza *contra tyrannos*, and Philadelphus are cited, as well as Spottiswoode's, Burnet's, and Calderwood's Histories.

For a closing paragraph attention may be called to a number of reports upon commercial enterprises, such as linen, woollen, and other manufactures, fishing, shipbuilding, 'exporting of cornes,' gold and silver-smith work, etc.

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The state of trade with Spain, Norway, and 'all allong the Baltique' is formally and with evident knowledge described and future prospects are estimated. Hammermen in Edinburgh are keen on prohibition of importation of guns, clocks, cutlery, and copper-ware. On the other hand, the shops in Glasgow are found heavily stocked with all sorts of forbidden imported cloths (which some antiquary of textiles may find it a pleasant task to identify), and proposals are made for better provision of looms and weaving material. Particularly interesting is a Memorial in 1681 'concerning the Scottish plantation to be erected in some place of America.' It suggests the foundation of a 'Scotts colony' at Cape Florida, and recommends the sending of a commission of enquiry with a small ship, and as a preliminary advises that William Colquhoun, 'now resident in Glasgow, who hath bein a planter amongst the Caruba Islands these 20 yeirs and thereby hath acquryed a considerable fortune,' is the best person to consult.

Glasgow repeatedly appears with problems for adjustment. Most curious of them all was the trouble over a regent in the University, Thomas Nicolson 'demurring to take the Test.' The whole constitution of the University in consequence came under review of the Council, and the petitions, answers, informations, accounts, reports, extracts from parchments and registers make up more than fifty pages of historical and legal contention as between Archbishop Ross as chancellor on the one hand and the Rector, Principal, Dean of Faculty, and regents on the other. The quarrel was hot, and the Archbishop complained 'with much passion' of the invasion of his office as well as of personal insult in the attempt 'to obtrude James Young upon the Colledge' in Thomas Nicolson's place despite the Archbishop's claim as chancellor to control the proceedings. With such episodes of stir as this to annotate Professor Hume Brown had good matter for his introduction, in which it forms, indeed, as he styles it, a lively incident. His whole analysis of the two depressing years displays his accustomed skill and felicity in precise characterisation of national movement. There is a magnificent index. The textual body of the volume (for which the editor's responsibility is to a considerable extent shared by the Rev. Henry Paton) has been prepared and is presented with a fidelity and care commensurate with the institutional importance, historical authority, and inherent interest of the immense mass of primary national chronicle it contains

GEO. NEILSON.

### PRE-REFORMATION SCHOLARS IN SCOTLAND IN THE 16TH CENTURY.

Their Writings and their Public Services. With a Bibliography and a List of Graduates from 1500 to 1560. By W. Forbes-Leith, S.J. Pp. viii, 155, with eighteen Illustrations. Demy 8vo. Glasgow : James MacLehose and Sons. 1915. 6s. net.

To this useful volume Father Forbes-Leith has prefixed a sentence from Sir William Hamilton's *Discussions on Philosophy* : 'A list of the Scottish scholars driven from the land at the Reformation for their attachment to the Roman faith would form an exceedingly interesting chapter



of Scottish literary history.' The book is both a list of such scholars and an attempt to show that 'the alleged ignorance of the Scottish clergy in the sixteenth century is unsupported by impartial and contemporary evidence.' We have no intention of following Father Forbes-Leith into a controversy, for we prefer to thank him for a valuable and thorough piece of research; and we are glad to have this vindication of the scholarship of sixteenth century Scotland, and to be reminded of the debt which Scotland owes to the Roman Church even in the century in which that Church was overthrown. The Bibliography is the most important part of the book, and it is also the greatest contribution to the editor's own thesis. Father Forbes-Leith prints also a list of sixteenth century Masters of Arts. There are some excellent illustrations, one of which shows the medieval ceremony of 'capping' a Master of Arts, still retained in the graduation ceremonial of the Scottish Universities.

ROBERT S. RAIT.

RENTALE DUNKELDENSE, BEING ACCOUNTS OF THE BISHOPRIC (A.D. 1505-1517), WITH MYLN'S 'LIVES OF THE BISHOPS' (A.D. 1483-1517). Translated and edited by Robert Kerr Hannay. And a note on the Cathedral Church by F. C. Eeles. 8vo. Pp. xlv, 414. Publications of the Scottish History Society, second series, vol. x. Edinburgh: Printed at the University Press by T. & A. Constable for the Scottish History Society. 1915.

THE last volume issued by the Scottish History Society maintains the reputation of the series of which it forms no insignificant part. Since Dr. John Stuart reported in 1869 that the *Compota Episcopatus Dunkeldensis*, 1506-17, was 'an interesting record of the household and official accounts of the Bishop of Dunkeld for the period, giving a very minute view of the style of life and manners of the Church dignitaries before the Reformation,' it was felt that the record was of great value for the social and ecclesiastical history of Scotland at the beginning of the sixteenth century. The Latin manuscript of the *Compota*, which is in the library of the Faculty of Advocates, has now been translated and carefully edited, with a full introduction and indices, which make the study of the record an easy and pleasant pastime. Alexander Myln, the well-known author of the *Lives of the Bishops of Dunkeld*, was responsible for the writing of the greater part of the manuscript, and as he describes himself as an *agrestis et incultus scriptor*, not by any means too modest an estimate of his literary abilities, it is fortunate that the editing has been entrusted to a scholar of Mr. Hannay's sympathy and patience for the interpretation of his meaning. The editor's skilled help is noticeable on almost every page.

In the space at our disposal it is not possible to give even a summary of the goodly contents of this book. In the record of the revenues and disbursements of the bishopric, extending over a considerable period, there is such a variety of information, historical, economic, social, topographical, ecclesiological, and personal, that the book has to be studied in order to form a conception of its contents. Though there is nothing in the record which

can be described as sensational, it is a human document of great interest. Some readers may be acquainted with similar records, for they are plentiful enough in England, many of them going back to a much earlier period, but these have only a secondary interest to the student of Scottish national history. Unfortunately there is not an English History Society in the land of Freeman, Maitland and Round to make these priceless sources accessible to the pioneer of historical research. We in the South acknowledge the scholarly patriotism of Scotland.

A glance into the volume will show the diversified nature of its contents. The expert historical economist will find many things in it to help him, and he alone, as Mr. Hannay suggests, is capable of declaring their true import. The historian of the diocese of Dunkeld cannot afford to overlook it, for here beyond all other sources he will get a true picture of the working of the diocesan system on the eve of the Reformation, with particulars of institutions and customs as they existed in full play at an important juncture of Scottish history. It is notorious that few records of the building or rebuilding and repair of churches have been preserved. These accounts contain many references to such matters, as they are replete with allusions to church furniture and church doings which throw an interesting light on the religious observances of the time. Nor is the book valuable as an ecclesiastical record alone. In the mediæval period there was no hard and fast distinction between the sacred and the secular : a man's duty to his neighbour was as sacred as his duty to his Maker : the building of a bridge was as much a religious obligation as the building of a church : religion was the source of every department of human activity. The parish church was the spiritual home of the Scotsman, the common ground on which men met as equals, the social centre of the community, the fountain of all public schemes and enterprises. For this reason, among others, the official accounts of a Bishop's establishment, giving minute particulars of revenues and expenditure over a wide area, afford a glowing picture of men and manners in all the relations of life. Affairs in the shepherd's cottage receive as much illustration as those in the Bishop's palace : work on the farm is as prominent as devotion in church : society in all its grades and all its moods is exhibited as it was in that distant age.

We are so indebted to the editor for assistance to an easy understanding of these episcopal accounts that we hesitate to express a word of disagreement with his method. In a work of this kind, which appeals to the scholar more than to the general reader, it would have been better, in our opinion, if he had translated only one or two of the accounts as specimens and printed the rest in the original, adding a vocabulary of rare Latin words and phrases after the manner of the *Rolls Series* of the mediæval chronicles. Mr. Hannay has, however, done the next best thing by reproducing the Latin not only when he was in doubt about the correct meaning but when he met with curious words and constructions. Vernacular words, which are numerous, he has left severely alone : perhaps no commentary was needed for Scottish readers, but the book will be read by 'foreigners,' and small help will they get from Jamieson or Ogilvie when they tackle the lingo of the farmers of Perthshire or the masons who



built the stone bridge over the Tay at Dunkeld in the dread period of Flodden.

A note on the historical development of Dunkeld Cathedral and its internal arrangement, by Mr. Francis C. Eeles, will be much appreciated by all lovers of Scotland's architectural and ecclesiastical monuments. The book is furnished with exhaustive indices, indispensable to a work of this kind. For this as well as other features the editor's services deserve grateful acknowledgment.

JAMES WILSON.

A HISTORICAL GEOGRAPHY OF THE BRITISH DOMINIONS. Vol. IV. South Africa. Part II. History from 1895 to the Union of South Africa. By Sir Charles Lucas, K.C.B., K.C.M.G. Pp. 533. With Maps and Plans. Crown 8vo. Oxford: Clarendon Press. 1915. 6s. 6d.

IN this volume the story of the causes, progress, and final settlement of the South African War, 1899-1902, is clearly and succinctly told. The essential points are emphasised by apposite criticism, and maps are given in illustration of the principal engagements. Of especial interest is the chapter on reconstruction and reunion, which deals with the period which elapsed between the Peace of Vereeniging and the consummation of the Union. In the opinion of the author, 'the Union of South Africa, as it stands to-day, is a statesmanlike and far-sighted piece of human handiwork, one of the latest, and assuredly one of the greatest, experiments in the making of nations.' It is regretfully admitted, however, that the spirit of toleration and compromise which rendered the Union possible was unable to prevent the first ministry being framed and the first general election being fought mainly on the line of race, and the author's remark that this is not the line favoured by prudent and far-seeing statesmen has received abundant confirmation during the past few months. It is not denied also that the Union is essentially a White Man's Union, and that it is still saddled with its native question, its coloured immigration difficulty, and its labour troubles which arise largely out of the other two. The hope is expressed, however, that these are but the disorders of youth, and that the development of true statesmanship will be accompanied by the discovery of satisfactory remedies.

In the last chapter an interesting comparison is made between the progress of colonization and the political development of British South Africa, British North America, and British Australasia. Of the three, British South Africa is the smallest in area, and has been the last to develop, mainly on account of the presence of coastal mountain barriers and the absence of navigable rivers. On the other hand, its development, although late, has been particularly rapid, and stimulated not only by the construction of railways and by the discovery of gold and diamond mines, but also by the establishment of German South-West Africa, which introduced a new element of competitive keenness, a stronger desire for progress, and a greater vigilance in all matters which affected the present and the future

of the Empire. By its later development also, South Africa was able to be guided by the experience, and to avoid many of the mistakes, of the earlier established dominions, while it has retained its own peculiar problems, which demand even a greater share of statesmanship and of political insight.

J. D. FALCONER.

**THE GREAT CONDÉ: A LIFE OF LOUIS II. DE BOURBON, PRINCE OF CONDÉ.** By the Hon. Eveline Godley. Pp. xii, 634. With Portraits and Maps. Demy 8vo. London: John Murray. 1915. 15s. net.

BIOGRAPHIES of celebrities of the sixteenth and seventeenth centuries are in vogue at present. They often depend for their popularity more on their illustrations and anecdotes than on any literary merit. It is the more satisfactory to meet with such a thoroughly good piece of historical work as Miss Godley has accomplished in this volume. The temptation to expand it into two must have been considerable, but it has been successfully resisted, and unnecessary portraits, however attractive these are in themselves, have been eliminated.

It is a fascinating theme and a most interesting period that has been dealt with. France of the seventeenth century was full of life, and abounding in individuality. There are few people about whom we know so much as the French upper classes of that time, thanks to the passion for memoir writing that took possession of so many of the most eminent men and women. The author has not only made a good use of these, but has been able, through her researches in the archives of the Condé's home at Chantilly—a place it will be remembered which was presented to the Institut de France some years ago by the then Duc d'Aumale—and elsewhere, to print some documents which have now been published for the first time.

What a wonderful crowd of people these old French nobles were. Pride of race was perhaps their most distinguishing characteristic, and this was accompanied by even less estimable traits: they were too often heartless and selfish, and it must be confessed that their standard of morals was not high. On the other hand, they were honourable, and, if not much given to literature—though Condé himself was an exception in this respect—raised conversation to a fine art. Their manners, if artificial, had a charm of their own,—it is said of Louis XIV. that he never met a chambermaid on the stair of his palace without taking off his hat to her. They had a pretty turn for making verses, though the literary value of such productions may not have been high, and it goes without saying that in an age when a man's own right arm was the guardian of his life and honour, they were skilled in all manly exercises.

But, above all, each man was a law unto himself, with the result that ludicrous situations were often evolved. The weak and fickle, though popular and charming, Duke of Orleans was in the habit of going to bed and remaining there when difficulties pressed him to come to a decision. There is no more amusing scene than that described by Mr. Fitzpatrick in



his *History of the Fronde*, of the Duke taking to his usual refuge when asked to prevent the escape of Anne of Austria from the palace. De Retz, the astute Archbishop Coadjutor of Paris and the leader of the Fronde, found him buried beneath the bedclothes, oblivious both to the arguments of the usually phlegmatic Duchess, who was sitting up in bed, and to the entreaties of the beautiful Madame Chevreuse, who had flung herself in passionate *abandon* on the coverlet and tried to enforce persuasion by a liberal display of her charms. This laughable episode, however, is not mentioned by Miss Godley, who has perforce to stick closely to her subject's life and many adventures. This she has done with a calm good sense and sanity of judgment worthy of the highest praise.

And, indeed, Condé deserved a good English biographer. He lived in an age of great soldiers, and it is as a soldier that his memory will live when his political ambitions and his confused and rather squalid intrigues during the Fronde period will be forgotten. It was an age of great generals, and if he was perhaps inferior to his rival Turenne as a strategist, he more than equalled him when it came to the conduct of a stricken field,—and he had great opponents to fight against, of whom perhaps Mercy and Montecuccoli were the most famous. His first, and perhaps his greatest, victory was that of Rocroy, gained when he was only twenty-one, and from then till the time when he was obliged to lay down the profession of arms from the state of his health at the age of fifty-four he made for himself a reputation equalled by few. High-strung, ardent and impetuous, he never lost control of himself on the field of battle. Ready to lead his men into the thickest of the fight, and of reckless personal bravery, he was master of all contingencies, and saw what it was impossible to do as well as what was possible. His military capacity extorted the unstinted admiration alike of friends and foes. His nature was hardly such as to make him beloved, though he was the pleasantest companion possible when he pleased, but he was admired, respected, and often feared. He had a bitter tongue and ability to use it, and the man who crossed him was made to feel its effect in a way he did not soon forget. But notwithstanding all this, he inspired friendship if not affection.

His was indeed a strange career. His father had him educated by Jesuit Fathers, and he was only too precocious a pupil. At the summer examination of 1635, when he was only fourteen, he sustained in public twenty-seven theses on ethics, fifteen on meteors, as many on the transformation of substances, and again as many on metaphysics. Such a course of education was inhuman, and though it made Condé a scholar it was at the expense of his health and nerves. He gave, too, as a boy 'great hopes of piety,' but both scholarship and religion were to be far from him for many a year; on the latter, however, he was fond of talking and arguing even in his most unregenerate days.

His marriage was unfortunately a failure, for a suitable woman might have influenced him strongly. But the wife chosen for him was insignificant in person, shy and timid, though at one important moment of his life she did him wonderful and unlooked for service. But Condé persistently neglected, though he never actually ill-treated her, and her closing years

were spent in absolute seclusion and in the melancholy of failing reason. He turned to the consolations of others, and his private life, no doubt, left much to be desired, but Miss Godley is commendably reticent as to details in this respect. His happiest hours were when conducting a campaign or actually fighting on the field of battle. His political life was not inspiring : he had various ups and downs, and was alternately adored and detested by the fickle Parisians. He had, at the instance of Mazarin, the experience of a year's imprisonment, along with his brother, the Prince of Condé, and his brother-in-law, Longueville. It must have been extremely galling to a man of Condé's temperament, but he sang and swore, heard Mass every morning, read French and Italian, and played at what would now be called Badminton.

Condé's last campaign was in 1675 : he had still eleven years of life before him, and the evening of his days was a marked contrast to his impetuous and stormy life. In his retirement at Chantilly he was the centre of a dignified and lettered circle of friends. Boileau, Racine, La Fontaine, and Molière worthily represented literature at his table ; eminent soldiers like Luxembourg, Boufflers, Crequi and others came to him for advice as the head of their profession ; while Bossuet, Bourdaloue and Fenelon were churchmen of note with whom he discussed theology ; and he now discussed it not merely as an intellectual exercise, but with conviction of heart. It must, indeed, have been an impressive scene to witness 'M. le Prince le heros' make, as he did, a public profession of his faith in a crowded church in Paris. When he died in December, 1686, he was not an old man as we now reckon age, but every minute of his life had been lived. Its last years were the sweetest.

We have read the book from cover to cover with much interest, and it is a worthy memorial of one of the greatest men in a great age. The plans of Condé's battles given in the text are most useful : there are two genealogical tables and an index, all of which, though good so far as they go, might have been a little fuller.

J. BALFOUR PAUL.

LES UNIVERSITÉS D'ECOSSE, DEPUIS LA FONDATION DE L'UNIVERSITÉ DE ST. ANDREWS JUSQU'AU TRIOMPHE DE LA REFORME (1410-1560).  
By J. B. Coissac. Pp. 310. Royal 8vo. Paris : Larousse. 1915.

THIS illuminating study of the origins and development of the Pre-Reformation Universities of Scotland and a complementary thesis on *Les Institutions scolaires de l'Ecosse depuis les origines jusqu'en 1560* obtained for the author the *Doctorat ès lettres* at the University of Paris in the course of last winter. In the ordinary course of events its appearance, following closely on the completion of five centuries of intellectual kinship between France and Scotland, would have been well timed, and the grave events of the past year have given it additional significance.

The historical facts with which Dr. Coissac deals are well ascertained, if fragmentary, and he pays graceful homage to the labours of scholars such as Grant, Anderson, Coutts and Hannay. His merit lies in the



sanity and acumen with which he presents them, and in the fine poise and discretion of his treatment. In addition, however, he furnishes to students of Scottish history new material which he has extracted from the MSS. at the Sorbonne and the Bibliothèque National, and throws clearer light on the debt which Scotland owed to the Universities of Paris and Orleans and on the worthy part which Scotsmen played in the life of the French Universities. He raises the study of the Scottish Universities to the level of a *Kulturgeschichte* of the nation. He exhibits the diverse rôles in University development played by the Regular and Secular clergy, the merits and defects of scholasticism as exemplified in the case of John Major, the weakness of the system of Regents, and defines the distinct personalities of the Universities, based on the relative predominance of theological, legal and humanist influences. The material is well arranged, and presented in such a manner that the far-reaching effects of apparently unimportant factors are made clear without being over emphasized.

It is not difficult for a student who seeks to present some period of foreign history to confine himself to what he conceives to be the determining factor, and to produce a brilliant piece of doctrinaire analysis. He may discover a new point of view and awaken native readers to the significance of an element which they had neglected, but the product is apt to be abstract. Dr. Coissac has escaped this danger. He seems to have neglected no element of importance in the period with which he deals, and his knowledge of continental history and acute judgment have enabled him to arrange his material with clarity and point. He shows no sign of ecclesiastical bias, and draws no red herring across the reader's path. The result is an interesting and sound re-valuation of certain forces and characters. He gives, for instance, his proper place to John Major, and his treatment of this forgotten worthy is in itself sufficient to give importance to his treatise.

We know of no better introduction to the study of sixteenth-century Scotland than this well balanced survey of intellectual tendencies.

DAVID BAIRD SMITH.

THE SOURCES AND LITERATURE OF ENGLISH HISTORY FROM THE EARLIEST TIMES TO ABOUT 1485. By Charles Gross. Second edition. Revised and Enlarged. Pp. xxiii, 820. 8vo. London : Longmans, Green & Co. 1915. Price 24s. net.

GREATLY enhanced in historical value as well as considerably bigger, Dr. Gross's well-known book of reference in its second, and unfortunately posthumous, edition makes its welcome appearance fifteen years after the first edition came out, and just in time to prevent a most useful work, which had well served its turn, from being superseded. Dr. Gross died in 1909, leaving numerous notes of extension and revision, and by the conjunct goodwill and energy of his widow and an editorial board, and the financial support of his two brothers, the task of enlargement and revision has been brought down to date, so that the handsomely produced new edition, a very true memorial of the author, stands well equipped for consultation as a

critical dictionary of English, one might almost have said British, historical sources, texts, treatises, and discussions. In the execution of the work service of merit has been rendered by Miss A. F. Rowe, of Cambridge, who assisted in the first edition, and who has in the second continued the guiding principles of the enterprise. A Committee for the Department of History in Harvard University, consisting of Professors Ephraim Emerton, Charles H. Haskins, and Edwin F. Gay, has edited the work, drawing upon the good offices of several historical scholars in America, as well as of Dr. G. T. Lapsley, of Cambridge, and notably of Professor Tout, of Manchester.

Under these auspices the book is greatly improved all round. There is no possibility of completeness in such a vast undertaking, but the joint editorial and revising labours have at least challenged completeness in providing chronologically classified and elaborately indexed lists of further authorities on general and special subjects of English history. There are now 3234 specific items over and above a multitude of supplementary data, which include extensive surveys of an infinite mass of records, printed texts, and general and special histories, as well as of the best modern criticisms.

No worker in English history who looks through the ample and interesting pages, rich in critical brevities and multifarious references, will care to write without consulting this bibliographical lexicon of historiography. The student of Scots history sighs for its like, to be companion and complement of Professor Sanford Terry's *Scottish Historical Clubs* on expanded lines. Not that Scottish history is by any means uncharted territory in this admirable general guide and auxiliary apparatus of study, but by the nature of the case its guidance is chiefly over ground where England and Scotland met in too often opposing interests. The happy consummation of a complete fusion of all our nationalisms in which the ancient frontiers shall be forgotten in the larger unity may perhaps be even now receiving its intensest stimulus in the crisis through which we are passing. This work, which unites the learning of American and English scholars, deserves and may be assured grateful reception.

GEO. NEILSON.

THE LEGISLATIVE UNION OF ENGLAND AND SCOTLAND. By P. Hume Brown, M.A., LL.D., Historiographer-Royal for Scotland. Pp. xii, 208. Demy 8vo. Oxford: Clarendon Press. 1914. 7s. 6d. net.

'ALL Europe must in some measure be affected by the good or ill ending of the Parliament of Scotland.' So wrote Godolphin in the early years of the eighteenth century, and Godolphin had some claim to speak about the state of Europe. When the Historiographer-Royal for Scotland was invited, two hundred years later, to become Ford's Lecturer at Oxford for the year 1913, he appropriately chose for his subject the ending of the Parliament of Scotland. The lectureship was founded in 1896 from funds left to the University of Oxford as long ago as 1870. The first lecturer was Samuel Rawson Gardiner; the second, Frederick William Maitland; and among others who have held the office was Andrew Lang, who



delivered in 1904 a course of lectures, which he never printed, on the relations between England and Scotland. The duty of the lecturer is to deliver six lectures on some subject connected with English history. Professor Hume Brown told his Oxford audience that no subject is more closely connected with English history. 'If the Norman Conquest made England, the union of the two Parliaments made Great Britain,' he remarked in his opening sentences, and if Godolphin had some claim to speak about the state of Europe, Professor Hume Brown has some claim to speak about the formation of the kingdom of Great Britain.

His book will be welcomed by a wider audience than that which listened to him in the Examination Schools at Oxford in the days before that building had been metamorphosed into a Military Hospital. It is the work of a master in his subject, and of a scholar who never speaks unadvisedly. Every sentence has been weighed, and every judgment is deliberate. Behind these two hundred pages lie the labours of many years. Some new material has been employed for the purpose of these lectures, but their value does not depend upon the hints which Professor Hume Brown has gathered from the Atholl, Johnstone, and Annandale letters in the British Museum, which form the Appendix to this volume, or from the still unpublished Seafield Correspondence, now being edited for the Scottish History Society. The importance of the lectures lies in the masterly summing-up of things that have long been familiar to many, and of things that have long been known by Professor Hume Brown and neglected by many.

After a sketch of the political state of Scotland at the accession of Anne, and of the prospects of Union at that date, the book treats of the Act of Security and the crisis which that Act produced and which led directly to the Treaty of Union, a Treaty which the men who carried it 'were sincerely convinced was the only possible solution of the relations between the two kingdoms.' They were not a 'parcel of rogues,' and the general verdict of history has justified their wisdom and their foresight. Yet some of them lived to change their minds. In his later chapters, in some ways the most interesting in the book, the Historiographer-Royal explains how this came about. Contemporaries, he says, had to ask themselves three questions. Would an increase of trade commend the Union to the Scots? Would the Church of Scotland become reconciled to it? Would national sentiment acquiesce in the extinction of the separate national Parliament? Each of these questions he discusses. More than half a century had to pass before the first could be answered in the affirmative. The Scottish representatives in the British Parliament were careless guardians of the commercial interests of Scotland, and the English members were not likely to be more considerate. The Toleration Act of 1712 and the Patronage Act disquieted the Church. A strong effort was made to rescind the Act of Union, fortunately without success. Dr. Hume Brown discusses the question whether the history of Scotland in the early part of the eighteenth century would have been happier or more prosperous had there been no Union, and he comes to the conclusion that there is every reason to believe that it would not. 'Whether we look at the

## 96 Schlumberger : Le Siègè de Constantinople

internal condition of Scotland at the period of the Union or at the circumstances that then obtained in Europe at large, the conclusion seems forced upon us that the Union was both necessary and desirable if she was to win her due share of the world's prosperity, and to keep pace with the development of other nations.'

ROBERT S. RATT.

LE SIÈGE, LA PRISE ET LE SAC DE CONSTANTINOPLE PAR LES TURCS EN 1456. Par Gustave Schlumberger. Pp. iii, 375. Quatrième édition. Paris: Plon-Nourrit et Cie. 1915.

WHATEVER relates to historical Constantinople has at present a double interest, and M. Schlumberger retells the story of its capture by the Turks with considerable success in presenting the features of a catastrophe. The volume does not furnish any materially new facts or conclusions, but by a steady observance of the sequence of events he gives a clear and instructive picture of the whole immediate circumstances attending the siege. The young Sultan, Mahomet II., vehemently ambitious, from his accession to the sultanate in 1451 had laid himself out to achieve this great conquest, and the fury with which the enterprise was organized and accomplished gives unity and intensity to this latest history. Standpoints of the work are, that the giant ordnance of the Turks was the chief positive factor of success, that all the energy and skill of the defence belonged to the Venetian and Genoese auxiliaries, and that John Giustiniani, the Genoese commander of the defence, has been most unjustly accused of betraying the trust committed to him. The calm courage of the Emperor Constantine meeting death when the walls were stormed receives sympathetic tribute. On the naval side it is suggested that the famous transporting of the 'fustes' or galleys across the isthmus on rollers was an episode of little or no influence on the siege. The author perhaps appears to accept too easily that strenuous and surprising undertaking as the work of only two days. It is hardly possible to believe this : there must have been antecedent preparations.

It is pleasant to observe that special use has been made of Mr. Edwin Pears's 'story of the capture,' and that the Glasgow orientalist, the late Mr. E. J. W. Gibb's translation of Sa'ad ud-din, also has its place among the authorities cited.

The author appears to say that the Greeks had hitherto maintained the mastery of the seas—a view which is only tenable if it assumes that the Italian fleet in imperial service are to be counted Greek. Again, he speaks of the Sultan's fleet as being the first which truly figures in history. This is difficult to square with the fact that Gallipoli was a Turkish sea base in the last decade of the fourteenth century and that the mastery of the Dardanelles was challenged by the Turks again and again before 1453.

Illustrations include medallion portraits of Mahomet II. as well as Bellini's painting of him, an old engraving of the drawing the ships over the hill at Pera, and a series of pictures of the great wall of Constantinople. There are, besides, excellent sketch-plans of the city, one of the fifteenth century, another showing the positions of the siege, and finally a large general folding



map. The volume has peculiar interest at the present time. It brings out in strong relief the utter failure of the empire to take any adequate steps to organize the defence.

ROUMANIA AND THE GREAT WAR. By R. W. Seton-Watson, D.Litt.  
Pp. 102. With Map. Demy 8vo. London : Constable & Co.  
1915. 2s. net.

THE FUTURE OF BOHEMIA : A Lecture in honour of the Quincentenary of John Hus. By R. W. Seton-Watson. Pp. 31. 8vo. London : Nisbet & Co. 1915. 3d. net.

THE SPIRIT OF THE SERB : A Lecture. By R. W. Seton-Watson.  
Pp. 31. 8vo. London : Nisbet & Co. 1915. 3d. net.

RELIGION AND NATIONALITY IN SERBIA. By Father Nicholas Velimirovic.  
With Prefatory Note by R. W. Seton-Watson. Pp. 23. 8vo.  
London : Nisbet & Co. 1915. 3d. net.

THE BALKANS, ITALY, AND THE ADRIATIC. By R. W. Seton-Watson,  
D.Litt. Pp. 79. With two Maps. 8vo. London : Nisbet & Co.  
1915. 1s. net.

THE wide and intimate historical knowledge of the Balkan States which Mr. Seton-Watson brings to bear on their various aspects in this book and pamphlets, make them most interesting ; but they are still more interesting from his forecast of the future of south-eastern Europe. He is not unprejudiced, or rather perhaps we should say his careful study of the problems which have arisen in the Balkan States has led to his having a very poor opinion of the Magyars. The Roumanian question is a very complicated one, particularly in Transylvania and Bessarabia, where the number of little settlements of Roumanians dotted in these provinces makes it very confusing, with the further complication that within the boundaries of the Roumanian kingdom there are Slav settlements, Ruthenes, Slovaks and others. The student in this country has been slow to tackle the subject on this account. Moreover, from the days of Kossuth the British race has been inclined to look on the Hungarian as the oppressed race, and have not seen that a further development has taken place, and that it is now the Magyar who is ready when the opportunity offers to oppress his neighbour, Roumanian or Slav. That at least is Mr. Seton-Watson's view as expressed in these most interesting little monographs on the Balkan States.

He has also written a masterly sketch of Bohemia, in which he displays a peculiar knowledge of Bohemia's past history, and makes it clear that he has great hopes for her future. He gives glimpses of the present feeling, which suggests that the Central Powers have enemies within their own borders.

Father Velimirovic's tribute to the memory of Bishop Strossmayer directs attention to the work of the Orthodox and Catholic Clergy in rousing the 'flame of national feeling' among the Southern Slavs, and

gives a stirring and very suggestive account of the way in which two rival churches can be generous enough in spirit, to sink their small differences and find their large unity of spirit at a time of national and racial danger.

Mr. Seton-Watson's most recent pamphlet on the Balkans, Italy, and the Adriatic contains a historical sketch of the Balkan States showing the gradually increasing national feeling.

The difficulties which surround the question of Southern Slav unity are fully discussed, and emphasis is laid upon the importance of this question being solved as an organic whole; in other words, that the Croat and Slavene element should be consulted as well as the kingdom of Serbia.

The pamphlet closes with a discussion of what would be a fair and just arrangement between the Italians and a single Southern Slav State, the new Yugoslavia.

While sympathising with Italy in her desire for a complete Italian national unity and a safe strategic frontier, as well as security for her eastern coast, it is pointed out that Dalmatia is, and for very long has been, Slav, and that she has always led the van of the Yugoslavia movement. Mr. Seton-Watson sees no reason, however, why a compromise between the aims of Italy and the rights of the Slavs in Dalmatia should not be attained.

**THE CLAN CAMPBELL:** Abstracts of Entries relating to Campbells in the Sheriff Court Books of Argyll at Inveraray. Second Series. From the Campbell Collections formed by Sir Duncan Campbell of Barcaldine and Glenure, Bart., Secretary to the Order of the Thistle and Carrick Pursuivant of Arms. Prepared and edited by the Rev. Henry Paton. Pp. viii, 250. 4to. Edinburgh: Macniven & Wallace. 1915. 21s. net.

THIS splendidly industrious muster of clansmen from the sheriff court books of Argyll is as fine a manifestation of the clan spirit as the heart of any genealogist or chieftain could desire to preserve the remembrance of a family whose line of activity is far flung through Scottish history. Sir Duncan Campbell has attempted an almost exhaustive collection, and this third volume lengthens out the roll with a great body of entries of decrees, deeds, wills, services, commissions, etc. (probably about 1250 in number), covering the years 1690 to 1808. Previous volumes noticed (*S.H.R.* xi, 111; xii, 100) established a standard system of calendaring these records, and the great structure grows steadily into such a memorial of the Campbells 'gentle and simple' as may well gratify the pride of 'Mac Cailean Mhor,' to whom (as the earlier volumes were to his predecessor) this third volume is appropriately dedicated. It is extremely instructive as a silent but visible demonstration, in another sense than the proverbial, of the 'far cry to Lochow'—of the broad base of Campbell power. The index alone, registering over 1200 persons with their residences, is an independent title to gratitude for its aids to family research.



Messrs. Macmillan and Co. have now completed the publication of their great illustrated edition of Macaulay's *History of England* in six volumes (London, 1913-1915, 10s. 6d. net per volume). The later volumes have well maintained the high standard of the first, and the book, as a whole, is beyond praise. It is a most fortunate circumstance that Professor Firth has found leisure to edit Macaulay in this way, for the illustrations he has selected form such a commentary as, one feels sure, the great nineteenth century historian would have liked to see. The wealth of Professor Firth's resources and his humanistic interest have enlivened even Macaulay's pages—no easy task, though not for the reasons usually suggested by the word 'even.' A few explanations about the illustrations might have been welcome, *e.g.* some readers will want to know if the monument erected to James VII. and II. in what Professor Firth calls (by an adjective which is not familiar in this connexion) the 'Scotch' College at Paris is still standing, and others would like to be able to read the inscription on the monument erected to James by Queen Victoria in the Church at St. Germain's. But to supply such information would have required another volume.

R. S. R.

THE DIPLOMACY OF THE WAR OF 1812. The Albert Shaw Lecture on Diplomatic History, 1914. By Frank A. Updyke, Ph.D. Pp. x, 494. Crown 8vo. Baltimore: The Johns Hopkins Press. 1915. \$2.50.

THIS study of a little known period formed the Albert Shaw lecture on Diplomatic history in 1914. It shows how the chief causes of the war were the right claimed by the British to search for deserters on neutral vessels and to impress American seamen. The latter was for twenty years the object of 'serious diplomatic negotiations.' The British diplomacy of this date was of a sledge-hammer order, as an American wrote: 'At this time English diplomacy cultivated very few of the arts and none of the graces,' and whether it dealt with Peace Proposals or the question of the Indians and the Canadian boundary there was hardly a State paper between 1806 and 1815 which, 'if addressed to the United States Government to-day, would not lead to blows.' The whole history of the negotiations and compromise, up to the treaty of Ghent, is very well and clearly told, and the final chapter on the 'Settlement of Controverted Questions' brings this well-written book to a satisfactory conclusion.

*Studies in Southern History and Politics.* (Pp. viii, 394. 8vo. Oxford: University Press. 10s. 6d. net.) An interesting collection of essays are included in this book. They are by the former pupils of Professor W. A. Dunning of Columbia University, to whom the volume is inscribed. Much of the book deals with the race problem of the South and the co-related question of negro education. There are other subjects of Southern interest touched on, however, such as 'The French Consuls in the Confederate States' and 'Carpet Baggers in the United States Senate.' One is much struck by the literary style attained in most of these essays as well as the admirable presentation of their historical facts.

The vigour of Welsh feeling in what may be styled its sub-national self-realisation appears in the progress already made by the National Library of Wales and in the issues from its private printing press. One of the latest of these is *Bibliotheca Celtica: A Register of Publications relating to Wales and the Celtic Peoples and Languages for the Year 1912* (Pp. vi, 262. 8vo. Aberystwyth, 1915).

In the *Juridical Review* for May Mr. Brodie-Innes, comparing the origins of the law courts in England with those in Scotland, elucidates the general history of what he correctly enough designates as 'an *Aula Regis* after the English model' until native evolution *plus* the Parisian *parlement* as an example produced the Court of Session. The article is a little sketchy and might with advantage have taken fewer generalisations for granted. Mr. W. Routhead, who narrates with fluency and skill, assails 'the Riddle of the Ruthvens,' *id est*, the Gowrie Conspiracy. He holds no brief for King James, but leans to the Gowrie side that it was James who was the conspirator. His paper contributes no fresh point to the problem, and he has apparently not seen the note of Mr. Eeles (*S.H.R.* viii, 366) on the Thanksgiving ritual set up by King James in England in 1603, which is psychologically a document on the case.

In *The Aberdeen University Library Bulletin* for June Mr. Kellas Johnstone writes instructively on 'The Lost Aberdeen Theses.' At first printed in Edinburgh the theses from 1622 onward came to be printed by Edward Raban, the university printer. Dr. P. J. Anderson has made extensive search for the theses with considerable success. Incidentally reference is made to the *Parerga* (1657) of David Leech in which allusion is made to one of the missing theses. It appears that only two copies of the *Parerga* are known: one at Trinity College, Cambridge; the other in the collection of Dr. David Murray, to whose learning and library alike fit tribute is paid. Perhaps it may be added that the writer of the present notice owns a third (possibly imperfect) copy of the *Parerga*.

The Academie Roumaine issues its *Bulletin de la Section Historique* for October last at a time when the present suspense of Roumania makes it of keen interest to Europe. Contents of this *Bulletin* are mainly articles by Professor N. Iorga on phases of early history. Most important of the group of these learned disquisitions (presented in translation into French) is a detailed study, occupying no fewer than 80 pp., on Venetian policy in the Black Sea from the time of the condottiere Dobroditsch, early in the second half of the fourteenth century down to the close of the fifteenth century, when the long sea-war of Venice with the Turk was, in spite of her own ultimate ruin, more or less the salvation of Europe from Islam.



## Communications

AN ENCLOSURE PROCEEDING IN MELROSE, IN THE YEAR 1742. Cumbersome as may have been the procedure by private bill under which Enclosures in England were effected, it had the advantage that the publicity of the method has enabled statistics to be gathered of the progress of enclosure in that country. It may be doubted if like statistics will ever be available for Scotland. For in Scotland the procedure took the form of a private lawsuit, carried on by the landowners concerned under the provisions of two Acts of the Scots Parliament passed in 1695. One of these was passed 'for preventing the discords that arise about Commonities, and for the more easie and expedit deciding thereof in time coming.'<sup>1</sup> It excepted, 'Commonities belonging to the King and Royal Burrowes,' but others might be divided 'at the instance of any having interest, by Summonds raised against all persons concerned, before the Lords of Session.' Heretors (*i.e.* landowners) having rights in Commonities brought to division in this way were to have their interests 'estimated according to the valuation of their respective lands or properties. And which Divisions are appoynted to be made of that part of the Commonity that is next adjacent to each heretors property.' According to Erskine<sup>2</sup> no method was known for dividing commons or commonities till the passing of this Act.

The other Act<sup>3</sup> dealt with the redistribution of lands lying run-rigg, the term by which the open-field system was known in Scotland and Ireland.<sup>4</sup> A rigg in Scotland was a measure of land extending to 240 paces by 6 paces, or 600 feet by 15 feet, and thus containing 9000 square feet.<sup>5</sup> It was thus rather smaller than the English rood, which was based on a rod of 16½ feet and a furrow of 660 feet. This Act narrates 'the great disadvantage arising to the whole subjects from Lands lying run-rigg, and that the same is highly prejudicial to the Policy and Improvement of the Nation, by planting and inclosing,' and provides for a division of such lands before the 'Shirriiffs, Stewards, and Lords of Regality or Justices of Peace of the several Shires where the Lands ly.' In making this division the Judges are 'restricted, so as special regaird may be had to the Mansion houses of the respective Heretors, and that there may be allowed and

<sup>1</sup> 1695, c. 38.

<sup>2</sup> *Institutes of the Law of Scotland*, book iii. title iii. § 56.

<sup>3</sup> 1695, c. 23.

<sup>4</sup> Seebohm's *The English Village Community*, p. 3.

<sup>5</sup> *The English Dialect Dictionary*, art. 'Rigg.'

## An Enclosure Proceeding

adjudged to them the respective parts of the Division, as shall be most commodious to their respective Mansion houses and Policy.'

Enclosure in Scotland under the provisions of these statutes seems to have proceeded slowly. Eighty years later Adam Smith remarked, 'The present high rent of inclosed land in Scotland seems owing to the scarcity of inclosure, and will probably last no longer than that scarcity.'<sup>1</sup> An instance of a proceeding under the statute for the division of run-rig lands has come under the notice of the writer, and is no doubt illustrative of many such proceedings.

Certain run-rig lands, described as lying in the Annay, Rack, Weirhill and Bishopflat of Melrose, within the Regality and Parish of Melrose and County of Roxburgh, were divided after separation of the crop of 1742; and, with a prolixity to be expected from a legal document of these days, the official record of the division narrates the whole course of the lawsuit from its commencement to the taxation of the costs. It appears to have been the better educated and presumably more intelligent members of the community who took the initiative—Dr. John Rutherford and Charles Wilkieson and William Hunter, writers in Melrose. The Superiority of Melrose having, after the Reformation, been annexed to the Crown, and ultimately acquired by the Buccleuch family, they raise a 'precept of Division of Run-rig' before 'George Grant, Factor for the Right Honourable Lady Isabella Scott, daughter of the deceased Ann Dutchess of Buccleugh, Bailie of the Regality of Melrose.' After citing the last-mentioned Act they aver that their lands 'lie Runrigg or rundale and interspersed not only with one anothers Lands but also with the other Lands in the said Annay, Rack, Weirhill and Bishopflat . . . Wherefore they the pursuers had good and undoubted right to pursue for a Division and Excambion of the Inter Jacente grounds or runrigg or rundale Lands either belonging to themselves severally or to the said other Heritors and at present possessed whither as property or commony so as quantity and quality considered, so much might be reciprocally excambed between them and set off and adjudged in the way of Excambion and Division as might serve to make the Lands belonging to each of the said heritors lye contiguous and distinct without any mixture or interjacency of one anothers Lands.' The failure of the pursuers' attempts to have the redistribution of the lands carried out extra-judicially is then narrated, and the necessity of the present proceedings averred.

The remaining feuars being called into the Bailie's Court, John Hoy and Alexander Wilkieson alone appear and object. The former maintained that his four acres being enclosed by planting should not be affected by the division, but as two Riggs or dales belonging to Andrew Dawson lay in the middle of his lands, his objection was speedily overruled. Wilkieson presented a Petition to the Bailie urging a similar plea in regard to his property known as the Tenter Yard, and the question of whether it was part of the run-rig lands or not was remitted to a proof, on which it was found that the petitioner 'had succumbed in proving that the piece

<sup>1</sup> *Wealth of Nations*, book i. chap. xi.



of ground called the Tenter Yard is or ever was enclosed and that the pursuers have proven that it is not now (nor has been for upwards of forty years past) inclosed by any Dyke, Ditch or Hedge: Found it also proven that there is and has been a common and promiscuous pasturage used by all the Heritors of the runrigg lands of Melrose yearly from after Harvest till Seed time and that this common pasturage is extended over the Tenter Yard as well as the other lands, and therefore refuses the desire of the Petitioner.'

These objections illustrate the sort of questions which were likely to occur in such proceedings. Being disposed of, the way was clear for receiving a report from a measurer of the lands, taking evidence on the qualities of the soils, and then portioning out the new holdings. Before the final division Dr. Rutherford, the leading pursuer, acquired the rights of three other proprietors and received a proportionately larger allotment,—a significant suggestion of the way in which consolidation of holdings would be facilitated by the new system. Representations of the feuars in regard to roads were given effect to, and the Decreet of Division contained a declaration that the feu duties payable to the Superior were to remain as formerly. Thus the basis of the rural economy of Melrose was modernised.

The connection between enclosure and agricultural improvement is well illustrated by what took place at Melrose. Dr. John Rutherford referred to in these proceedings (who is not to be confounded with the distinguished grandfather of Sir Walter Scott) was a gentleman who had made agricultural improvements his favourite study, and is reported to have been the first, in his part of the country, who sowed turnips by the drill in the field. He began his turnip experiments in 1747, a few years after his share of the run-rig lands had been allotted to him. The curious will find an interesting account of his agricultural enterprises (which include also the introduction of artificial grasses) in Ure's *View of the Agriculture of the County of Roxburgh*, one of the numerous county reports made to the Board of Agriculture after its institution in 1793. In using his turnips to fatten two bullocks Dr. Rutherford was extraordinarily successful, which serves to recall old Thomas Tusser's lines, written almost 200 years earlier:

More plenty of mutton and beefe,  
 Corne, butter, and cheese of the best,  
 More wealth any where (to be breefe),  
 More people, more handsome and prest,<sup>1</sup>  
 Where find ye (go search any cost)  
 Than there where enclosure is most ?

JOHN H. ROMANES.

**FORGED SCOTTISH LETTERS OF SAFE-CONDUCT OR PASSPORTS, 1595.** A contributor sends us an extract from the Belgian historian Reidan in the hope of eliciting from some readers further information on the alleged forgery of the Scottish seal for passport purposes in Spain. Our correspondent remarks: 'The allegation that the false

<sup>1</sup> Neat.

issue of such papers had gone on for ten years anterior to 1595, and that Queen Elizabeth's minister, Lord Burleigh, was accessory to the forging seal-cutter's escape, perhaps gives a clue to the incident as one of the many wiles of Elizabethan diplomacy and espial in the Armada time. But the preliminary need is to ascertain what, if any, corroboration there may be of the Belgian author's statement.' The passage is appended.

'Compertumque mense Decembri anni MDXCV Britannum insignium sculptorem Scotiæ Regis sigillum effinxisse ac per annos decem innumeras tuti itineris literas supposuisse quis (*sic*) tanquam genuinis in Hispania Britanni utebantur. Quâ de re Scotiæ Rex per legatum suum apud Reginam questus, imprimis objecit quod non occulta dissimulatione sed palam praesidio Burglæi Thesaurarij fraudator evasisset : quin & discedenti datum ut ternas naves pannum vehentes ad Fortunatas insulas assumeret.'<sup>1</sup>

<sup>1</sup> *Belgarum Aliarumque Gentium Annales*. Auctore Everardo Reidano : Dionysio Vossio Interprete, 1633, p. 360.



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# The Scottish Historical Review

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## A Scottish Charter-Chest<sup>1</sup>

SIR JAMES RAMSAY has laid historical students under another and an unexpected obligation by publishing to the world the large series of deeds and other documents connected with his own estates in Forfarshire and Perthshire, from the early part of the thirteenth to the beginning of the eighteenth century. Apart from their value to the family in possession, the contents of a charter-chest have always more or less of general interest. They often throw curious light on the domestic life of bygone generations, and thus supply fresh data to the historian. In the present instance, the documents, so carefully preserved and so well presented in this handsome volume, relate to property that lies close to the border of the Scottish Highlands. It might perhaps have been expected to furnish traces of the raids and robberies often supposed to have been part of the daily experience of the population that lived so near to the fastnesses of the unsettled and marauding Celtic clans. But varied as are the contents of the book, they include no allusion to any disturbances of the kind. The editor indeed calls attention to the evidence that, as far back as his documents go, the inhabitants on both sides of the so-called Highland-line were in the main not Celtic, but were in large measure of Scandinavian origin. Yet that the population over all that territory had at an

<sup>1</sup> *Bamff Charters*, A.D. 1232-1703. With Introduction, Biographical Summary, and Notes. Edited by Sir James H. Ramsay, Bart. of Bamff, Litt.D., LL.D. Oxford University Press. 1915.

earlier time been essentially Celtic is manifest from the abundant Gaelic topographical names which have survived there down to our own day. In this north-eastern part of Scotland the demarcation between Highland and Lowland scenery is much less marked than elsewhere. There can be little doubt that the northern invaders were here able to spread over much of the land, absorbing or driving away the earlier Celtic people, who, in the counties further to the south-west, where the mountains descend abruptly to the plains, were able down to recent times to maintain their ground close up to the very edge of the Highlands.

The documents preserved at Bamff, dealing mainly with the transfer and lease of land, show to what a singular degree the subdivision of ownership was carried in this part of Scotland. A small proprietor would parcel out his ground among tenants and cottars, even into sixth parts, each of which necessitated the preparation of at least one imposing legal document. A constant trafficking in such petty holdings went on for successive generations. By degrees the family of Bamff acquired many of the surrounding properties, and the deeds recording their acquisition form a considerable proportion of the papers in the Charter-chest. Together with these come marriage-contracts, decreets concerning the boundaries of lands, inventories of personal effects, and many other writings, the whole collection affording some welcome glimpses into social life of Scotland during a period of not far short of five centuries.

According to Gray's *Scala-chronica*, when King William the Lion brought back with him into Scotland the younger sons of families that had shown him kindness during his captivity in England, the family of the Ramesays was included. Eighteen years after the death of that monarch, his successor on the Scottish throne, Alexander II., granted to his court-physician, Neis Ramsay, certain lands, including those of Bamff, near Alyth, in Forfarshire. The Latin Charter by which this gift was made, being the oldest document in the whole collection and the earliest certain trace of the family, very properly comes first in the volume, and is represented by an excellent facsimile. It is a parchment remarkable for its brevity. It measures no more than  $8\frac{1}{4}$  inches in length by  $5\frac{1}{4}$  in width, and is in good preservation, retaining even a portion of the attached Great Seal. The writing is exceptionally clear and legible. Neis, the founder of the Bamff branch of the Ramsay gens, must have been a man



of considerable distinction. He is called in the charter 'Magister Nessus, medicus noster.' He seems to have taken a Master's degree, which in Scotland was doubtless a rare accomplishment in his days, for in that country there was then, and for nearly 200 years later, no university. He may have studied at Oxford, perhaps more probably at Paris. The terse phraseology of this document forms a striking contrast to the prolix verbosity of the legal language of later centuries. In early times the documents were composed by ecclesiastics of various grades, and their purport was expressed with commendable succinctness. The day of the professional notary and writer, with their interminable multiplication of sasines, confirmations, and the rest, was still to come.

Much information may be gathered from the volume concerning the names of the lands and of the proprietors and tenants in this part of Scotland. Moreover, the editor has been at pains to prepare a full and well-arranged Index to these names, which must have formed by no means the smallest part of his labour. The marches of different farms and estates, carefully defined from time to time and duly recorded in various 'Decreets' and 'Instruments,' afford valuable material for comparison with the maps of our Ordnance Survey, and the names as spelt some centuries ago supply here and there the true meaning of their modern corruptions. Two of the most curious documents here brought together are inventories of the personal effects of one of the lairds of Bamff and of his great-grandson. As the editor points out, the list of the 'goods and gear' of the head of the family, in the first half of the sixteenth century, exhibits a lamentable picture of the poverty even of the gentry of Scotland at that time, bare food and clothing being all that they could show. The laird had indeed 'the attire and equipment of his station as an esquire and minor baron,' but 'there is not a married labourer's cottage on the estate at the present day but can show more comfort than the manor-house of 1535.' A striking contrast to this penury is supplied by the inventory of the effects of the great-grandson, who became the minister of Arbroath and died in 1632. The standard of living in Scotland had evidently risen considerably in the course of a hundred years, for the pitiful meagreness of the earlier time, even in the house of the laird himself, was now succeeded by 'the substantial comfort, not to say luxury' of a clergyman of the Presbyterian Church.

Occasional references to the connection of the Ramsays of Bamff with important national events are to be found in the

volume. The earliest of these is a copy of the Ragman or Bond of Allegiance to Edward I., which was sworn by Adam de Ramesey at Berwick on 28th August, 1296. The original document in Norman French and with the signatory's seal attached is still extant in the Public Record Office. The seal is in excellent preservation, as shown by the photographic reproduction of it given at p. 12. At the time of the Reformation the family at once accepted the new order of things. The head of the house attended the Convention Parliament, which in a single day (25th August, 1560) rejected the jurisdiction of the Pope, forbade the celebration of the Mass, and established the Protestant form of religion. A century later an interesting incident in the family history took place. The young heir to the Bamff estates, who had recently been a student at St. Leonard's College, St. Andrews, married in October, 1666, Christian Ogilvie, niece of the Earl of Airlie. The Earl of Athol was at this time raising a troop of horse to be added to the regular army in Scotland for the purpose of putting down the insurrection of the Westland Whigs. The bridegroom, having obtained a captain's commission in the Earl's troop, took part a few weeks after his marriage in the Rout of Rullion Green, where a body of the rebels was dispersed. In recognition of his services in this action a baronetcy was straightway (December, 1666) conferred by Charles II. not on the son but on his father, for 'it was found that to promote a son, and so young a man, over his father's head would shock the sense of the age.' In the course of time, however, the son came into possession of the estates and title, which have descended through the centuries to the present baronet.

Among the various documents in the volume, indications are supplied that the landed estates of the Roman Catholic Church continued in many cases to be administered by the officials of that church for some years after the general 'forfaulture' had been decreed. Before the storm finally burst, it could be seen to be rapidly approaching. Hence the more provident of the bishops and other dignitaries of the older faith took steps to sell or lease their lands and teinds before these could be seized by the triumphant heretics. The Bishop of Moray and Perpetual Commendator of the Abbey of Scone was particularly active in these efforts. He is said to have 'found his bishopric in good condition but feued out all the lands belonging to it.' Thus we learn from the present volume that, with consent of his Chapter, he granted in August, 1559, feu-charters of lands in the neigh-



bourhood of Bamff, and that as late as September, 1570, he gave a charter of the fishings in the Water of Ericht 'to be held of the Abbots and Convent of Scone for the yearly payment to them of 8 marks 6s. 8d.' Though deprived of his ecclesiastical position, he was allowed to retain possession of his episcopal palace of Spynie Castle until his death in 1573. Again, Robert Crichton, the last Catholic Bishop of Dunkeld, was still able in 1584, that is, fourteen years after the establishment of Calvinism in Scotland, to grant, with consent of his Dean and Chapter, to the laird of Bamff a nineteen years' lease of the teind sheaves of the lands and barony of Bamff and of other lands. Disputes would inevitably arise over the validity of these conveyances made by the ousted prelates, with consequent appeals to the Courts or to the Crown. Thus formal deeds of confirmation were issued by King James at Holyrood House on 12th May, 1587, to some of the holders of the charters granted in 1559 by the Commendator and Convent of Scone.

Considerable interest attaches to the attestations of the various deeds in the Bamff Charter-chest. Thus we gather from the royal charters the names of the personages immediately surrounding the monarch at the time when the writs were granted. The names of the witnesses in such cases are often those of the chief dignitaries of the kingdom. For instance, the Charter of Alexander II. to the founder of the family of Bamff was attested by the Bishop of Aberdeen, the Chancellor, the Justiciar of Scotland, the Earl of Mar, Malcolm, son of the Earl of Lennox, and others. A charter by King Robert II. was witnessed at Stirling on 12th January, 1382-3, by the Bishop of St. Andrews, the Bishop of Dunkeld, Chancellor, the King's eldest son, who was Earl of Carrick and High Steward of Scotland, the Earl of Buchan (famous as the 'Wolf of Badenoch'), the Earl of Douglas and Marr, Sir Archibald de Douglas and Sir Robert de Erskine. A Latin parchment of date 24th April, 1510, wherein King James IV. confirms a charter granted the previous year, was witnessed at Edinburgh by the Archbishop of St. Andrews, Chancellor, the Bishop of Aberdeen, Keeper of the Privy Seal, the Bishop of Caithness, Treasurer, the Earl of Argyle, Lord Campbell and Lorne, Master of the Household, the Earl of Lennox, Lord Hume, Chamberlain, Lord Gray, Justiciar, the Archdeacon of St. Andrews, Clerk Register, the King's Secretary and the Director of Chancery. A charter granted by Mary, Queen of Scots, at Perth on 14th May, 1564, bears the attestations

of the Archbishop of St. Andrews, the Earl of Morton, Chancellor, the Lord Keith, Earl Marischal, Sir Richard Maitland of Lethington, Keeper of the Privy Seal, M'Gill of Rankelour Nethir, Clerk Register, and Sir John Bellenden, Justice Clerk.

In the earlier documents the witnesses did not sign their attestations. But deeds in which the witnesses sign their names "with my own hand" begin to appear in the Bamff charter-chest among the documents belonging to the later half of the sixteenth century.

The backward state of education in the country is shown by the inability of some of the witnesses to write. Thus in the early half of the seventeenth century even the wife of the laird of Bamff could not write her name, and her daughter was unable to sign her marriage contract. In each case the signature was given 'by the aid' of two notaries. For a man who could not write, the help of a single notary appears to have been considered sufficient.

Many additional features of more or less general interest might be cited from the *Bamff Charters*. But from the examples here given it will be seen how valuable is the service which Sir James Ramsay has rendered to Scottish domestic history by the preparation and publication of this entertaining volume, wherein more than 300 original documents extending back to the reign of Alexander II. are now for the first time given to the world.

ARCHIBALD GEIKIE.



# Municipal Elections in the Royal Burghs of Scotland

## I. PRIOR TO THE UNION

WHEN, towards the end of the eighteenth century, Scotland began to be influenced by the movement for reform one of the first abuses to be attacked was the system of municipal government. No one who has read the 'Provost' and other contemporary writings can be surprised that the town councils, 'sinks of political and municipal iniquity,' as Lord Cockburn called them, were singled out as the first objective of the reformers. Lord Cockburn declared that in Scotland 'as a body to be deferred to, no public existed.' Nor did it exist as a body that was represented. Scottish parliamentary representation was notoriously corrupt, Dundas was the 'Manager of Scotland,' and his management entailed and depended upon the existence of smaller managers, of municipal as well as of national venality. Scottish burgh representatives were elected by delegates chosen by the town councils, and, as these were practically self-elected, only a comparatively small number of persons required to be guided in the exercise of their vote. Except for those who had a very material interest in affairs, therefore, the inhabitants of the burghs had no motive for being interested either in municipal or in national politics. The desire to possess a vote in the election of a delegate was not, however, the only motive which made a Mr. Pawkie anxious to be chosen by the councillors to join them at the board. The management of the common property and of the revenues of the burgh was another function of the council, and as this was exercised practically without any public supervision or control it often brought some profit to the magistrates and councillors of the burgh. The history of Scottish burghal institutions shows various attempts to control the council's exercise of this power, but they were unsuccessful, and much property and revenue were lost to the burghs by the dishonesty

and carelessness of their councillors and officials. The prevalence of abuses was largely due to the vicious system of self-election of magistrates and council, which was common to all the royal burghs in the later centuries of their history.

In the earliest Scottish burgh charters the references to the government of the towns are fewer than in the contemporary English charters, and there is no mention of the method of election. But there existed in Scotland a code of municipal law, the burgh laws, and this provided for the election of alderman and bailies 'thruich the consaile of the gud men of the toune.'<sup>1</sup> The guild statutes of Berwick, too, ordained that the mayor and bailies should be chosen 'at the sight and by the consideration of the whole community.'<sup>2</sup>

The only early burgh records which survive, those of Aberdeen, bear out the evidence of the laws as to popular election. But in 1469 it was ordained that because of great trouble and contention yearly in choosing burgh officers, 'throw multitud and clamour of common sympil personis,' the elections should take place yearly, and that the old council should choose the new, and that both together should choose the magistrates. Each craft was to choose one of their number to have a voice in this election.<sup>3</sup> Acts of the Scottish parliament were not, however, immediately and invariably put into execution, and this statute of 1469 cannot have been universal in its application. The Aberdeen records show that from the end of the fourteenth to the end of the sixteenth century the provost, four bailies and four common sergeants were elected, generally in the head court, by the votes of the burgesses or of the community, even after the Act of 1469 had been passed. For a hundred years, however, before 1590 the office of provost had been held by one of the Menzies family. The council appears to have been elected in 1399, 1435, and 1481 in the head court, and in 1439 and 1474 in the guild court, but the electors are not specified. The councillors seem to have held office for life. In 1591 there had been no change for thirty years or more. Towards the end of the sixteenth century the quarrel between the merchants and the craftsmen of Aberdeen became acute and appeal was made to outside authorities to settle the matter. The magistrates and council were accused of 'having amassit themselves into a faction to procure

<sup>1</sup> *Ancient Laws and Customs of the Burghs of Scotland* (Burgh Records Society), p. 34.

<sup>2</sup> *Ibid.* p. 81.

<sup>3</sup> *Acts of the Parliament of Scotland*, ii. 95.



lordship,' and of having sat without lawful election for thirty years. After the case had been brought before the Court of Session a decret arbitral of James VI. declared that acts of parliament should be observed in the burgh elections,<sup>1</sup> and the convention of the burghs laid down the details of the election in accordance with the Act of 1469.<sup>2</sup>

A number of charters granted to other burghs after 1469 specified who should elect the magistrates and council, and these provisions were often quite at variance with the act. Those of twenty-three burghs, granted in the sixteenth and seventeenth centuries, had clauses granting rights of election of magistrates and council to burgesses or to inhabitants, sometimes together with magistrates or with consent of certain persons. Eleven charters gave the privilege to provost, bailies, council and community, six to magistrates and council.<sup>3</sup> There were also occasional references in complaints about elections to the share of the community in choosing magistrates. But the act abolishing popular election was in existence, it provided an excellent opportunity for those who wished to continue themselves in office, and the constitutions of the burghs seem gradually to have come more and more into conformity with its regulations.

The supervision of the administration of the common good of the royal burghs was one of the duties of the chamberlain, who inquired at his ayre if 'the commone purs be weil kept' and if 'there be a just assedation and uptaking of the common gude of the burgh.'<sup>4</sup> This jurisdiction was confirmed by an act passed in 1491, which at the same time ordained that none of the yearly revenues of the burghs were to be set for a longer period than three years.<sup>5</sup> But the chamberlain cannot have long continued to discharge his functions after the end of the fifteenth century, consequently there was no oversight of the disposition of the common good, and that process of alienation and dilapidation of the common property of burghs began by which a great part of it was lost to its corporate owners, and the towns, deprived of their sources of income, became by the eighteenth century, if not

<sup>1</sup> *Report from the Committee to whom the several Petitions presented to the House of Commons from the Royal Burghs of Scotland were referred* (1793), pp. 5-11.

<sup>2</sup> *Records of the Convention of the Royal Burghs of Scotland*, i. 385-6.

<sup>3</sup> *Report*, 1793, Appendix A.

<sup>4</sup> *Ancient Laws and Customs of the Burghs of Scotland*, i. 120, 153.

<sup>5</sup> *Acts, Scotland*, ii. 227.

earlier, burdened with debt. Of the opportunity given by the decay of burghal supervision advantage was speedily taken both by outland men, lairds and noblemen, getting themselves made provost or bailie 'for thare awine particular wele In consumyng of the common gudis of burrowis,' and by burgesses whose greed of gain was greater than their loyalty to their town. Difficulties seem to have arisen as early as 1487, when an act was passed declaring that the 'eleccioun of the officiaris micht be of the best and worthiest Induellaris of the town, and nocht be parcialite nor masterschip quhilk Is vndoing of the borowis.'<sup>1</sup> The qualifications for the magistracy were made more definite in 1503 when an act providing for yearly elections also laid down that none should have office in a burgh but those who used merchandise there.<sup>2</sup>

These acts did not suffice to protect the interests of the burghs. People like Oliver Maxtoun, who got himself made provost of Perth and then declared 'planelie he suld haue his handis full of our commoun gudis,'<sup>3</sup> obtained office in burghs, and by 1535 it was said that the burghs were 'waistit and distroyit in thair gudis and polecy and almaist Ruynous,' partly because 'outland men' had become magistrates and appropriated the common good. Therefore it was ordained that only indwelling burgesses and merchants were to be chosen as provost, bailies, etc., and also that all burgh officers were to bring the account books of their common good yearly to the exchequer for the lords to see if it was spent for the common weal of the burgh. To give some popular control the magistrates were ordered to give notice fifteen days before they came to the exchequer that anyone who liked might come to examine the accounts.<sup>4</sup> The accounts were apparently laid open for inspection in the town, and then burgesses who wished to make any complaint had to journey to the exchequer, obviously difficult in many cases and almost impossible in some, and enter their objections there. Another defect in this statute was that only the account books and no rental of the common good were produced, and so it was difficult to found a charge against the magistrates.

There are records of some burghs making account before the exchequer between the years 1575 and 1581, but there are also

<sup>1</sup> *Acts, Scotland*, ii. 178.

<sup>2</sup> *Ibid.* ii. 244.

<sup>3</sup> *Proceedings of the Lords of the Council*, vii. (Nov. 13, 1532).

<sup>4</sup> *Acts, Scotland*, ii. 349.



many instances of complaints to the privy council of peculation of the common good. The community of Aberdeen complained in 1590 that the 'race of Menzeissis' had usurped the magistracy for eighty years, and had spent and wasted the common good, suffering the common works to decay and become ruinous.<sup>1</sup> In St. Andrews Sir Patrick Learmonth of Dairsie had himself continued as provost, appropriated the common lands and their yearly profits, and disposed to one of his sons the customs of the corn market.<sup>2</sup>

The private acts which began to be granted to burghs after 1581, authorising the magistrates to levy new tolls and customs for revenue, probably show that in many cases the income from the common good was declining. Action by parliament seemed to be necessary, and in 1587 burghs were forbidden to sell or dispose their freedoms without consent of the estates in parliament.<sup>3</sup> In 1593 complaint was made that the patrimony of the burghs had been converted to particular uses, and that thereby the burghs had become 'vnhabable ather for his hienes service Or to sustene the estait of the burgh.' To remedy this state of poverty it was again enacted that the common good should be bestowed yearly upon the common affairs of the burghs, and that it should not be alienated to any other purpose.<sup>4</sup>

But some years before this act was passed the regular sittings of the convention of the burghs had begun, and this body was devoting considerable attention to the internal affairs of the burghs, to the constitution and election of the magistracy, and to the administration of the common property of the towns. The dealings of the convention with the latter question may be divided into two periods. During the first, lasting until the Civil War, the convention endeavoured to force all burghs to bring their accounts of the setting and of the rental of the common good for the inspection of the commissioners. This, although the friends of reform in the eighteenth century would have objected that it was on the principle of setting a thief to catch a thief, did seem to exercise a wholesome check upon that system of granting long leases of burghal property, often at very low rates, which has proved so disastrous to the common weal of Scottish burghs. But during the later period the convention seemed to confine its interference to licensing, on the application of individual burghs,

<sup>1</sup> *Privy Council Register, First Series*, iv. 533-4.

<sup>2</sup> *Ibid.* iv. 42-4.

<sup>3</sup> *Acts, Scotland*, iii. 506.

<sup>4</sup> *Ibid.* iv. 30.

long tacks of their property, without seeking to reduce the length of the leases in conformity with the law.

As has been said, the act of 1469 set up the system of municipal government which gradually came to be in vogue in almost all the burghs, and which survived until the Reform Act of 1833. Later acts of parliament and of privy council were concerned principally with making regulations about the qualifications for the magistracy, endeavouring to keep the government of the burghs in the hands of the townspeople, and to prevent encroachments of outsiders. The acts of 1503 and 1535 declared that only burgesses, merchants and indwellers should be eligible as magistrates. But neither the efforts of the convention of the burghs nor appeals to the privy council could keep the burghs free from the intrusions of the neighbouring lairds and gentry, and in 1609 it was again declared that only merchants should be elected, the contrary practice 'being of the selff very unfitt and undecent as making a confusioun of Esteatis of Parliament, and being muche prejudiciall to the burrowis in haveing for their cheif magistrate ane of that qualitie, who rather maid use of thame for his awne privat eirand then onyway intendit thair publict goode.'<sup>1</sup> At the same time the privy council made a special charge to provosts and bailies, because several burghs 'intendis this present yeir and heirefter to mak choise of strangeairis to beir office and reull amangis thame,' according to the old custom.<sup>2</sup> Charles I., soon after his accession, wrote to the council to order it to see how these acts were observed.<sup>3</sup> The result of the inquiries does not seem to have been satisfactory, and the privy council declared in August, and again in December, of 1626 that former acts must be kept, and that because 'the hoip of impunitie and the connivence formarlie gevin to personis offending of this kynd hes bene ane grite occasioun' of their disregard, the king had resolved to punish rigorously all who offended.<sup>4</sup>

A good many cases connected with burgh elections came before the council. Sometimes, as in Renfrew, it was complained that outland men got themselves made provost, 'perverting thairby thair liberteis and privilegis, and doand that in thame lyis to put the said toun and haill inhabitantis thairof under thraldome and

<sup>1</sup> *Acts, Scotland*, iv. 435. *Privy Council Register*, 1st Series, viii. 597.

<sup>2</sup> *Ibid.* viii. 356.

<sup>3</sup> *Royal Letters*, i. 70.

<sup>4</sup> *Privy Council Register*, 2nd Series, i. 393-4, 476-8.



subjection.'<sup>1</sup> James Henderson, who was heritable provost of Inverkeithing, declared that the inhabitants refused to obey him 'alluterlie.'<sup>2</sup> Mary, her son, and their advisers occasionally recommended that one of their supporters should be elected provost in some particular burgh, and made sure that he was given office. James interfered in Edinburgh, and in 1582 sent directions about the councillors whom he wished to be appointed. The people remonstrated, with the result that he gave them the name of the provost whom they were to choose as well.<sup>3</sup> The St. Andrews electors in 1611 'most prouddie, stubbornlie, disdainefullie, and contempnandlie' proceeded to choose their own magistrates instead of those nominated by the king, and the council committed them to ward, specifying that the provost, Knox, should be put in the 'thevis hole, or some suche vile presone.'<sup>4</sup> At the beginning of James VI.'s reign it was declared that no one should hold office except 'sic as professis the puritie of religioun and doctrine now presentlie establishit,' and in 1574 it was again ordained that only 'zealous professouris of the trew and Christiane religioun' and 'affectionat weilwillaris to the advancement and furthsetting of our Soverane Lordis autorite and service' should be elected as provost, magistrates, etc.<sup>5</sup> Again it was ordained that all officers in burghs must conform to the Articles of Perth.<sup>6</sup> Those who resisted or neglected these orders were removed from office and punished.

The convention of burghs, which was already striving to prevent the waste of burghal property, also endeavoured to make the burghs keep the acts of parliament and council about the election of magistrates. It made statutes reaffirming them. It also insisted in many cases and at various times that report should be made to the commissioners about the form of election in burghs, fining those where the prescribed method was neglected or the magistrates or council had not the required qualifications. Then, too, in a few cases, appeal was made to the commissioners to settle disputes in burghs and new sets were given to the towns. The privy council sometimes interfered when the acts about the qualifications of magistrates were disregarded, sometimes in cases in which the convention was not making any move, at others

<sup>1</sup> *Privy Council Register*, 1st Series, ii. 573-4 (1576).

<sup>2</sup> *Ibid.* ii. 15-16 (1569).

<sup>3</sup> Maitland, *History of Edinburgh*, pp. 40-2.

<sup>4</sup> *Privy Council Register*, 1st Series, ix. 635, 277-8.

<sup>5</sup> *Ibid.* ii. 401-2.

<sup>6</sup> *Ibid.* xiii. 603-4.

enforcing the law when the convention was unable to do so. The convention in 1593 declared that the provost, bailies, etc., and council must be chosen according to the acts of parliament and the burgh laws,<sup>1</sup> and this was reaffirmed in 1614, with the addition that all burghs were to report their proceedings at election time to the convention under pain of a fine of £20.<sup>2</sup> In 1636 a more specific declaration was made, that the elections must be made conform to the acts of parliament and of the burghs, that no one should be on the council but merchants and craftsmen, dwellers in the burgh, and that no one but the old and new councils were to have votes in the election.<sup>3</sup>

In order to enforce these acts and ordinances the convention ordered in some cases a report of the form of election to be made to it; as in 1607, when the commissioners ordered Dumbarton to produce at the next meeting 'the maner and forme of thair electioun of the magistrates and counsall presentle vsit be thame' to be examined to see if it was in conformity with the acts. Dumbarton produced a satisfactory act of court of their Michaelmas election at the next meeting.<sup>4</sup> Occasionally a general order was given to all the burghs to produce their form of election. This was done in 1617, when, at the same time, Perth, Stirling, Linlithgow, etc., where the commissioners knew of special abuses that had been committed, were specially ordered to obey this act.<sup>5</sup>

Fines imposed for elections of unqualified persons were frequent, though not always effectual. Perth often transgressed in this manner, and was fined, in 1613, £100 for electing first a craftsman to the office of provost and then allowing Lord Scone to occupy the post. He was re-elected in 1616 and the town was fined £500, but he continued in office in spite of the efforts of the convention to have him removed,<sup>6</sup> and of the summons of the privy council to answer for his breach of the law.<sup>7</sup> More trouble was given by Perth later, for in 1628 Viscount Stormonth had held the provostship for some years and the commissioners of the burghs 'recenting this proud and high contempt of the burgh of Perth in the unlaughfull electioun of the said Viscount to be their proveist, and being sorie that suche ane imputatioun of ane wilfull and willing breake of the law should reflect upoun

<sup>1</sup> *Convention Records*, i. 413.

<sup>2</sup> *Ibid.* ii. 448.

<sup>3</sup> *Ibid.* iv. 542-3.

<sup>4</sup> *Ibid.* iii. 243-4, 255.

<sup>5</sup> *Ibid.* iii. 38.

<sup>6</sup> *Ibid.* ii. 411-2; iii. 19, 36, 57, 79, 103, 113, 129.

<sup>7</sup> *Privy Council Register*, 1st Series, xii. 120-1.



a member of thair bodie,' had in several meetings admonished the commissioners of Perth, but to no purpose. The council had then ordered the election to be made according to the act of 1609, but the electors 'most maliciouslie and contemptuouslie' again chose Stormonth. He was himself a member of the council, but on being summoned sent a testimonial by the minister of Scone that he was 'heavilie diseased' and unable to travel without hazard of his life. His election was declared null and the council was ordered to hold a new election.<sup>1</sup>

Linlithgow was fined in July, 1619, for electing Andrew Milne, surgeon, as provost. They showed at the next convention that he had been removed from office,<sup>2</sup> but, in the meantime, at the Michaelmas election of the same year, Lord Livingstone had been chosen. He withdrew at the command of the privy council.<sup>3</sup>

Appeal was occasionally made to the convention during this period to give new constitutions to burghs. Dunfermline transgressed the prescribed form for election of magistrates by electing a craftsman to be a bailie, and was therefore fined. But the merchants and craftsmen submitted themselves to the convention, and asked that a new form of election should be given them. The commissioners decreed that the council should be composed of sixteen, nine merchants and seven craftsmen, but no craftsmen were to be eligible as magistrates unless they chose to give up their crafts.<sup>4</sup> Stirling was also fined for electing a craftsman as bailie, and received a new constitution in which seven out of twenty-one councillors were to be craftsmen, none of whom were to be eligible for the magistracy.<sup>5</sup>

The troublous times of the Civil War left confusion in many of the burghs, and early in 1652 the deputies of several of the most important towns asked the English parliament that new elections might be held throughout the burghs,<sup>6</sup> and next year the commissioners of the burghs desired their clerk, then in London, to find out 'in ane moderat way' why an order for staying the election of magistrates had been issued by the council of state, and what may 'be the sequele thair of.'<sup>7</sup> In 1654 the

<sup>1</sup> *Ibid.* 2nd Series, ii. 233-5.

<sup>2</sup> *Convention Records*, iii. 79, 103.

<sup>3</sup> *Privy Council Register*, 1st Series, xii. 120-1, 130-1.

<sup>4</sup> *Convention Records*, iii. 61-5 (1618).

<sup>5</sup> *Ibid.* iii. 110-111 (1620).

<sup>6</sup> *Historical Manuscripts Commission Report, Portland Papers*, i. 628-9.

<sup>7</sup> *Convention Records*, iii. 368.

English rulers seem to have taken the matter into their own hands, for an ordinance empowering commissioners to appoint magistrates and councils in the Scottish burghs was agreed to.<sup>1</sup> Next year the Protector authorised the council in Scotland to remove any disaffected or scandalous magistrates from office.<sup>2</sup> Shortly after this a declaration was issued removing all prohibitions and allowing all cities, burghs and towns corporate in Scotland to choose their own magistrates and council as long as the persons elected were not dangerous to the commonwealth or scandalous in life and conversation.<sup>3</sup> There was some question in 1657 of an interference in the elections in Glasgow, but Monk opposed any such act very strongly, because the nation, 'after longe and many tumblings,' was entering into a settlement on parliamentary principles, and the privileges of the burghs had been ratified to them by their kings, parliaments, and by the English commissioners, and therefore any interruption of the right of free election would be contrary to law.<sup>4</sup>

The Restoration naturally caused further disturbances in the burghs. The commissioners of the burghs, in September of 1660, received a letter from Glencairn urging the election of magistrates of known loyalty, and their reply was to ordain that no one who had subscribed the Remonstrance, or who had had anything to do with it, or who was in any way disaffected to his majesty's government, should be allowed to hold any office in burghs.<sup>5</sup> Next year the privy council issued a proclamation to the same effect, which also set forth the necessity of keeping out of office those of 'fanatick principalls and enemies to monarchicall government' who 'did screw into their oune hands the sole administration' of most of the burghs.<sup>6</sup> This was followed by the act requiring all in office to sign the Declaration.<sup>7</sup> Each burgh had to send in a report to the council that the newly elected magistrates had accepted it, and those who refused to take it were declared incapable of holding office. This occasioned considerable difficulties in some towns where people were elected and then refused to take the Declaration, or refused to take office because they would not sign it. The privy council then intervened, generally ordering a new election or requiring the last

<sup>1</sup> *Calendar, S.P. Dom.* 1654, p. 296.

<sup>3</sup> *Thurloe S.P.* iv. 52.

<sup>5</sup> *Convention Records*, iii. 522-3.

<sup>6</sup> *Privy Council Register*, 3rd Series, i. 45-6.

<sup>2</sup> *Ibid.* 1655, pp. 108-9.

<sup>4</sup> *Ibid.* iv. 529.

<sup>7</sup> *Acts, Scotland*, vii. 405-6.



magistrates to remain in office. When all magistrates and office-bearers were required to take the Test in 1681<sup>1</sup> the interference of the council increased, for many refused to sign it. In many burghs the result was that no magistrates were elected, and then some members of the council were sent thither to make the appointments, as the election fell into his majesty's hands. The king and council thus got opportunities of filling burgh offices with their own nominees, and the privy council was brought into close touch with burghal government. In 1682 all magistrates were ordered to send to the council particular accounts of the constitutions of their burghs, showing the numbers of the electors.<sup>2</sup>

One of the principal reasons for all this interference was that parliament should be so constituted that it would carry out the king's policy as regarded Roman Catholics. The court in 1686 thought that another parliament might pass the act anent the private toleration of papacy 'if the King should assume the nomination of all the Provosts of Scotland (for the Burrows were the brazen wall the Papists found hardest).'<sup>3</sup> Accordingly parliament was dissolved, 'For, by a new one, the Popish party hoped to get the Burrows more rightly constitut, by assuming to the King the nomination of the Magistrats.'<sup>4</sup> In 1686-1687 James VII., by stopping burgh elections, kept those magistrates who were favourable to him in office, while others were supplanted by his nominees.<sup>5</sup> This arbitrary conduct was spoken of as 'the common Course of the time taken by the Government, throw the whole Kingdom, and which no Western Burgh or person durst have offered to Decline to accept else they would have been over Reacht by some of the Streaches, which were ordinarily made use of against these of that Country.'<sup>6</sup>

The Revolution restored the right of self-government. William instructed Hamilton, his commissioner, to pass an act securing the rights of the burghs in electing their own magistrates for the future,<sup>7</sup> and in 1689, on the representation of the

<sup>1</sup> *Privy Council Register*, 3rd Series, vii. 203-4.

<sup>2</sup> *Ibid.* MS. *Acta*, 1678-82, 322 a.

<sup>3</sup> Fountainhall, *Historical Notices*, ii. 727.

<sup>4</sup> *Ibid.* ii. 736-7.

<sup>5</sup> *Ibid.* ii. 752, 755, 818.

<sup>6</sup> *Parliamentary Papers*, xiii. 83. *Answers for the late Magistrates and Council of the Burgh of Irvine* (General Register House).

<sup>7</sup> *S.P. Scotland, Warrant Book*, 14, p. 185. *Convention Records*, iv. 103.

## Municipal Elections in the

commissioners of the burghs in parliament, an act was passed declaring that there should be new elections in all burghs by a poll of all the burgesses, as the 'haill royall burrowes have suffered encroatchments on their liberties and priveledges by letters and Recommendationes from the King his Counsell and others.'<sup>1</sup>

The convention during this time did not make any remonstrance to the government about the infringement of these liberties, and did little to enforce the new regulations of the government about the qualifications of the magistrates, nor did it seem to make any effort to see that those older laws about provosts and magistrates being merchants and burgesses were put into effect. After the Restoration and the declaration by the commissioners that the newly elected magistrates were to be persons of known loyalty, Renfrew was ordered to make a new election, as some of their magistrates were not qualified conform to the act.<sup>2</sup> Then as Lanark, generally a covenanting stronghold, had sent a commissioner who had gone to the association in the west after Dunbar, and had committed several neglects in the thanksgiving days for Charles' restoration, some burghs were ordered to send commissioners there to inquire if their magistrates conformed to the recent act. The convention in April of the next year enjoined all the burghs to report to the next meeting that their magistrates had taken the oath of allegiance.<sup>3</sup> Very few other references were made to the character of the magistracy or to the manner of election in the burghs as a whole.

Greater activity was shown by the convention in giving constitutions to the burghs on application being made by the community or by a section of the inhabitants. Especially in the years following the disturbances of the civil war there were demands for establishing the custom for elections of magistrates, often connected with a request that a guildry should be erected. The merchants of Haddington complained in 1654 that unfree-men were usurping their liberties, and were not punished by the magistrates. They therefore asked that a dean of guild might be appointed. The magistrates and council and some of the other inhabitants also made representations to the convention, and both agreed to submit the settlement of their controversies to the commissioners. Representatives of some burghs went to

<sup>1</sup> *Acts, Scotland*, ix. 49.

<sup>2</sup> *Convention Records*, iii. 525.

<sup>3</sup> *Ibid.* iii. 525-6, 540-3, 544-5.



Haddington and inquired into matters there, and the convention, on their recommendation, decided that the council, instead of consisting of thirty persons, seven merchants, eleven 'labouris of ground' and maltmen, and twelve craftsmen, should be made up of twenty-five, sixteen merchants and nine craftsmen. The provost and two bailies were to be trafficking merchants, and one bailie was to be a craftsman.<sup>1</sup> New constitutions were given both to Perth and to Culross, and in both the number of merchants on the council was increased and the number of craftsmen decreased.<sup>2</sup> Elgin petitioned the convention in 1705 to give the town a rightful constitution, as there had been quarrels in the burgh, chiefly occasioned by the continuance of the same people as magistrates and councillors. These disputes had been brought before the privy council and the lords of treasury and exchequer, and had cost the burgh much. Commissioners were sent to visit the town, and drew up a set arranging for frequent change of officers in the burgh.<sup>3</sup>

In these cases submission was made by the burgh, or by both parties in the burgh, to the decision of the convention. Occasionally questions were referred to the commissioners by other authorities. The council of state in 1659 remitted to the convention, as 'onlie competent judgis in such caices,' a question about the election of the town clerk of Cupar.<sup>4</sup> But the convention did not claim to be the only authority in questions of burghal administration. In 1662, as the commissioners sent to Dunfermline could not agree on a settlement, the convention made a temporary agreement until the court of session should determine the point of right.<sup>5</sup> In cases where the question was not only between the burgesses of the burgh but concerned some outside interest, the convention had no jurisdiction, and could only assist the town with money, or with the concurrence of the burghs' agent when there was a law-suit, as in 1675, when the agent was ordered to assist Arbroath in an action brought against the Earl of Panmure, who claimed the right to elect a bailie. The case was decided in his favour by the court of session.<sup>6</sup>

<sup>1</sup> *Ibid.* iii. 389-90, 412-3, 422-4 (1654-6).

<sup>2</sup> *Ibid.* iii. 457, 466-8 (1658); iii. 460, 463-4, 484-6 (1658-9).

<sup>3</sup> *Ibid.* iv. 369-70, 396-7. *Elgin Records*, i. 369-70.

<sup>4</sup> *Convention Records*, iii. 477.

<sup>5</sup> *Ibid.* iii. 562.

<sup>6</sup> *Ibid.* iii. 653-4. Morison, *Dictionary of Decisions of the Court of Session*, iii. 1870-1.

The convention was anxious to be recognised by the burghs as a court of appeal, and in 1706 passed an act 'for composing differences and debates' which declared that it would be convenient that those quarrels about the management of the common good and the election of magistrates which often occurred in burghs should be brought before the convention or a committee of its members, 'in order to be composed and agreed by their mediation.'<sup>1</sup> Two years later, in the hopes that controversies about elections might become less common, the convention ordered all the burghs to send copies of their sets to be entered in a book to which reference could be made.<sup>2</sup>

The greater number of disputes in the burghs originated in quarrels about the management of the burghal property, which was being either 'profusely dilapidated, or privately peculated,' although for a short time between 1660 and 1680 some burgh accounts were audited in the exchequer. In 1683 a process was instituted in that court by a merchant in Edinburgh to compel two late provosts and others to produce their books and accounts that the High Treasurer might see if they had appropriated the patrimony of the burgh to proper uses. But the exchequer refused to sustain a process at the instance of private burgesses, 'it looking too popular and democratic.'<sup>3</sup> Next year a royal commission was issued to the Marquis of Queensberry, Lord High Treasurer, and others, authorising them to cite the magistrates of burghs to appear and to produce their accounts in the exchequer, because of the abuses which were rife in burghal administration. The commission declared that those 'who prefer their private advantage to the common interest of the Burgh, have excited factions and divisions, in order to procure themselves to be elected to the office of Magistracy, and in order that they, their relations, and dependents might be continued in that office, from whence they might take occasion to squander the properties and revenues of the borough in rewarding their friends, and supporting their factions in the Burgh.'<sup>4</sup> But this attempt to control the burgh finances was not successful, and in 1693 an act was passed ordering all magistrates to present an exact account of the revenues of the town before the lords of treasury and

<sup>1</sup> *Convention Records*, iv. 394-5.

<sup>2</sup> *Ibid.* iv. 464.

<sup>3</sup> Fountainhall, *Decisions of the Court of Session*, i. 231.

<sup>4</sup> A. Fletcher, *Memoir concerning the Origin and Progress of the Reform proposed in the internal government of the Royal Burghs of Scotland*, pp. 7-9.



exchequer. It was also declared that commissions would be given to certain people to inquire into the state of the common good, etc., and to call those who had misapplied it to account.<sup>1</sup> This act, however, does not seem to have effected any improvement in burghal administration.

THEODORA KEITH.

<sup>1</sup> *Acts, Scotland*, ix. 309.

(*To be continued.*)

## Glasgow and the Jacobite Rebellion of 1715

THE recent bi-centennial of the battle of Sheriffmuir (13th of November) reminds us that two centuries have elapsed since the rising of 1715. For various reasons this has never attracted as much attention on the part of the general public as the importance of the event seems to have warranted. In the first place, it was thoroughly mismanaged and conspicuously unsuccessful, while in some respects it verged on the ridiculous, circumstances sufficient in themselves to cause many to suppose that it was a matter of no moment. The chief reason, however, would seem to be that it was overshadowed by the later attempt of 1745. This, in its initial stages at least, was extraordinarily successful, while over the whole undertaking there has been thrown the glamour of romance. The landing of Prince Charlie with only seven followers—the rallying of the clans—the swift march to the south—the total defeat of Cope's army—and the mimic court at Holyrood, all appealed to the imagination. Then the facts that the Prince's army penetrated into the heart of England, and that by many it is still thought that if he had pressed on to London he might have seized the throne, have given the whole attempt an importance lacking in the earlier adventure of 1715. In addition, the sad ending of an enterprise that had at one time promised so well—the tragic events that followed on Culloden—and the romantic story of Prince Charlie and his wanderings in the Hebrides and the west of Scotland, have combined to make the whole episode a favourite subject for the novelist and painter as well as the historian.

It must also be kept in mind that although only thirty years later than Mar's rebellion it really seems much nearer to our own time. This is no doubt due partly to the fact that the chief actors in the drama are more familiar to us than the leaders in 1715, and partly because men born as late as the middle of last century, and still living, may have known those who had seen and



had spoken with survivors of those who were out in 'the Forty-Five.' In spite, however, of the superior attractions, in a popular sense, of the later rebellion, that of 1715 was really started under better auspices, and with a much greater chance of success. The time was distinctly more favourable for such an enterprise. The Hanoverian dynasty, though seated on the throne, had hardly established themselves there. They were comparatively unknown, and though supported by a strong party in the State, they were popular with none, while by the great bulk of the people they were regarded, if not with dislike, at least with indifference. In England the Jacobite party was stronger and better organized than in 1745, while Scotland was in a mood that lent itself to any attempt against the Government. The treatment received at the hands of English statesmen over the Darien scheme was freshly remembered, and bitterly resented. The Union was not only unpopular, but was by many sections of the people absolutely detested. The benefits that had been promised, and which ultimately followed from that measure, were little understood, and indeed had not yet had time to mature. There was, besides, a very general feeling that the country had been 'exploited,' and an idea that they had got the worst of the deal was particularly exasperating to a nation like the Scots. Scotland, therefore, was ripe for any attempt of the kind that might be started, for, although a large proportion may not have been very enthusiastic for the Stewarts, they were in any case 'agin the Government.' There was also a much better chance of help from abroad, Louis XIV. being still alive, and favourably disposed to the cause of the exiled Stewarts. His death in the autumn of the year was no doubt a serious blow to the rising, but the Pretender and his followers hoped that the policy of the French Court would remain unchanged.

The failure of the attempt was not therefore due, as so often happens in such undertakings, to any mistake as to time and place, but must be attributed to the manner in which it was conducted. It may be granted that it was a year too late, but the time chosen was nevertheless more favourable than that selected thirty years later. From the start, however, it was badly managed. The Earl of Mar, whatever genius he may have had for intrigue, proved himself a very incompetent leader, and showed a sad lack of energy and decision in all his operations. He laboured besides under another disqualification, for it has been pointed out that his failure was perhaps less due to blunders than to the fact that

those whose cause he had so suddenly embraced did not trust their leader.<sup>1</sup>

On the other side, the Government had a capable officer in General Wightman, while Argyll, if not a great general, was at least a man of character and decision, and, besides being the chief of one of the most powerful of the clans, possessed great influence and authority in both countries. All his proceedings were marked by a vigour and determination that were altogether wanting in the vacillating tactics of Mar. He saw clearly that Stirling was the key of the campaign, and concentrated all his available forces there in order to maintain his hold on that strategic position. The result was, that although a small force managed to cross the Forth under General Macintosh, and, after being foiled in an attempt on Edinburgh, succeeded in joining the north of England Jacobites, the bulk of Mar's troops were penned up north of the Forth, and, when they did try to force a passage, were effectually checked at Sheriffmuir. This engagement may perhaps be best described as an indecisive battle with decisive results. Fought on the same day as that on which the Jacobites at Preston surrendered, it practically ended the rebellion. Mar maintained the appearance of a struggle for two or three months longer, but he did not again take the field, and the issue was never really in doubt.

The arrival of the Pretender in Scotland did not improve matters for the Jacobites. The Chevalier of St. George, as he was known, was one of those unfortunate men who, with the best intentions, always do the wrong thing at the wrong time. In 1708, on the eve of the departure of the French expedition from Dunkirk, he took measles, and the consequent delay was just what was needed to enable Byng to reach the Forth before the arrival there of the French fleet. In 1715 he did not arrive in Scotland till December, and was only accompanied by some thirty followers. After landing he had an attack of ague, and when recovered, instead of taking active measures, and inspiring his followers, he seems to have acted as a sort of wet blanket. One of his supporters writes: 'We saw nothing in him that looked like Spirit: he never appeared with Chearfulness and Vigour to animate us . . . some say the circumstances he found us in dejected him. I am sure the Figure he made dejected us, and had he sent us 5000 men of good Troops and never came among us, we had

<sup>1</sup> *The Chevalier de St. George and the Jacobite Movements in his Favour, 1701-1720*, by C. S. Terry, p. 362 (London, 1901).



done other things than we have now done.’<sup>1</sup> After a few weeks mock royalty at Scone he accompanied the retreat to the north, but left his army at Montrose, where he took ship to France, accompanied by Mar. No doubt he had what were deemed sufficiently good reasons for doing so; but it is unfortunate for his reputation that he should have left to their fate those who had risked everything for his cause, just as thirty years later his son abandoned the remnant of his followers after Culloden.

Glasgow was no abettor of the Rebellion. Always Whiggish in their views, the citizens were no great lovers of the Stewarts, and lived too close to the Highland line to be admirers of the clans, or to appreciate their methods of warfare. The battle of Kilsyth and the descent of the ‘Highland Host’ in the Killing Times were besides still fresh in their memory. We find, therefore, that on the 26th of August, 1715 (the day fixed for the great meeting at Braemar), it was reported at a meeting of the Town Council that an address had been presented to the King by the Duke of Montrose in the following terms:

‘The City of Glasgow, being deeply affected with the certain evidences of a designed invasion from abroad in favour of a Papish Pretender, and of the preparations of a restless Papist and Jacobite faction at home, we the magistrates of the said city, for ourselves and in name of our burgesses and inhabitants, humbly present to offer to your majesty a regiment to consist of five hundred sentinels, with ten captains and other subalterns needful for such a regiment, to be paid by us for the space of sixty days.’<sup>2</sup>

This was acknowledged by Lord Secretary Townshend, who stated that he was directed to return them his Majesty’s thanks for this ‘cheerfull offer,’ but that his Majesty hoped that such measures had been taken as would be effectual, without putting his subjects in Glasgow to any ‘further expense and trouble.’ Notwithstanding this the regiment was raised, and was despatched to Stirling by the middle of September, as appears from a letter of the Duke of Argyll, dated the 18th of that month, thanking the Magistrates and Council for informing him that 500 men were on the march to join him there.<sup>3</sup> The regiment, which was commanded by Mr. John Aird, late Provost of Glasgow, remained

<sup>1</sup> *A true account of the Proceedings at Perth: The Debates in the secret Council there; with the Reasons and Causes of the suddain breaking up of the Rebellion—written by a Rebel* (London, 1716).

<sup>2</sup> *Burgh Records of Glasgow, 1691-1717*, p. 539.

<sup>3</sup> *Burgh Records of Glasgow, 1691-1717*, p. 545.

there until after the battle of Sheriffmuir, in which, however, it was not engaged, being employed on that day in guarding the town, including the defence of the bridge and castle. The following letter from Colonel Aird to the provost gives an interesting account of the battle :

‘Stirling Bridge, November 13th,  
At Nine at Night.

‘My Lord,—

We are still confirmed that the Duke of Argyle is master of the field, and for a proof of it, he hath sent in sixty prisoners, whereof eight or nine are gentlemen. About an hour ago, I am informed by one of the guard that Barrowfield is one of them, and that he spake with him. We hear also that there are several other prisoners that are not yet come in ; and that the Earl of Panmuir and the Lord Strathmore are mortally wounded, and since, we hear that Strathmore is dead. This is the best information we can give you as yet, being waiting on the guard at the bridge. Any parties that have come in with the prisoners here, bring with them a number of Highland plaids, swords, targets, and scarlet cloaks ; and some of the broadswords have silver hilts, and assures us that the loss on our side is very inconsiderable, not above one hundred men, but that the general officers are all safe ; that they hear of no inferiour officers killed, but one or two ensigns. Isla has gotten a slight wound on the arm, and Colonel Hally has gotten two wounds on the left arm. One of the Scots Greys has taken the rebels’ royal standard. The duke, with the generals and all the officers, keep together, and expect another heat with them to-morrow, if they stand ; and the duke was once master of the rebels’ artillery and magazine, but, wanting horses, could not get them off to the place he designed to encamp in.

‘I and all our officers are very well and hearty, only we have been under arms since Friday. I desire you not to believe every report ; for you may assure yourself that I, or our officers, will write to you true matters of fact. All the nobility, and particularly Rothes, Haddingtoun, and Binning are safe, and behaved themselves very bravely in the action.’<sup>1</sup>

The exertions of the magistrates in this crisis were not confined to raising the regiment. On 29th of October it was agreed to borrow money for the purpose of ‘drawing lynes of entrenchment

<sup>1</sup> *Sketches of the History of Glasgow*, by James Pagan, p. 60 (Glasgow, 1847).



about the town.’<sup>1</sup> On the 12th of December the magistrates represented that the town had been at great charges and expenses in ‘making of barracads, drawing and making of lynes and tranches about the city, mounting of the cannon, and making of other fortifications,’ as well as for other matters in connection with the rebellion. On the same day it was resolved to petition the Duke of Argyll, the Commander-in-Chief in Scotland, that the 353 rebel prisoners lying in Glasgow might be removed, in respect that the militia who formerly guarded them had gone home, which caused a heavy burden on the city in providing guards.<sup>2</sup>

The expenses in connection with the regiment, and in carrying out the measures adopted for the defence of the city, came to a considerable sum. On the 16th of February, 1716, there was submitted to the Council an ‘Accompt of the extraordinary charge and expenses the town of Glasgow was put to upon account of the present troubles and rebellion, from the latter end of July 1715 to the 1st of January 1716.’<sup>3</sup> These amounted in all to £10,245 7s. 4d. *Scots*, as follows :

Money depursed on account of expenses -	£300	4	6
do. for carting of soldiers baggage -	271	17	0
For leading of stones for the barracads -	203	3	2
Payed out upon the tranches -	690	14	8
Payed to gardners, and for drink to them	447	1	0
Payed out for Kirkentulloch Bridge -	191	18	4
Do. on the great guns -	116	0	0
Do. upon accompt of the Castle prisoners -	362	3	0
For carting of Arms, and to drummers, and coall to the guards -	1027	3	8
For powder and arms, and for bread to the rebell prisoners in the Castle -	3444	2	10
For sundry expenses and accompts -	3190	19	2
Total -	£10,245	7	4

Subsequent to this date we find payment of further sums authorised by the Council, including charges paid by the Treasurer down to 25th June, 1716. The latter sums amounted to £1833 1s. 6d. *Scots*, and were of a very varied description.

<sup>1</sup> *Burgh Records of Glasgow*, 1691-1717, p. 547.

<sup>2</sup> *Ibid.* p. 549.

<sup>3</sup> *Ibid.* p. 554.

Among other items £58 1s. was paid for 'Kaill plants and leiks quhich were destroyed by the trenches.'<sup>1</sup>

Besides defraying all the expenses incurred in the manner detailed above, the Council showed their liberality by paying James Luke, Goldsmith, £35 1s. 9d. 'starline money' for a silver tankard, a set of 'suggar boxes,' and a server, presented to Col. William Maxwell of Cardoness 'as a mark of the toun's favour and respect towards him for his good service in taking upon him the regulation and management of all the Guards that were kept in this city . . . from the 2nd of October to the nynt of February last.'

The Magistrates and Council seem to have shown both energy and decision in the steps they took in aid of the Government and for the defence of their own city. Their whole conduct, in fact, during the rebellion of 1715 forms a very creditable episode in the history of Glasgow.

T. F. DONALD.

<sup>1</sup> *Burgh Records of Glasgow*, 1691-1717, p. 585.



## Whitekirk and 'The Burnt Candlemas'

**I**N 1356 the fifth invasion of Scotland by Edward III. took place. It was certainly no policy of half measures that the English King had adopted. 'Now his aim and purpose had been, if his ships had held their course prosperously, to demolish and destroy the kingdom of Scotland far and near—yea, to waste it utterly.'<sup>1</sup> Berwickshire and East Lothian were a desolation after Edward had passed by. The Scots themselves had contributed to this. They had deserted these districts, driving their cattle before them and giving to the flames whatever could not be taken with them and might be of service to the enemy. Edward's response was the destruction by fire of every habitation that he came across. He vented his fury even on churches and religious houses, including the stately and beautiful 'Lamp of Lothian,' the abbey-church of Haddington. This invasion, with its dire results for the eastern lowlands, took place in the beginning of February; hence the name commonly applied to it, 'The Burnt Candlemas.'

The English King advanced as far as Edinburgh, but an immediate retreat became imperative. In the districts through which he had passed, wasted, as we have seen, by the Scots, the invader could secure no supplies. He had taken the precaution of ordering a victualling fleet to support him, but, with its sorely needed supplies, it met its doom in North Berwick bay. At anchorage there, the fury of a north wind struck it, and soon the greater part of it was on the rocks or at the bottom of the Forth. Fordun's account of this dire disaster is as follows:

'For, while that King was still at Haddington, and was, without respite, thirsting for the blood of the Scots, the Blessed Virgin, the spring and source of goodness, by her pious prayers obtained from her Son—One who said: 'Without Me ye can do nothing'—that boisterous wind and rough weather; so the ships parted from one another, and could not move a step beyond

<sup>1</sup> Fordun, ii. 363.

the Firth of Forth, but were unceasingly tossed among the waves of the sea and the storms of the deep, so that a great many of them have never, to this day, met the gaze of living man.<sup>1</sup>

As a result of this great storm, the English army, deprived of supplies, was threatened with destruction. In the belief of the Scottish chroniclers, who voiced the feeling of the Lothian folk, this was due to the Virgin's intercession.

The church of Whitekirk, which, even at that early period was in the enjoyment of a very wide fame, had been dedicated to St. Mary, and it was the insult offered to the Virgin in her sanctuary that formed the link between the church and the tempest that shattered Edward's hopes of conquering Scotland.

'He came as far as Edinburgh,' says the author of the *Book of Pluscarden*, 'but seeing that he profited nothing by his said march, he returned thence ingloriously to his own country, for he had lost many of his men both by land and by sea, and gained nothing. It was said of this in Lothian that all these troubles came upon him in revenge for the plunder of the White Church of Our Lady.'

The story of the sacrilege is briefly related by Fordun, and additional particulars are supplied by Bower.

'For some men-of-war's men, sons of Belial, had shortly before disembarked, and fallen upon the White Kirk of the Virgin, which stands by the seaside. There, not having God before their eyes, and being unmindful of their own salvation, they banished fear, and stripped the image of the Virgin, which no man had, with impunity, touched with evil intent, and which was decked with gold rings, necklaces, and armlets and other ornaments wherewith the oblations of the faithful had becomingly loaded it; and two canons of the house of Holyrood, who had lately been commissioned as keepers of that chapel, they bound and dragged with them to their craft, after having carried off all the property they found in the chapel. This turned out unluckily for them, however. For, not long after, the uproar and storms above spoken of followed, in revenge for this thing; and the ship which had wrought the heinous robbery, and its crew, who had dared to lay hands on the Lady of the World, were whelmed in the gulf of the deep in the sight of many. But the said canons had, by God's will, been shortly before shifted to other ships, and they were thus, by Our Lady's succour, snatched from the maw of the awful gulf, and allowed to cross over freely to their

<sup>1</sup> Fordun, ii. 364.



dwelling place. Such was the miracle that Almighty God, through His Mother's prayers, deigned to show forth at that time for the salvation of the Scottish nation.'<sup>1</sup>

Fordun's continuator, Abbot Walter Bower, had a personal interest in the matter which the earlier chronicler lacked. He was a native of Haddington, and, doubtless, had often visited the famous little church, scarce three leagues from his home. His narrative is of peculiar value, being derived from an eye-witness. The abbot's story is not accessible to the English reader. We offer the following translation :

'But the robbing of the Virgin's image was in this manner, as he who saw it bore witness, and I believe, because his witness is true : for he was very worthy of trust, and also in the hearing of many honourable men and of me, who helped to write this book, he related it thus, saying ; Well, at that time I was a boy of twelve years at Quhytkirk, when, suddenly, English pirates came thither, at whose sudden, unexpected coming many terrified mothers, for fear of the English, hid, with several utensils, their little sons, amongst whom, he said, I then was one, in a certain old oven in the ancient walls, where they did not think they were willing to come. But, at last, one of them, of a barbarous nature, observing the oven, with a sharp stake savagely stabbed and drove out the boys, tender of age. But they, crying out with shrill wailings, heard the villain uttering words like this : 'For one bubbling fish sauce, I would not scruple to kill as many of you as I could eat of white peas.'

'So, at the pitiful cry of the children, a certain Englishman, a person of manifest honour, coming on the scene and checking the rudeness of him who was hurting the little boys, struck him on the head with a certain stick, which he was carrying in his hand, as he was pursuing the little ones. Then, drawing out the boys with his hand and kindly encouraging them, he led them to the church and set them in front of the altar of the image, enjoining that none should presume any longer to hurt them. At last, the little boys, who had been sent before, looking round and having knowledge of him who was attacking them, immediately noticed the same man entering the church and, with fear, began to cry. But he, threatening them and bridling them with silence, kicking the greater altar with his feet, and snatching a ring from a finger of the image which was above, violently broke one of its fingers ; and afterwards, planting his feet irreverently on the head of the

<sup>1</sup> *Ibid.* ii. 364.

image, he went up to the gallery above and stole the personal possessions which the ministers of the altar and servants of the chapel, for fear of thieves and robbers, put in guard under the protection of Our Lady, and flung them down to certain accomplices of his, who were waiting in the choir, to keep. And, as they retired from the church, this ill-fated wretch followed them.

‘But a wonderful thing happened ! For, as the sacrilegious man was leaving the chancel with them and leaping out thence as if he had won precious booty ; suddenly, from above, there fell a certain image of the Crucified, scarcely two feet high, avenger of His despoiled Mother, and struck the unhappy man a mortal blow, knocking out his brains, together with his life, in a moment. A shout, then, is raised when the unfortunate man dies and Mary is marvellously glorified by her Son.

‘A little before, the marauding sailors drag in chains to the ships two canons of the Holy Cross, who had been appointed to serve the Blessed Virgin in that place. On the second day, therefore, after their departure, exercising tyranny over the servants of the Virgin, plundering them even to their bare bodies, they parted them from one another, very often threatening them with drowning unless they paid a great sum of money. But the canons, wonderfully comforted by the sweetness of the remembrance of Mary, amidst threats and punishments, nakedness and cold, stood unterrified. They, as afterwards they both swore, were as greatly strengthened by the Blessed Virgin as if they had then seen her present.

‘While these things, therefore, were going on, and they were settling finally on drowning the canons, suddenly there was a crash, and the storm already mentioned followed for the punishment of those sent before, and the ship that perpetrated the accursed act of plunder, which contained the robbers and the personal property of the servants of the Virgin that had been carried off, near the harbour of Tynmouth, while many were looking on, was lost and went down into the depths. But a little before, by God’s disposal, the said canons were transferred to another ship, and were rescued from the gulf of the fell Charybdis, and were freely permitted to return from England to the place of their profession to the praise of the Virgin to whom be glory for ever.’<sup>1</sup>

From the point of view of human interest, Bower’s account of the Whitekirk outrage forms a valuable addition to Fordun’s recital.

<sup>1</sup> *Scotichronicon*, book xiv. chap. xiii.



Let us now return for a moment to King Edward. His homeward march was a hazardous and trying experience. 'His retreat,' says Mr. Andrew Lang, 'on a small scale, resembled that of Napoleon from Moscow.'

The inglorious result of the invasion was due to the storm that robbed the English of the supplies on which they had counted. And the storm, in the view of the Scots of that time, was a punishment for the outrageous conduct of English sailors at Whitekirk—the Virgin, incensed at an intolerable insult, had her revenge in the destruction of the English fleet, in the serious reduction of Edward's army, and in the consequent salvation of the Scottish nation.

EDWARD B. RANKIN.

## Sir George MacKenzie of Rosehaugh

‘The Bluidy Advocate MacKenzie, who, for his worldly wit and wisdom, had been to the rest as a god.’ *Wandering Willie’s Tale*.

**G**EORGE MACKENZIE, descended on the spear-side from Lord MacKenzie of Kintail, and on the distaff-side from Sir Alexander Wedderburn of Kingennie, town-clerk of Dundee, was born in Dundee, probably in 1638. There are circumstances that cast doubt on the commonly accepted birth-year, 1636. In chapter eighteen of *The Religious Stoic*, MacKenzie says, ‘Albeit the glass of my years hath not yet turned five and twenty,’ and Andrew Lang<sup>1</sup> argues that the references in *The Religious Stoic* to the ‘outing’ of preachers and to conventicles ‘prove that it was written in the year of its publication,’ 1663. Again, MacKenzie was admitted to the Scottish Bar in 1659, and according to the *Life* (assigned to Ruddiman) prefixed to the folio edition of his *Works* (1716-1722), p. i., this took place ‘in the twentieth year of his age.’

His university studies were pursued in Aberdeen, St. Andrews, where his maternal grandfather, the Rev. Peter Bruce, had been Principal of St. Leonard’s College, and Bourges, where he occupied himself with Roman Law and Jurisprudence. There is abundant evidence in his writings that he was a diligent student.

In 1660, the year between his admission to the Bar by ‘the usurpers’ and his re-admission in 1661, he published *Aretina*, a novel of a type familiar to such *heluones librorum* as have explored *les romans de longue haleine*, stories like *Polexander* and *Cassandra*, where the author *erigitur in digitos*, reaches on tiptoe after exalted and ‘conceited’ language, and utters such a wealth of words that he shares the fate of the man in Poe’s tale who lost his breath, and has to come to a sudden stop. In these voluminous tales, running into thousands of pages, ‘Sous des noms turcs, grecs ou romains, c’est la galanterie, la recherche, la

<sup>1</sup> Lang’s *Sir George MacKenzie*, p. 22.



ridicule sentimentalité de la société contemporaine,'<sup>1</sup> and Andrew Lang finds in *Aretina*, in an episode, the Wars of Lacedæmon, an historical allegory, in which Argyll appears as Phanosebus, 'a man of more wit than virtue, and of more cunning than either,' Charles II. as Theopemptus, 'a gentleman of noble spirit, and well-minded eloquence,' Cromwell as 'the most hateful tyrant who ever lived.'<sup>2</sup> *Aretina* is a very rare book, but the Edinburgh Public Library possesses a copy.

In 1661 Phanosebus was fighting for his life on a charge of treason, at the Bar of Parliament. The important part played by Argyll during the troubled times of the Civil War is familiar history and need not be recounted. He had many enemies and they were determined to have his life. It says much for MacKenzie's repute as an advocate and his courage that he should have appeared to defend Argyll, and no reader of the trial can fail to marvel at MacKenzie's boldness. The story is fully told in MacKenzie's *Memoirs of the Affairs of Scotland*, and his pleading in the case is given in his *Works*.<sup>3</sup> Argyll was charged with compliance with the Cromwellian Government after 1651, the year of the Indemnity, and although MacKenzie justly urged that the judges had been guilty of similar compliance, he was unaware how deeply Argyll had committed himself in letters to Monk. These were brought by a messenger who 'knockt most rudely at the Parliament door,' after the case had closed and the Parliament was ready to consider the whole matter, and their contents sent Argyll to the scaffold.

MacKenzie had defended his client with a freedom of expression that provoked reproof, which he turned aside with the remark that it was impossible to plead for a traitor without speaking treason, but apparently his boldness was no bar to professional advancement, for from 1661 to 1663 he was a Justice Depute, at a time when witchcraft trials were common. In *Demonology and Witchcraft*, Sir Walter Scott gives an account of the rise and progress of a cruel superstition, and in Letter IX. refers to MacKenzie's denunciation<sup>4</sup> of the pricker's trade as 'a horrid cheat.' The expression occurs in the chapter on Witchcraft in *The Laws and Customs of Scotland in Matters Criminal*, where MacKenzie is not so far in advance of his age as to show himself

<sup>1</sup> Demogeot: *Littérature Française*, p. 363.

<sup>2</sup> Lang's *Sir George MacKenzie*, p. 28.

<sup>3</sup> i. p. 80.

<sup>4</sup> *Works*, ii. p. 88.

a disbeliever, but where he does call for specific proof and for careful judicial investigation. There is also a note of sympathy with the unfortunate victims and, as often as possible, in cases of trial for witchcraft where he sat as a judge, he saved the accused. MacKenzie had a genuine sympathy with the distressed. In his *Essay on Reason*<sup>1</sup> he says, 'It is very strange to hear men value themselves upon their honour and their being men of their word in trifles, when yet that same honour cannot tie them to pay the debts they have contracted upon solemn promise of secure and speedy repayment; starving poor widows and orphans to feed their lusts; and adding thus robbery and oppression to the dishonourable breach of trust.' Had Scott this passage in mind when he wrote Christie Steele's outburst against Chrystal Croftangry?

In 1662 MacKenzie married Elizabeth Dickson and thus became the ancestor of the Marquis of Bute and the Earl of Wharnccliffe; in 1666 he defended the prisoners taken at Rullion Green; in 1669 he entered Parliament as representative for Ross-shire; in 1670 he married a second time. In Parliament he became conspicuous for ability, readiness and courage, and exasperated Lauderdale by the resolution with which he opposed him. It is clear from MacKenzie's doings and writings, especially on the subject of Union,<sup>2</sup> that he was a patriotic Scot, jealous of English influence and interference, and that, had he lived to see the negotiations for the Union of England and Scotland, he would have been in opposition. As a legist he led the attempt to defeat Lord Advocate Nisbet's proposal to authorise trial and conviction of accused persons in their absence. When at length he became reconciled to Lauderdale he seems to have been moved mainly by the reflection that stern and repressive measures were needed to protect the public peace and the royal prerogative against the violent Presbyterians. The charges against MacKenzie that have marked him with the epithet 'bluidy' rest upon what he did, after he became Lord Advocate in 1677, to provide this protection, but it must not be forgotten that, by statute, the Lord Advocate was bound to prosecute all those against whom the Privy Council resolved to take proceedings. It is also to be kept in mind that MacKenzie was responsible for important reforms, both in criminal law and in criminal procedure, that tended to secure a fair trial.

In 1686 MacKenzie gave proof of the staunchness of his Protestantism when King James was pressing for Catholic

<sup>1</sup> *Moral Essays*, p. 177; *Works*, i.

<sup>2</sup> *Works*, ii. pp. 659-670.



Emancipation, and the office of Lord Advocate was taken from him. He resumed it again in 1688, but when the Revolution came, he withdrew to Oxford, where he enjoyed a brief period of congenial society and literary work. He died in London in 1691. His death was preceded by violent hæmorrhage; Cargill had said MacKenzie should die no ordinary death, and so we read, 'bloody Sir George Mackenzie died at London, with all the passages of his body running blood.'<sup>1</sup> MacKenzie's *Works* were published in two folio volumes, 1716-1722. An Advertisement to the second volume refers to a difficulty of getting access to the manuscript of the *Memoirs of the Affairs of Scotland*, and holds out a hope, not fulfilled, of giving it in an appendix. The story of its romantic discovery and a full discussion of its nature are to be found in Lang's *Sir George MacKenzie*.<sup>2</sup>

His legal writings are esteemed by lawyers;<sup>3</sup> his *Observations on Precedence, On the Science of Heraldry, Defence of the Antiquity of the Royal Line of Scotland, Discourse concerning the three Unions 'twixt England and Scotland*, may be read with interest, while his *Memoirs* are valuable as a record of his opinions of men and affairs that he knew intimately.

His purely literary works have great merit. In 1663, he published *The Religious Stoic*, a work distinguished by a daintiness of classical allusion, a profusion of scriptural references with an ingenuity of allegorical interpretation equal to the Covenanters', 'conceited' similitudes, and an ornateness of style. His definition of a religious Stoic may be quoted: 'Nothing can strengthen so much man's frailty, nothing check so soon his despair, nothing feed so much his hope, nor animate so much his courage, as to believe that there is a God, who beareth the heaviest end of all our crosses upon the shoulders of His *Love*; who is able to turn or arrest the giddy wheel of fortune by the strong hand of His Omnipotency; and who twisteth the laurels of unimaginable joys for the heads of those who fight under His banners.' The general tone of the composition, an impatience with schism, is expressed in the following passage: 'If I were worthy to be consulted in these spiritual securities, I should advise every private Christian rather to stay still in the barge of the Church with the other Disciples than by an ill-bridled zeal to hazard

<sup>1</sup> *Biographia Presbyteriana*, ii. p. 9.

<sup>2</sup> pp. 60 et seq.

<sup>3</sup> See e.g. *Studies in the History and Development of the University of Aberdeen*, pp. 254, 255.

drowning alone with Peter by offering to walk upon the unstable surface of his own fleeting and water-weak fancies, though with a pious resolution to meet our Saviour.' Again: 'Most of all Christians do, like coy maids, lace their bodies so straight that they bring on them a consumption; and will have the gates of heaven to have been made only for themselves.'

As an example of MacKenzie's elaborate, balanced sentence, take this: 'As the boundless ocean keeps and shows its well-drawn images, whilst it stands quiet with a face polished like a crystal cake, but loses them immediately how soon its proud waves begin to swell and enrage, to spit its frothy foam in the face of the angry heavens, so whilst a stoical indolency and Christian repose smooths our restless spirits, it is only then that the soul of man can be said to retain that glorious image of God Almighty with which it was impressed at its nativity.'

He is a believer bigoted enough to disbelieve in the peaceful end of an atheist; 'Ye shall know,' he says, 'by the urinal of his eyes and the water standing therein, what convulsion-fits his soul suffers'; but he has a distaste for discussions about doctrine and forms of church government and ritual: 'Speculations in religion are not so necessary and are more dangerous than sincere practice.' About the excellence of his own practice there is no doubt. 'There is,' he wrote, 'something of meanness in the gallantest and most alluring of sins,' and in his *Memoirs* he shows his distaste for Lauderdale's 'bawdy discourses and passionate oaths.' He had, too, a genuine sympathy for the oppressed condition of artisans.

MacKenzie's resolved opinion was that all are bound to accept that religion which is settled law, and that we are not entitled to separate ourselves from the church because of her errors. Thus he himself was once a Presbyterian, then an Episcopalian, and although strongly Anti-Papist would no doubt, prior to the Reformation, have been a loyal Catholic. The toleration he would approve is this: 'As every Christian should be tolerated by his fellow-subjects to worship God inwardly according to his conscience; so all should conspire in that exterior uniformity of worship which the laws of his country enjoin.' He is of opinion also that laws and law-givers provoke heretics to activity:<sup>1</sup> 'It fares with them as with tops, which, how long they are scourged, keep foot and run pleasantly, but fall how soon they

<sup>1</sup> Compare the arguments for moderation of another famous Royalist, Drummond of Hawthornden, in his *An Apologetical Letter, Irene*, and Σκιαμαχία.



are neglected and left alone.' There are, however, limits to toleration: 'When these not only recede from the canonised creed of the Church, but likewise encroach upon the law of the State, then, as of all others, they are the most dangerous, so, of all others, they should be most severely punished.' MacKenzie's teaching is very like Bacon's in the essay *Of Unity in Religion*: 'Concerning the means of procuring unity, men must beware that, in the procuring or muniting of religious unity, they do not dissolve and deface the laws of charity and of human society,' and when religious disputes lead 'to the cruel and execrable actions of murdering princes, butchery of people, and subversion of states and governments,' Bacon would 'damn and send to hell for ever those facts and opinions tending to the support of the same.' Here is the germ of the opposition that, under MacKenzie's Advocateship, was to issue in blood. He was Erastian, denying to the Church any of the prerogatives of government, and utterly opposed to the Presbyterianism that would set up *imperium in imperio*; an out-and-out supporter of the royal prerogative, who believed the King to be 'Supreme Governor of his Kingdom over all persons and in all causes.'

The essay, *Moral Gallantry*, reveals a nature much at variance with that of some of the author's associates, Rothes, for example, to whom, oddly enough, is dedicated a composition whose note is, 'there is nothing so mean as vice or so unworthy of a gentleman.' Other *Moral Essays* deal with Happiness, Solitude, Frugality, Reason. In all of them we see something of the qualities that led Dryden, in his *Discourse on Satire*, to call MacKenzie 'that noble wit of Scotland.' The essay on Solitude (1666) has some neat turns of expression, e.g. 'I know that there are some great persons who, like great fishes, never come to shore till they be wounded, disasters, affronts, and necessities driving them there for shelter, rather than choice.' His preference for solitude to active life may have been the hopeless aspiration of an ambitious man, but one remembers Johnson's remark to Mrs. Aston, 'Solitude excludes pleasure and does not always secure peace.' Solitude was often in the thoughts of the 'wits.' Cowley wrote on it, and his *Wish* is a charming sigh for cultured retirement: Locke's retreat at Oates was no doubt as delightful as it was fruitful. Evelyn, it may be noted, wrote, in answer to MacKenzie, in praise of active life.

The student interested in literary parallels will find in MacKenzie's *Essays* echoes of Bacon, Temple, and Cowley.

The *Works* include poems. *Cælia's Country-House and Closet* is written in heroic couplets, with some halting lines, and a display of 'conceits.' The poem is tinged with a genuine religious feeling. It gives us a clue to MacKenzie's favourite authors, Tasso, Cowley, Denham, Waller, Jonson, Fletcher and Donne. The paraphrase on Psalm 104 reminds one of Landor's gibe at Milton. 'He was never more of a regicide than when he lifted up his hand and smote King David.'

Outside political life MacKenzie ranks as a scholar and a noble gentleman, the founder of the Advocates' Library, a generous admirer of professional rivals, the friend of 'wits,' a distinguished writer, an eminent lawyer, and a genuine patriot. A man might be such, no doubt, and withal a cruel foe, and it remains to examine the circumstances that have tainted his memory with the epithet 'bluidy.' 'What, Sir,' says Davie Deans, 'wad ye speak to me about a man that has the blood of the saints at his fingers' ends? Didna his eme die and gang to his place wi' the name of the Bluidy MacKenzie? and winna he be kend by that name sae lang as there's a Scots tongue to speak the word?'

One does well to remember Macaulay's remark, that a man must be judged by the standard of his own time. Now MacKenzie had an unshakable belief in the sacrosanctitude of the royal prerogative. He would have accepted the maxim of Crassus, quoted in More's *Utopia*, that a king, even though he would, can do nothing unjustly. That is a hard saying, but one has to remember that in 1660 there were multitudes for whom it was axiomatic. Much later Rousseau could write<sup>1</sup> 'C'est une convention vaine et contradictoire de stipuler d'une part, une autorité absolu; de l'autre, une obeissance sans bornes,' but for MacKenzie and those likeminded such a 'convention' was the only tolerable relationship between ruler and people. Moreover, they had seen, as they thought, in the events from 1642 to 1660, terrible proof of the consequences of a divided authority in the State. It is hardly to be wondered at that they were unable to discern that the days of absolute monarchy were numbered. Very few in that age saw the new day coming. Montrose and Leighton had their dreams of compromise, but neither Royalists nor Covenanters saw the beauties of tolerance. For them De Quincey's words in his essay on Protestantism would have had little meaning: 'The twin maxims were originally but two aspects of one law; to deny the Papal control over men's conscience being to affirm man's self-

<sup>1</sup> *Du Contrat Sociale*, i. c. 4.



control was, therefore, to affirm man's right to toleration, which again implied a corresponding *duty* of toleration.' In *The Religious Stoic*, MacKenzie asks, 'Do not even those who persecuted others for their opinions admire why they should be, upon that score, persecuted themselves?' and it took a quarter of a century of fierce and bloody conflict to bring Great Britain to the toleration of William III.'s settlement.

Under the Covenant, Scotland, as Kirkton saw it, 'was a heap of wheat set about with lilies, uniform, or a palace of silver beautifully proportioned,' but the Royalists had no such vision: the memory of the Covenanting domination was a nightmare. Their greatest admirers must admit the unloveliness of the Covenanters' creed and practice. 'God forbid,' said Leighton in his *Sermon on Present Duty*, 'any should think that except all be according to our mind, we must break the bond of peace.' But no such moderation appealed to the Covenanters, who applied to their own case the words of Jeremiah<sup>1</sup> 'Cursed be the man that obeyeth not the words of this covenant,' and aimed at nothing less than imposing Presbyterianism on the whole nation. Conscience forbade 'a hoof or so much as a hair of the Scottish model to be altered.' What opposed it was idolatry and therefore came under the doom pronounced in the Scriptures against the heathen. Phinehas, and Samuel in his treatment of Agag, were exemplars of conduct, and congenial texts were found in such passages as<sup>2</sup> 'Pull them out like sheep for the slaughter, and prepare them for the day of slaughter.' The Covenanters were no respecters of persons. *The Book of Discipline* enjoins strict and minute examination of all and sundry 'in the principles of the Christian religion,' and that 'the rulers as well as they that are ruled' shall be subject to discipline.

An evangelical sermon roused Lord Melbourne to exclaim, 'Things have come to a pretty pass when religion is allowed to invade the sphere of private life!' but in the days of the Covenanting triumph what passed for religion invaded every sphere of life, and all the actions of man, from waging war to gathering gooseberries, were supervised and controlled by the Kirk. It is at least noteworthy that under this government both immorality and witchbaiting were rampant. It has to be remembered also that the Reformers did not eschew the more violent means. 'Knox,' says Matheson,<sup>3</sup> 'certainly approved of the

<sup>1</sup> 11. 3.

<sup>2</sup> *Jeremiah* 12. 3.

<sup>3</sup> *Politics and Religion in Scotland*, i. p. 110.

assassination both of Cardinal Beaton and of David Riccio,' and in his discussion with Lethington Knox maintained the duty of 'the people of God' to put idolaters to death. Men of this temper were not to be harried without provoking desperate resistance, and when it came to a trial of strength and endurance between them and the extremists for the royal supremacy, there was the problem of the familiar question, 'What is to happen when an irresistible force encounters an immovable mass?'

The impartial mind finds it hard to sympathise with either side, with the narrow, meddlesome, domineering Covenanters or with the brutal oppressors of the Killing Time. Yet the main blame lies with the Government. In view of the temper of the nation, a fair trial might have been given to Presbyterianism,<sup>1</sup> but the statesmen of the day were not big enough men to try the experiment, and the king himself hated Presbyterianism. Uniformity on the basis of Episcopacy was deemed essential to the safety of the country, and it was always contended that Presbyterians were persecuted for reasons of state, not of religion: in his examination John Ogilvie, the Catholic martyr, who suffered at Glasgow in 1615, so explained the burning of heretics. Leighton remonstrated with Charles himself on the policy of persecution, but both this and his attempt to reconcile Episcopacy and Presbyterianism, on the basis of mutual concessions, came to nought. 'Where,' wrote De Quincey in his essay on Cicero, 'has been the man, much less the party of men, that did not in a first essay upon so difficult an adjustment as that of an equilibrium between the limits of political forces, travel into some excesses?' but the dangers of excesses had been vividly exhibited in the troublous times that preceded 1660, and Charles would have done well to bear in mind the truth, afterwards impressed by Temple, 'In running on counsels contrary to the general humour and spirit of the people, the King indeed may make his ministers great subjects, but they can never make him a great prince.'

The fairest estimate of the whole question is Sir Walter Scott's in his review of Kirkton's *History*, 1818. The Covenanting leaders, he says, 'possessed a competent share of learning and no small quantity of natural parts: their lives were, generally speaking, regular, even to ascetic severity: and they rejected and condemned even innocent pleasures and elegant pursuits, as unworthy of men dedicated to the explanation and maintenance

<sup>1</sup> Lang's *Sir George MacKenzie*, p. 19.



of true religion. But in the imperfect state of humanity, even virtues carried to extremity run into error and indeed into vice. Conscious rectitude of intention hurried these eminent men (for many of them deserve that name) into the extremes of spiritual pride and intolerance; and what they esteemed the indubitable truth of their cause made them too anxious to enforce their tenets to hesitate about the means of accomplishing an event so desirable. . . . The theocracy which the clergy asserted in behalf of the Kirk was not in those days so distinctly understood or so prudently regulated, but that its administrators too often interfered with the civic rule of the Kingdom.'

Whatever the shortcomings of the Covenanters, they made a real contribution to the cause of political progress. In their time an invasion of the royal prerogative was inevitable, and if, in attacking one prerogative, they aimed at establishing another; if, in seeking for freedom, they searched as blindly as Polyphemus in his cave, they undoubtedly helped to pave the way for 1688, and to exhibit the truth of Gourville's saying: 'A King of England who will be the man of his people is the greatest King in the world; but, if he will be something more, by God he is nothing at all.'

In such times of oppression and exasperation opponents are not likely to be fair judges of actions and motives, and, at this distance, the impartial will not accept the Covenanters' estimate of the King's Lord Advocate responsible for taking proceedings against them. When the fullest account has been taken of the cases where MacKenzie pushed matters too hard, or seemed to take an unfair advantage, as in the trials of Sir Hugh Campbell, Baillie of Jerviswoode, Isobel Semple and Marion Harvey, it is to be kept in mind that he was an official charged with official duty, and that before and after him there were law officers, including judges, whose record is very much more discreditable.

In September, 1680, Donald Cargill, speaking at the Torwood, near Stirling, excommunicated MacKenzie and delivered him over to Satan 'for his constant pleading against and prosecuting to death the people of God,' and one can understand and sympathise with the Covenanters' feelings against this able and subtle instrument of the oppressors. Yet we must keep before us the fact that MacKenzie was there to prosecute, under the law as it stood, those whom he conscientiously regarded as rebels against the King's authority and dangerous to the peace of Scotland. We must also recall that he lived in an age when opponents were not prone to show

mercy. In his official capacity he could not give heed to his own maxim, 'Severity increases the number and zeal of bigots,' but one may well wish that a man with so many excellent qualities had been spared the tasks laid to his hand. The employment of torture was charged against him, but this horrible means of securing conviction was a part of criminal procedure in Scotland that outlived the Revolution. On this subject MacKenzie wrote,<sup>1</sup> 'Torture is seldom used with us, because some obstinate persons do oftentimes deny truth, whilst others who are frail and timorous, confess, for fear, what is not true.'

In spite of the worst that can be set down against MacKenzie, he compares favourably with his contemporaries on both sides, and his memory does not deserve to be loaded with so heavy a burden of bloodguiltiness.

A. M. WILLIAMS.

<sup>1</sup> *Works*, ii. p. 261.



## John Major and Humanism

THE career of John Major as a student and a man of letters is typical of the wandering scholar of the days of the Renaissance.

On the completion of his initial studies in Scotland he took up his residence in Cambridge for a brief period prior to proceeding to Paris University, where his lot was cast during the closing decade of the fifteenth and the opening years of the sixteenth centuries—years that were marked by abnormal intellectual ferment throughout Western Europe. In Paris Major made his mark as a scholar and lecturer, and became one of the most conspicuous theologians in the circle of orthodox upholders of the essential tenets of the Papacy. In 1518 he returned to Scotland, a mature scholar with an established reputation, to take up at the University of Glasgow, the patriotic task, urged on him by his friend Gavin Douglas, of doing something for the educational advancement of his native-land, and he had the gratification to find that his presence attracted students to Glasgow in numbers—small though they were—much larger than usual.<sup>1</sup> In 1525 he transferred his services to St. Andrews, where he remained till the following year, when he once more crossed over to Paris, staying there for several years. About 1533 he returned to Scotland to take up an appointment in St. Salvator's College, St. Andrews, where he seems to have spent the remainder of his long life.<sup>2</sup>

The friends of Major regarded him as a man of extraordinary talents, capable of grasping with ease the erudition of his times. His opponents despised him as an obscurantist, as one who in his devotion to obsolete or obsolescent standards was quite content to idolise authority and strangle reason in the web of scholastic subtlety.

<sup>1</sup> See Mackay's edition of Major's *History* (Scot. Hist. Soc.); *Munimenta Alm. Univ. Glas.* vol. ii. p. 134 (under year 1518); Major's *In Primum Sententiarum*, Paris 1519, introductory dialogue.

<sup>2</sup> Grub's *Ecclesiastical History of Scotland*, 1861, vol. ii. p. 3.

John Eck, the antagonist of Martin Luther, writing in 1517, described Major as the first or almost the first among theologians at that time.<sup>1</sup> Hector Boece, the first principal of Aberdeen University, a fellow-Scot who was heartily in sympathy with Major's theological views, wrote of him as a most learned theologian, whose writings, like very bright torches, had shed great light on the Christian religion.<sup>2</sup> Among Continental Reformers, Philip Melancthon helped to pillory Major by referring to him as the reputed king of Parisian theologians and the author of 'waggon-loads of trifles.'<sup>3</sup>

George Buchanan, who studied under Major at St. Andrews, spoke in a mood of frank dislike when he referred to Major as lecturing on 'dialectic or, more correctly, sophistry,'<sup>4</sup> besides remarking, in a barbed epigram on one of Major's writings, that the author had seen to it that there should not be 'a sane page in the huge book;'<sup>5</sup> and it is probably due to Buchanan's influence most of all that Major has been commonly regarded as a hopeless pedant wasting his time in wholly barren pursuits.

The disparagement or eulogy of Major depended entirely on the school of thought to which the critic owed allegiance, and really represented the intellectual conflict between Humanism and Scholasticism, accentuated also by the religious struggle between the Reformers and the adherents of the Papal régime. The attitude of the Humanist, in general, towards the supporter of Scholasticism was one of impatience mingled with contempt. Here were two systems, one old the other new: one that was rapidly becoming effete and tottering under a deadweight of absurdities, one that had indeed been a useful instrument of education, but had outlived its day; the other stimulating to the individual mind, advising a man to make the full use of his powers, to employ his own unfettered intelligence, to live his own life. Scholasticism was a stagnant pool; Humanism clear running water. Of which would a wise man drink? The Humanist felt towards the Scholastic as an impetuous young man feels towards an elderly man who seems over-cautious,

<sup>1</sup> *Epistolicae Quaestiones et Responsiones Variæ*, Frankfort, 1614, ep. xxxiv. p. 145.

<sup>2</sup> *Lives of Bishops of Aberdeen* (New Spald. Club), p. 89.

<sup>3</sup> *Corpus Reformatorum* (edit. Bretschneider, 1834), vol. i. p. 399.

<sup>4</sup> Buchanan's *Opera Omnia*, Ruddiman, 1715, vol. i.: '... ad Joannem Majorem audiendum, qui tum ibi Dialecticen, aut verius Sophisticen ... docebat.'

<sup>5</sup> Buchanan's *Opera Omnia* (Ruddiman), vol. ii. p. 78, No. li.



over-reluctant, to cut himself adrift from his early experiences and convictions, and accept the newest ideas. To the young man the case admits of no argument. Of this the elderly man is not so sure.

Of Major's personal ability, estimates, when free from partisanship, have varied. Dr. McCrie declared that 'his talents were moderate,'<sup>1</sup> but this criticism seems hardly fair and certainly not generous. Spottiswood, who was in living touch with men of Major's day, expressed his opinion that 'according to these times he was not unlearned.'<sup>2</sup>

Personal investigation of several of Major's works has led me to the conclusion that he was a man of prodigious energy, equipped with a store of learning, multifarious and encyclopaedic, though much of it was, beyond question, erudite scholastic lumber.

It is well to keep in mind that Major gained his reputation in a University that commanded a larger number of adherents than any other University of that period, and, to achieve the eminence he did, Major must have demonstrated his intellectual superiority over a large band of able men in their own field of learning; and, further, the vehement onslaughts of his opponents would have been altogether pointless had Major been an insignificant representative of the Parisian theologian.

Paris University at this time was the meeting-place of the nations, and exhibited as much diversity of thought and opinion as of nationality. The University in its official capacity was the stronghold of Scholasticism, but unofficially Humanism was being rapidly propagated, owing in part to the proselytising efforts of men like Erasmus, partly owing to the direct contact of France with Italian influences, due to the foreign policy of the French kings. Many of Major's contemporaries in Paris were led to an acceptance of literary Humanism, and Major himself, although on the whole a keen supporter of Scholastic methods, clearly shows he did not escape the influences that surrounded him, and his literary works made it abundantly ascertainable that he was fully conscious of the strength of the Humanist position and was rather a transitionist between the old and the new than an uncompromising Scholastic die-hard.

The subjects of his literary productions were almost wholly the theology and philosophy of the later medieval type, and such

<sup>1</sup> *Life of John Knox*, 1855, p. 4.

<sup>2</sup> Spottiswood's *History of Church and State in Scotland*, 1677, p. 68.

themes naturally involved the use of the rather tedious Scholastic terminology. He shows wide knowledge of the early writings of the Church ; he had a close familiarity with the works of Schoolmen such as Aquinas and Anselm ; he refers constantly to Aristotle, the Schoolmen's philosophical oracle, and evinces on page after page a remarkable acquaintance with the minutiae of medieval thought.<sup>1</sup>

While his knowledge of Scholastic philosophy and theology—apart from the advantages or disadvantages of such knowledge—has gone unchallenged, his Classical acquirements have not been generally conceded. Speaking in this connection, Dr. McCrie remarks that 'with the writings of the ancients he appears to have been acquainted through the medium of the collectors of the middle ages.'<sup>2</sup> This view seems to be at variance with the facts. Major had undoubtedly a wide knowledge of Latin literature, and his general attitude exhibits more of the sympathy characteristic of the Humanist who was so largely interested in Classical literature as literature than of the Medievalist who tended to regard Classical study as a mere prelude to the more important pursuits of philosophy and theology. In his *History of Britain*, which is practically the only work of Major that any save the curious dip into, a work which hardly lent itself to Classical quotation, he has introduced references to such Latin writers as Cicero, Sallust, Livy, Pliny the Younger, Vergil, Horace, Ovid, Lucan, and Juvenal.<sup>3</sup> In his *Commentary on the Fourth Book of the Sentences of Peter Lombard*, he has quoted frequently from Classical authors. Besides making use of the same writers as he did in his *History*, he refers to Terence, Pliny the Elder, Seneca, and Homer.<sup>4</sup> In his *Expositions on the Four Gospels*, he quotes from Cato, Plato, and Demosthenes, as well as from the commoner authors.<sup>5</sup>

With the various works of the different authors his acquaintance was close. In the case of Cicero, he draws his illustrations from

<sup>1</sup> This is seen on nearly every page of the works of Major mentioned later.

<sup>2</sup> *Life of John Knox*, p. 4.

<sup>3</sup> I noted one reference to Cicero, Livy, Pliny, Juvenal, Horace, Ovid, Lucan ; two to Sallust ; six to Vergil.

<sup>4</sup> One reference to Sallust and Juvenal, four to Pliny Elder and Terence, nine to Horace, ten to Ovid, fourteen to Lucan, fifteen to Cicero, forty-one to Vergil, seven to Homer.

<sup>5</sup> One reference to Cato, Tacitus, Pliny Younger, Lucan, Juvenal ; three to Sallust ; four to Ovid ; seven to Horace ; eleven to Pliny Elder ; thirteen to Cicero ; fifteen to Vergil ; one to Plato ; one to Homer ; six to Demosthenes.



his *Offices*, his *Paradoxes*, his *Letters*, his *Pro Milone*, and his *De Amicitia*,<sup>1</sup> and this first-hand knowledge of several of the well-known works of Cicero is of importance in view of the emphasis laid on the value of a Ciceronian style at this period by Humanists of the Italian School. With the works of Vergil he was especially familiar, drawing as he did, from the *Eclogues*, *Georgics*, *Aeneid*, with an ease and an aptness that betokened careful study. He was also versed in the works of Horace, as we find from his quotations drawn from the *Odes*, the *Epistles*, and the *Ars Poetica*.

Besides quoting, as we noted, from Plato and Demosthenes, Major lays Homer under contribution on several occasions,<sup>2</sup> and remarks that 'all men in their senses'<sup>3</sup> feel admiration for the great poet. Probably Major made use of Latin translations of the Greek authors. In his *Expositiones*, he gives the Latin text although the Greek was by this time accessible in print, but the common attitude of opposition to Greek by the theological doctors of Paris would tend to check any incipient admiration for Greek in the case of so great a loyalist to his caste as Major usually was. Still, Major had at least some slight knowledge of Greek, as we may judge from the presence of several words of Greek characters in one of his writings.<sup>4</sup>

What may be regarded as another link with Humanism is to be found in his acquaintance with the works of several Italian Humanists. He quotes from a letter by Petrarch, in which a disparaging comparison is made between Britain and Sicily.<sup>5</sup> He mentions Laurentius Valla as one who advocated elegance in style, as a man devoted to 'more chaste diction'<sup>6</sup> in Latin, and as a critic of the Papal claims to temporal sovereignty based on the Donation of Constantine. Valla demonstrated by textual and linguistic criticism that the Donation was a forgery, and thus demolished the claims of the Papacy, but Major, as a sincere Catholic, did not adopt Valla's dangerous views, and held firmly that Constantine did gift the temporal sovereignty to Pope Sylvester.<sup>7</sup>

<sup>1</sup> In *Quatuor Evangelia Expositiones*, fol. xxix.; xiv.; cxxx.; cxlix.; ccxxxii.

<sup>2</sup> E.g. In *Quart. Sententiarum*, fol. cviii.; fol. cxvi.; fol. cxxiii.; fol. ccxix.

<sup>3</sup> In *Quatuor Evangelia Expositiones*, fol. xliv.

<sup>4</sup> In *Quart. Sent.* fol. cxxiii.; fol. cccxx.

<sup>5</sup> In *Quart. Sent.* (1516), fol. ii.: '... deflet Siciliam esse Britanniae similem.'

<sup>6</sup> In *Quatuor Evangelia Expositiones* (Address to the reader).

<sup>7</sup> In *Quart. Sent.* fol. ciii.; cf. *Quat. Evang.* fol. lxxv.

Major had also studied the works of Aeneas Sylvius, afterwards Pope Pius II., who is interesting to Scotsmen on account of his visit to the Court of James the First in 1435. Sylvius gave expression to a variety of views on Scotland, more entertaining than accurate, and Major felt himself bound, though in all humility, to contradict the opinions of Sylvius on several points that were obviously erroneous.<sup>1</sup>

In Major's *History* there also occur references to Sabellicus (Marco Antonio Coccio), an early Humanistic historian of the brilliant circle of Julius Pomponius Laetus. Major, who speaks of Sabellicus as 'no unimportant historian,' cites a remark made by Sabellicus about the jealous nature of Scotsmen, and censures in a dignified fashion the uncritical opinion of the Italian that the Scots found pleasure in falsehood.<sup>2</sup> Francesco Filelfo, one of the greatest among the pioneers of Humanism, was not unknown to Major, who directs attention to one of his writings in a way which indicates that he had perused the work.<sup>3</sup>

It is with peculiar pleasure that Major invokes the authority of John Picus Mirandola, who had received a Scholastic training in Paris before devoting himself to Humanism; and, unlike most Humanists, he found that valuable lessons could be derived from Scholasticism. Major quotes him as an instance of one who felt no shame in reading and re-reading the Schoolmen whom the modern innovators called barbarians.<sup>4</sup> He recalls the defence of the Scholastic system which Picus offered against Hermolaus Barbarus, a contemporary Humanist, in terms which show his acquaintance with the letter of Picus, a letter, it is to be noted, written in true Humanistic vein, and not at all in imitation of the literary style of the Schoolmen whose system of thought Picus was defending.

The evidence adduced so far may be claimed as sufficient to justify the plea for a reconsideration of the verdict passed on Major, who may not unfairly be regarded as a mild form of the eclectic who chose, from the conflicting standards of his age, what appealed most to his individuality. But perhaps no single characteristic of Major has contributed more to the current

<sup>1</sup> *History*, book i. ch. vi. ; bk. i. ch. ix. ; cf. *Quat. Evang.* fol. cc.

<sup>2</sup> *History*, book i. ch. vii.

<sup>3</sup> *Quat. Evang.* fol. cccxvii. : ' . . . apud Philelphum hoc invenies.'

<sup>4</sup> *In Quart. Sent.* Dedication to Alexander Stewart. Cf. *In Quart. Sent.* fol. iii. ; fol. v. ; fol. cxci.



opinion of his intellectual calibre and mental outlook than his literary style, which has been closely observed and frequently criticised. We need not wonder at this, for Classical study had passed through several stages, each stage, with the spread of knowledge, being an improvement on its predecessor, and, in the early part of the sixteenth century, the great task of Humanists in general, but especially of the Italians, was the cultivation of an accurate and artistic style based on the model of Cicero, most of all, although other important writers were not ignored. Habitual imitation of models, though ape-like and hampering to originality, effected a great improvement in Latin style, and the literary productions of the later Humanists certainly surpass in tasteful elegance the works of the pioneer Humanists, whose energies were so largely spent on the restoration to the world of the contents of Classical literature in a correct form.

The period of Major's literary activity, then, was a time when style was of the first importance; by it a man stood or fell, and consequently Major met with much criticism for his obvious disregard of the graces of style. In our country the criticism of Major as a stylist seems to be based on his *History*. We may take as typical of the prevalent opinion the criticism of John Leslie, Bishop of Ross, and of Spottiswood, representatives of opposing schools of religious thought. Leslie declared the *History* was 'written correctly though inelegantly,'<sup>1</sup> while Spottiswood bluntly says that Major's style was 'Sorbonick and barbarous.'<sup>2</sup>

Little objection can be found with these opinions, because the style of the *History* is indeed unusual. The *History* is the work of one who was part diarist, part chronicler, part historian. Major cannot forget that he is a theologian, and consequently entitled to moralise on occasion. He cannot ignore his training in Logic, and is quite unable to resist the temptation to state the pros and cons of an interesting argument even in the middle of his narrative. The *History* would appear to have been written hurriedly, and parts of it towards the close seem to be 'in the rough' and to have been left without revision before publication. The style is that of one who cannot let himself go, of one who is essentially humdrum. It is a sort of staccato

<sup>1</sup> *Hist. of Scotland* (Scot. Text Soc.), p. xx.

<sup>2</sup> *History of Church and State*, p. 68.

style, jerky too, and at times almost laconic. Occasionally we get hints that Major could have produced more artistic work had he bent himself to the task. When he is describing battles or warlike operations, for which his materials were abundant, he can write interestingly and vividly. He is seen at his best perhaps when dealing with Bruce and his achievements, which, he holds, are on a level with those of Alexander of Macedon. A subject like the struggle of the Scots and the English was sufficient to rouse even the most uninspired of writers. For Major, in common with other Scottish writers, this struggle had an epic significance, and he does rise in some measure to the importance of his theme. The events leading up to the battle of Bannockburn, the speeches of Bruce and of Edward to their armies, the battle itself and its issues are described in glowing language, which, with the addition of a little more care in grammatical structure and expression, and with the introduction of a few purple patches, would have been not at all unworthy of a professed Humanist.

In his dedications of various works on philosophy and theology to eminent personages in Church and State, we have additional examples of the narrative style of Major, and these examples, written in fair Latin, indicate that their author had command of an extensive Latin vocabulary, and of the art of expressing himself in clear and unmistakable language; but while he shuns glaring barbarisms, he pays little heed to the 'swing' of his sentences, or to the choice of purely Classical words, never sacrifices—and rightly—accuracy of fact to embellishment of language, and is not greatly concerned, as a contemporary Humanist would have been, about having the most appropriate word in the proper place.

He was perfectly well aware that his literary style was far from being beyond reproach, and has referred more than once in an apologetic tone to his stylistic mannerisms. In the dedication of the *Fourth Book of Sentences* (1508) to Alexander Stewart, Archbishop of St. Andrews, the pupil of Erasmus in Latin and in Greek, he defends plainness of style as the proper garb for theological arguments, and declares that it was the plan of theologians to jot down thoughts as they occurred, without considerations of style or of the use of ornate words unsuited to theology.<sup>1</sup>

In his *History* (1521), by way of anticipating possible criticism

<sup>1</sup> See the dedicatory epistle prefixed to *In Quartum Sententiarum*.



of his style, he voluntarily concedes that he might certainly have written in a more graceful and attractive manner, but affirms that he considered his historical subject-matter much more important than the mere form of expression.<sup>1</sup>

In his *Expositions on the Four Gospels* (1529) he has a further reference to this question of style, and it would seem that the criticism to which he had been subjected was having a remedial effect on him, and that he was approximating more to the standard of those who demanded elegance as well as accuracy of composition. He explains the principles he follows in the meaning of specific words, and remarks, in passing, on those who, in common with Valla, prefer ornate diction. His own care has been, he asserts, to pay more attention to the ideas expressed than to beauty of language. Others exhibit in their works a stream of eloquence; his anxiety is to avoid barbarisms as far as he can.<sup>2</sup>

This recognition that considerations of style cannot be wholly ignored must be regarded as an advance in Major's position, and the advance is seen in the language he makes use of. He speaks, for instance, like a Humanist, of Cicero as a 'flood of eloquence,'<sup>3</sup> or as the 'parent of Latin eloquence,'<sup>4</sup> of Demosthenes as being famed for his 'Attic charm,'<sup>5</sup> as being 'the lightning (*fulgur*) of Attic speech,'<sup>6</sup> as remarkable for his 'vigour of speech,'<sup>7</sup> as 'the most eloquent of the Greeks.'<sup>8</sup>

Such facts as these are important as helping to define Major's position and serve to show that he had sufficient appreciation of what was involved in literary Humanism to have become a thorough-going Humanist had he so chosen, but by the time Humanism had become popular north of the Alps, his habit of thought and style had become stereotyped, and he could not unlive the past. Had he been born two decades later than the actual date of his birth, he would probably have absorbed more of the Humanistic creed than he did, but, as matters stood, the appeal of complete Humanism was too startling an innovation for him, too pronounced a break with the past, and so he kept

<sup>1</sup> Introductory epistle to his *History*.

<sup>2</sup> Introductory epistle to *In Quatuor Evangelia Expositiones*.

<sup>3</sup> *Quat. Evang.* fol. xix.; cf. fol. cxlix.

<sup>4</sup> *Quat. Evang.* fol. xlviii.; cf. fol. lix., fol. cxii.

<sup>5</sup> *Quat. Evang.* fol. xix.

<sup>6</sup> *Quat. Evang.* fol. cxii.

<sup>7</sup> *Quat. Evang.* fol. cclxxxii.

<sup>8</sup> *Quat. Evang.* fol. cccxxx.

to the old paths of belief in Scholastic dialectic, of fidelity to the Papal theology, of adherence to medieval tradition, but not wholly so, for his extensive Latin knowledge, his acquaintance with Greek, merest smattering though it may have been, his reading in Humanistic literature, indicate that he did not escape modernising influences, but was compelled to advance with the times and modify his original position. His life was spent during a period of transition from a long-accepted intellectual standard to a new one that seemed to offer greater possibilities for development. Before Major left France—about 1533—the advocates of Humanism on the literary side had seen to it that their culture should possess the immediate future, while in Scotland the work and influence of Hector Boece and his colleagues had been so effective that all Scottish scholars, even those trained in the ideas of Major, and faithful to his teachings, came to accept as a matter of course the demand of the Humanists that literary form should have adequate recognition.

COLIN M. MACDONALD.



## Thomas Fyshe Palmer, a Political Exile, 1793

READERS of Scottish political history are familiar with the story of the Edinburgh trials for sedition that took place in 1793-4, when Lord Justice Clerk Braxfield sentenced Muir, Palmer, Skirving, Margarot and Gerrald to be transported across the seas. Part of the tale of what happened to these victims of Henry Dundas while living in Botany Bay<sup>1</sup> may be read in the early records of Australian history and in letters written by Palmer. He, it will be remembered, was a Cambridge graduate who had left the Church of England to spread the gospel of the Unitarians in Scotland and who was condemned on a charge of writing and publishing an Address to the People on the subject of reform.

The transport *Surprize*, with Palmer, Muir, Skirving, and Margarot on board, left England on May 2nd, 1794. Lord Swinton, one of Muir's judges, had remarked that there was no punishment adequate to the crime of sedition, now that torture was abolished;<sup>2</sup> but the sentence of transportation was in itself a form of torture, entailing as it did five or six months in unsavoury quarters on a convict ship in the company of heart-rending specimens of humanity. True, the captain of the transport was instructed to keep Palmer and his friends 'as separate from the other convicts, and in other respects to attend as much to the situation of those Persons, as circumstances will permit of,'<sup>3</sup> and the Admiralty was informed in reply that separate accommodation was already provided for them;<sup>4</sup> but, though they were kept

<sup>1</sup> The convict settlement in New South Wales was long spoken of as Botany Bay. It had been intended to establish it on that harbour, found and named by Captain Cook, but the first governor determined on a site a few miles to the north, where Sydney now is.

<sup>2</sup> Howell's *State Trials*, v. 23, 234.

<sup>3</sup> Under-Secretary King to Commissioners of the Navy, *Historical Records of New South Wales*, ii. 854.

<sup>4</sup> *H.R.* ii. 852.

separate from the common felons, they were put to live with the soldiers going out to join the New South Wales Corps, several of whom were riff-raff from the Savoy and at least one of whom was a convicted criminal. Though the captain had accepted £40 from each of the reformers for their mess and separate cabins,<sup>1</sup> he kept them in a place that Palmer describes as 'constantly wet and cold in the day-time, and in the night . . . hot almost to suffocation, by twenty-four persons being shut in a small place under close wooden hatchways unperforated by a single hole.'<sup>2</sup>

Besides the convicts and the soldiers, there were five people on board who were emigrating of their own accord.<sup>3</sup> One of these was a young cotton-spinner named James Ellis, who had been given permission to accompany Palmer in the capacity of 'domestick,' provided that on his arrival he became a free settler in the colony.<sup>4</sup> Ellis had been a protégé of Palmer's in Dundee,<sup>5</sup> and his devotion and the friendship of Mr. and Mrs. Boston, two of the other free settlers, were to be Palmer's chief comfort through the long days of his exile.

Very soon an unexpected misery was to be added to the ordinary hardships of the voyage. A month after leaving England, Palmer and Skirving were accused by Captain Campbell of conspiring to mutiny and murder, with the object of obtaining command of the ship and carrying her to France or America. It would be hard to find a less convincing tale than that told in the various accounts of the conspiracy.<sup>6</sup> A convict named John Grant, an attorney who had committed forgery while Sheriff-Depute of Inverness-shire,<sup>7</sup> was the first informer, and the chief supporter of the charge was a soldier called Joseph Draper, who had attempted the life of Prince Edward, the King's son, during a mutiny at Quebec, and obtained a pardon conditional on his joining the regiment enlisted for service in Australia known as the New South Wales Corps.<sup>8</sup> It is quite plain from the evidence

<sup>1</sup> *Narrative of the sufferings of T. F. Palmer and W. Skirving during a voyage to New South Wales*, by Palmer, p. 18.

<sup>2</sup> *Ibid.* 17.

<sup>3</sup> *H.R.* ii. 120.

<sup>4</sup> *Ibid.* 838.

<sup>5</sup> *Ibid.* 836. Ellis was a member of the Society of the Friends of the People, and one of the chief witnesses in Palmer's trial.

<sup>6</sup> A manuscript account in the archives of the Sydney Supreme Court, prepared by Campbell for the information of the Governor of New South Wales, gives more information than the extracts published in the *Historical Records*, ii.

<sup>7</sup> *H.R.* ii. 205.

<sup>8</sup> *Ibid.* ii. 863 n. and *Narrative of the sufferings*, etc. 16.



that the Scottish agriculturist and the English divine had no share in the 'diabolical plot.'

On the discovery of the pretended mutiny, Palmer was summoned to the deck, where he found Campbell 'accoutred like a perfect Robinson Crusoe. He had a belt of pistols in his breast, in his waistcoat and breeches pocket, a sword and a dagger.'<sup>1</sup> Grant pointed out six soldiers as chiefly concerned in the scheme, and Draper, who was one of them, tried to prove the complicity of Palmer and Skirving, some fellow-soldiers, and two convicts. These convicts 'confessed,' one of them after having received twelve lashes, and those who would not confirm Draper's accusations were flogged, loaded with irons and chained to the poop. Palmer and Skirving were put in close confinement under an armed guard in a small cabin where the brawls of their 'Newgate neighbours' rang through the partition. Muir was exonerated from any share in the conspiracy, while Margarot supported Campbell's accusations against his colleagues, who bitterly resented his treachery. Possibly Campbell was simply the victim of suggestion and French Revolutionary panic, but the evidence, which is almost entirely hearsay and full of irrelevant information, leaves an unpleasant impression of witnesses impelled by fear or cunning to make statements which the captain was unscrupulously quick to believe. Accounts of the affair were sent home from Rio de Janeiro and both sides prepared for an official investigation in Sydney.

The *Surprise* dropped anchor in Sydney harbour after dark on October 25th and delayed her salute of respect till sunrise next morning.<sup>2</sup> Palmer wrote that on the night of the arrival the Captain went to the Governor's house with 'a monstrous bag of papers,' among them those dealing with the conspiracy.<sup>3</sup> The next day Palmer and Skirving drew up a long letter to the Governor demanding that their names should be cleared of the dishonourable imputations made by Campbell,<sup>4</sup> and they also sent to him and to other officials various letters of introduction brought out from friends in England.<sup>5</sup> Lieut.-Governor Grose<sup>6</sup> replied

<sup>1</sup> *Narrative of the Sufferings*, etc. 25.

<sup>2</sup> Collins, *Account of the English Colony of New South Wales*, 1798, i. 396.

<sup>3</sup> *Narrative of the Sufferings*, etc. 47.

<sup>4</sup> *H.R.* ii. 866.

<sup>5</sup> *Narrative of the Sufferings*, etc. 47.

<sup>6</sup> Son of 'Antiquary' Grose, of Edinburgh fame. *Kay's Original Portraits* (1885), vol. i. p. 46.

that the letters would secure them every reasonable indulgence, but that their petition was a very inauspicious beginning to their life in the colony. He warned them to avoid 'a recital of those politicks' that had been the cause of their miseries, and advised them to ensure their future comfort by behaving well.<sup>1</sup> He told Palmer that 'Yourself and your services are assigned to my care, with the other convicts sent out for the purpose of cultivating the colony,' which shows that he had not yet read his official instructions informing him that he was not at liberty to compel their services.<sup>2</sup> To Campbell's misdemeanours he did not allude, nor was there ever any investigation into the conspiracy charges.

The wretched experiences of the voyage over, life seemed to promise at least tranquillity to Palmer and his friends. Three brick huts were allotted by Grose to Muir, Skirving, and Palmer.<sup>3</sup> They bought neighbouring farms in the country and each was allowed the services of a convict labourer.<sup>4</sup> So, between their huts in the six-year-old settlement of Sydney and their shanties in a clearing in the scrub, they prepared to pass the long years of their sentences. There is little to show how Muir lived until his escape in an American vessel in February 1796 brought him once more into the pages of romantic narrative; Skirving died of dysentery a month afterwards, and Gerrald, transported a year after his co-reformers, died of consumption a few days later than Skirving; Margarot had been sent to coventry by the others since the *Surprize* conspiracy, and the references to him are mainly of an official, and usually disciplinary, character: so that it is Palmer whom we can most definitely see going about his life 'on the island' of New South Wales.

From the first he evinced a healthy desire to get through the term of his banishment as comfortably and profitably as he could. Muir seems to have lived in retired mood, and his letters are written in a tone of high melancholy, with a tinge of the grandiloquent, a hint of the martyr's crown. Palmer, on the other hand, writes vigorously, praising and abusing in very human fashion the management of the colony, showing a keen interest in the future and dwelling not at all on the past. 'I am not quixote enough,' he wrote while still in England, 'to attempt reformation in religion or politicks under a military government with a halter

<sup>1</sup> *H.R.* ii. 868.

<sup>2</sup> *Ibid.* ii. 856.

<sup>3</sup> Collins, i. 399.

<sup>4</sup> *Gentleman's Magazine*, March, 1797.



round my neck.’<sup>1</sup> In the midst of the squalor of the transport he had planned to amuse himself in his exile with the pursuit of chemistry and natural history,<sup>2</sup> and a few weeks after landing in Sydney, when his eyes were so inflamed that he could hardly see to write, he described in a letter brimming with enthusiasm the fauna and flora of this little-known land. ‘To a philosophic mind it is a land of wonder and delight. To him it is a new creation: the beasts, the fish, the birds, the reptiles, the plants, the trees, the flowers, are all so new—so beautiful and grotesque, that no naturalist would believe the most faithful drawing, and it requires uncommon skill to class them.’<sup>3</sup> Of his misfortunes he spoke only to praise a new-found friend who mitigated them, and he wound up with a postscript request for the ‘seed of the York cabbage, onions, and the everlasting pea.’ The settlers’ knowledge of this ‘land of wonder and delight’ was at that time limited to a very small area, an imperfectly-known patch half the size of Perthshire on a continent not very much smaller than Europe. Palmer was able to claim acquaintance with a man who was to play a leading part in Australian discovery, the famous explorer George Bass. He wrote to tell a correspondent of ‘my most worthy friend’ Mr. Bass’s discovery of coal. ‘He has brought home three bags, it burns capitally, some of which the governor sends by this ship to Sir Joseph Banks.’<sup>4</sup>

But pure scientist and philosopher Palmer was not. He was much attracted by the possibilities of making money, and when he touched on the difficulties in the way of achievement his philosophic mind became splenetic. When he was still new to the country, he wrote ‘I never saw a place where a man could so soon make a fortune, and that by the fairest means—agriculture. The officers have already done it, and this (I can scarcely expect to be believed) in eighteen months.’<sup>5</sup> Palmer was alluding to members of the New South Wales Corps, and their success, quoted by him as an example of what he himself might be able to do, was in fact to block his own fortunes at every turn; this he was not slow to realise. The officers’ profitable farming was due to the easy

<sup>1</sup> Palmer to J. T. Rutt, 12 March, 1794, *Monthly Repository*, xii. (Extract in Mitchell Library, Sydney).

<sup>2</sup> *Ibid.*

<sup>3</sup> *H.R.* ii. 871.

<sup>4</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>5</sup> *H.R.* ii. 870.

conditions under which it was arranged that they should work and to the Government's system of buying the crops at an exorbitant price instead of growing its own. Indeed, the officers of the New South Wales Corps may be said to have shared the control of the colony with the Governor, for trade of all kinds lay almost entirely in their hands. 'My history,' wrote Palmer, 'is little else than a register of vexations and persecutions. The officers have monopolized all the trade of the colony. They suffer no one but themselves to board any ship that may arrive. They alone buy the cargo, and sell it at 1, 2, 3, 400, and even 1000 per cent. profit. Mr. Ellis and Boston'—his two friends, who lived with him—'were ordered into confinement for entering into a ship and endeavoring to purchase things not prohibited, for their use. With great respect, but firmness, they remonstrated against this invasion of the common rights of British subjects. This was construed into an audacious attack upon the privileges and interests of these military monopolists. And from that time (now many months ago) they have set their faces against them and me. They have had no grants and no servants . . . My men, which I bought at a monstrous rate, with a farm, have been taken from me. A message has been sent to me to pull off my hat to the officers, or I should be confined to the cells and punished. Public orders have been given twice for no soldier to speak to me, under the penalty of 100 lashes. Now I never had omitted the ceremony of capping the officers, and never conversed with the soldiers. The most impudent claims on my property from the most unprincipled thieves were listened to, and enforced, without listening to a single word I had to say.'<sup>1</sup> Palmer was a convict, and it did not help matters that he was also a rather stiffnecked middle-aged gentleman with an eye to business.

Captain John Hunter was at this time on his way out to take over the governorship of the colony, and to him Palmer looked for a juster administration of affairs. Had he but known it, Hunter was armed with prejudice against him and Skirving, thanks to the libellous accounts of the conspiracy sent home by Captain Campbell. Hunter spent part of the long voyage in planning how to deal with 'such infamous characters'—'characters over whom I will watch in the strictest manner,' he wrote. 'I cannot possibly forget the language held in their various conversations. No recommendation whatever can in the smallest degree weigh with me after such language—such infamous

<sup>1</sup> Palmer to Dr. Disney, 13 June, 1795, *Monthly Repository*, xii.



conduct.'<sup>1</sup> Fortunately Hunter was impressionable rather than unjust, and he was entirely disarmed by his own experience of these reformers of ruffianly reputation. A month after his arrival he wrote that he had interviewed separately 'the four gentlemen whom the activity of the magistrates of Edinburgh provided for our colony . . . they seem all of them gifted in the powers of conversation . . . Palmer is said to be a turbulent, restless kind of a man; it may be so, but I have seen nothing of that disposition in him since my arrival . . . on the whole, I have to say that their general conduct is quiet, decent, and orderly; if it continues so, they will not find me disposed to be harsh or distressing to them.'<sup>2</sup>

Under Hunter's rule, Palmer seems to have gained a measure of liberty for his energy, though he still wrote fiercely of the monopolists and the general state of the settlement. He and his friend Ellis, with the help of the *Scottish Encyclopedia*, had managed to build a small vessel which they sent with merchandise to Norfolk Island, twelve hundred miles away.<sup>3</sup> One of the commodities in which this elderly Unitarian minister traded was rum. It was not that the example of the officers had carried him away, for on the outward voyage he had wished to buy rum at Rio for eighteen pence a gallon so that he might sell it at the New South Wales price of twenty four shillings.<sup>4</sup> Their trade was on a precarious footing, for 'to be sure we are obliged to sell without a licence or certificate (which the governor, poor man, positively refuses) and are liable to be hanged as pirates by any body who chuses to give himself the trouble.'<sup>5</sup> Those 'avaricious hucksters,' the military, were still in the ascendancy; the government was weak; his own health was bad; yet he could add, 'My fellow-sufferers laugh at me, but I have no scruple in saying it is the finest country I ever saw.'<sup>6</sup>

The Norfolk Island venture, very profitable while it lasted, came to an end in 1799. Palmer had succeeded in getting a licence from Governor Hunter, but the then commandant of Norfolk Island, a soldier and of course a trader, objected to this threatening of his own profits and refused permission to Palmer's crew to

<sup>1</sup> H.R. ii. 873.

<sup>2</sup> *Ibid.* ii. 882.

<sup>3</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>4</sup> *Narrative of the Sufferings*, etc. 41.

<sup>5</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>6</sup> *Ibid.*

land. 'We suppose,' wrote Palmer, 'the crew on this rose and seized the spirits, for we never more heard of captain or ship.'<sup>1</sup> The indomitable Palmer and his friend built another vessel, loaded her with a promising cargo and prepared to salt down the pork that she would bring back from Norfolk Island. Five months passed, there was no word of the ship, and the owners were forced to conclude that she had gone down in a storm. 'So that we have nearly the world to begin again,' says the pathetic Palmer.

The *Scottish Encyclopedia*, on whose perhaps doubtful recipe the ill-starred boats were built, was given to Palmer before he left England, and in his exile was 'of infinite use and entertainment.' 'We have read over and over again our little stock of books, therefore any celebrated pamphlets that our friends have done with, it would be a charity to send.'<sup>2</sup> 'I was very much pleased with Wakefield's pamphlet,' he wrote again in 1799. 'I sent a servant with it to a friend some miles distant, who unfortunately was robbed of it because it was tied in a silk handkerchief<sup>3</sup>. . . I have not seen a Review since 1796, nor an Annual Register since 1793, and only four numbers of that excellent work the London [Monthly] Magazine. I cannot speak enough in praise of the C.—I.—. Tell Mr. F.— to be careful. I am going to fit up a room for the editor, well-knowing that he will come out here. If I deserve to be sent to Botany Bay, he ought to be sent to Georgium Sidus.'<sup>4</sup>

Palmer's sentence of seven years expired in September, 1800, and on the 5th of January, 1801, he and his faithful friends, Boston and Ellis, left Sydney. They sailed in a Spanish prize, *El Plumier*, a vessel of 250 tons, armed with two guns, and apparently in a woeful state of disrepair.<sup>5</sup> This venture was even more unfortunate than the others: it took Palmer from captivity in a British colony, not to freedom in England, but to imprisonment in the territory of an enemy. They arrived safely in New Zealand, where they meant to load timber for the market of Cape Colony, but after remaining some months they found

<sup>1</sup> Palmer to J. T. Rutt, 10 Sept. 1799, *Monthly Repository*, xii.

<sup>2</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>3</sup> Palmer to J. T. Rutt, 10 Sept. 1799, *Monthly Repository*, xii.

<sup>4</sup> Palmer refers to the *Cambridge Intelligencer*, edited by Benjamin Flower. Georgium Sidus is the planet Uranus, discovered by William Herschel.

<sup>5</sup> H.R. iv. 471, and *Howe's Almanac*. The account of Palmer in Howell's *State Trials*, v. 23, 377-382, reprinted from the *Monthly Magazine*, is wrong in stating that Palmer left in January, 1800, eight months before his sentence expired.



their food supplies nearly exhausted. In their leaking and badly-stocked ship they made their way to Fiji, and thence their Spanish prize—like a homing pigeon—took them to the Spanish island of Guam, in the Ladrone group. Here the governor detained the ship's company of thirteen as prisoners of war, and before they could be set free<sup>1</sup> Palmer fell ill of dysentery and died on the 2nd of June, 1802. The graves of Gerrald and Skirving lay behind him in New South Wales; Muir was already buried in France; only Margarot, the least worthy of the five Scottish reformers, was destined to see his native land again.

MARJORIE MASSON.

Melbourne.

<sup>1</sup> John Harris, who sailed in *El Plumier* with Palmer, reached England in November (?), 1803. *H.R.* v. 274-276.

## Differences of Economic Development in England and Scotland

### I. BURGH LIFE

THE late Mr. Adolphus Ballard contributed to the last number of this *Review*<sup>1</sup> a remarkable article in which he established, from a careful examination of charters, that there was deep-seated difference between English and Scottish burghs. While the one was essentially a military institution, the other was fundamentally commercial in character; the Scottish burgh had exclusive rights for public buying and selling in the whole district over which it had jurisdiction, while the English burghs had no such trading privileges over extended areas. Scotland in the thirteenth century may be thought of as divided into districts, in each of which a burgh exercised an exclusive monopoly of trade. It is perhaps worth while to follow out this thesis in greater detail, and to show how on the one hand this distinction affected the facilities for trading in the country as a whole, and on the other, that the public buildings, with the functions which they were intended to discharge, are monuments of the difference between life in an English and in a Scottish burgh.

The oldest trade of which we read in northern Europe was not conducted in cities, for they had not yet been built, but was carried on at periodical fairs. The ancient Celtic fairs are described as they existed in Ireland.<sup>2</sup> They were a widespread, primitive institution, and appear to have been fixed for dates marked by the change of seasons.<sup>3</sup> They were often held at the boundary of two districts, and the place of the gathering was marked by a boundary stone. We also find that there were similar fairs at

<sup>1</sup> *S.H.R.* xiii. 16.

<sup>2</sup> O'Currey, *Manners of Ancient Irish*, iii. 529.

<sup>3</sup> D'Arbois de Jubanville in *Nouvelle Revue historique*, 1881, p. 195.



Elsinore<sup>1</sup> and elsewhere on the sea-shore; and that the Norsemen who had taken captives, made use of these occasions to dispose of them as slaves. The fair was an institution which was highly organised by Charlemagne in his dominions,<sup>2</sup> and his memory is preserved by the Rolandsäule which stand in the market-places of many German towns.<sup>3</sup>

Throughout the Middle Ages the fair was the most important of all the commercial institutions in England, and seems, in such cases as S. Ives and Yarmouth, to have been the original from which the town derived its existence. It was frequented by merchants from abroad, and offered the best opportunity for the steward to buy the cloth and equipment that was required for the retainers in the household, during the thirteenth century.<sup>4</sup> The trade of London seems to have been practically transferred to St. Botolph's Fair at Boston during the month of September, as the Court of Hustings was not held,<sup>5</sup> but this fair had decayed in 1416; on the other hand, Stourbridge Fair continued to be a great trading resort when Defoe went on his tour. The fairs in Flanders, Burgundy, and England were regulated in the interest of the sellers; pains were taken to encourage them to come by giving them a temporary monopoly of wholesale trade.<sup>6</sup> Fairs attained a new importance when they came to be used as places of hiring<sup>7</sup> under the Statute of Elizabeth; and Wisbech mart, as well as some fairs in the northern counties, are still frequented for this purpose.

Scotland seems particularly adapted for the establishment of fairs, and we should expect to find traces of them on the coast from primitive times. The islands and northern coasts were populated by men of Norse descent, who might have been expected to be traders; the coasts offered many harbours where trading might conveniently occur: the commodities which Scotland had to export<sup>8</sup> were bulky goods—hides, wool, fish, and furs—which could be stored till an opportunity for shipment. There are

<sup>1</sup> Worsaae, *Danes and Northmen*, 100.

<sup>2</sup> Huvelin, *Essai historique sur le droit des marchés et des foires*, 153.

<sup>3</sup> Shroeder, *Die Rolande Deutschlands*.

<sup>4</sup> Rules of Robert Grossteste XXVIII., in Walter of Henley's *Husbandry*, ed. Lamont, p. 144.

<sup>5</sup> Cunningham, *Growth of English Industry*, i. 452.

<sup>6</sup> Huvelin, *op. cit.* 251. Giry, *Hist. S. Omer*, 289.

<sup>7</sup> H. Best, *Rural Economy in Yorkshire in 1641* (Surtees Society), p. 134.

<sup>8</sup> P. Fraser Tytler, *History of Scotland* (1864), i. 272.

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numerous modern fairs both in the highlands and the lowlands, and the position of the market crosses at Inverary and Anstruther is suggestive of a seaside trade; but there seems to be no reliable evidence of periodical assemblies for purposes of trade in primitive times.<sup>1</sup>

Medieval fairs in Scotland were not so ancient as those in England, nor did they enjoy a similar status. Several of the most celebrated fairs in England were outside burghal jurisdiction, and the profits belonged to religious houses. Lenton Fair near Nottingham, the fair of S. Ives, which was founded by the Abbot of Ramsay, Stourbridge Fair, granted to the Master of the Lepers' Hospital, and Midsummer Fair at Cambridge, which belonged to the Prior of Barnwell, are cases in point;<sup>2</sup> they had little relation to the burghs near which they were held. But this seems never to have been the case in Scotland; the various fairs in Scotland were under burghal jurisdiction and were part of the burgh life. The tradition of Anster Fair<sup>3</sup> suggests that medieval fairs in Scotland were frequented by all sorts and conditions of men from all parts of the country for purposes of business or pleasure; but for commercial purposes the medieval fairs in Scotland were relatively unimportant as compared with those in England, and they were so completely under burghal jurisdiction that aliens had no status in them at all.<sup>4</sup> In England it was the policy of the kings and magnates to encourage aliens to visit England with foreign commodities and to give them a status for dealing in them; there was constant trouble with native merchants as to the encroachments made by aliens, especially in regard to retail trade. The chief anxiety of English townsmen was to obtain effective control over all the residents in the burgh and to thwart the royal policy in regard to aliens. But no such problems seem to have arisen north of the Tweed. The kings supported the burghal policy in Scotland, and the towns were successful in preventing the Jew and the Lombard from getting permanent footing in the country.<sup>5</sup>

<sup>1</sup> The sort of carnival which preceded the opening of the fishing season at Bressay Sound (Tudor, *Orkney and Shetland*, p. 125) may have had a long tradition behind it, but the islands were not subject to the law which was enforced on the 'Continent of Scotland.'

<sup>2</sup> Cunningham, *Growth of English Industry*, i. 181.

<sup>3</sup> Compare *Anster Fair*, by W. Tennant.

<sup>4</sup> *Report on Fairs and Markets, Parl. Papers*, 1888, liii. 26, 27.

<sup>5</sup> P. Fraser Tytler, *op. cit.* i. 268.



The success of the nascent Scottish burghs in getting control of the periodic trade at fairs as well as the regular trade at weekly markets seems to have had another effect. As aliens were not encouraged to come to Scottish fairs, Scots had to go abroad to buy and sell, and the shipping of Scotland was, relatively to the value of her trade abroad, much larger than that of England.<sup>1</sup> Wealthy men and corporations who were not merchants by profession were shipowners ;<sup>2</sup> instead of sending his steward to a fair to make purchases, the Scottish magnate had to send his factor to conduct trade on his own behalf in his own ship.<sup>3</sup> The Scottish burghs on the one hand were strong enough to prevent the incursion of alien traders—the alien from Flanders or Brabant who came to conduct industry and to settle was under no such disabilities—and thus to prevent the development of fairs, as they existed in England, and on the other, to diffuse the habit of venturing abroad among those who were not merchants.

Monuments which survive give us the means of picturing town life as it existed in England in the thirteenth and following centuries, and of noting the various institutions which existed and for which provision is made. We have not the same means of tracing the internal history of town life in Scotland before the sixteenth century ; and though the development was, in all probability, analogous, there were also striking differences which it is worth while to note.

The centre of the economic life of the town was the regular weekly market ; it was organised to give residents in a place a regular supply of articles of common consumption, and the consumers were those who were primarily considered. What markets there might be in any particular place would depend on the supplies which people could secure from their own resources. The residents in many English towns had lands of their own in which they grew their corn ; the great monasteries had their own granaries, and, as a consequence, corn markets are a

<sup>1</sup> P. Fraser Tytler, *op. cit.* 275.

<sup>2</sup> The monks of the Isle of May had a considerable trade. Chalmers, *Caledonia*, i. 782 ; ii. 51.

<sup>3</sup> Fraser Tytler (i. 276) quotes the instance of William of Douglas, *Rotuli Scotiae*, i. 758, 823. Such private shipping would give facilities for the pedlars who became so numerous in Baltic lands in the fifteenth century (Davidson, *Scottish Staple*, p. 108) despite official efforts to control those who sailed abroad (*ib.* p. 27).

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comparatively late development,—though they were very common in Tudor times; but regular supplies of fresh meat, butter and eggs were requisites in many places, and they were the ordinary articles of sale in the markets of many towns. The history of the market-place gives important evidence as to the trade of the town. In consequence of the impulse at the Crusading period, greatly enlarged markets with stalls were laid out, while additional markets were appointed in other parts of the town,<sup>1</sup> and in not a few towns permanent buildings were allowed to encroach where rows of stalls had formerly been. The market-place was in many ways the centre of the civil life of the town; but the original nucleus which had led to its growth generally was a body of religious or of military consumers, in a monastery or castle, for whose wants the market people catered. At Carlisle there is a typical market-place, on the triangular space where the road to the abbey and the castle branches off from the main road between England and Scotland. Towns naturally grew up round one or other of these centres of population; and market crosses still survive near Tattershall Castle and Binham Abbey to remind us that they were once the centres of a considerable demand for weekly supplies.

The civil population, for whose wants the market catered, or who were engaged in trade, were, in Norman times, completely controlled by the magnates on whose land they were settled, and their advance in self-government is a matter of great constitutional interest: the steps of progress are found in charters which show how one stage after another was attained, but the buildings which remain are interesting illustrations. Religious discipline enforced in the monasteries and military discipline in the castles embraced the towns at first. Castle Acre is an admirable example of the military settlement, with the faubourg for artisans round the motte on which the castle stood; while Glastonbury, with its great barn and tribunal, is an admirable example of the town which had a market and a water supply but no rights of self-government. The townsmen at Norwich and Reading and Bury and St. Albans were constantly in difficulties with the monasteries, and abbey walls show that the monks felt the need of physical defence; but at length the townsmen grew free from the sheltering care of the abbey and attained such status that buildings were erected to meet their needs, both for trade and for police.

A very interesting example is to be seen at Much Wenlock in Shropshire. The town hall there, which was built in the fifteenth

<sup>1</sup> Maitland, *History of Edinburgh*, 9.



century and reconstructed in 1577, comprises a court-house, a prison, and an open arcade which is used as a butter market. One of the supports of the hall serves as a whipping post, and the movable stocks are preserved in the upper room. It met all the requirements of the town both for commercial and police purposes; it is the reproduction in wood of municipal buildings with an open loggia, which were familiar in Italian towns<sup>1</sup> and in the south of France.<sup>2</sup> A similar building, but without a prison, was erected at Bridgnorth about 1652, after the destruction of the old town hall by the parliamentary forces. In Scotland, where the unsettled conditions of life favoured the building of the fortified private houses in the country, town houses of a similar type continued to be put up in towns.<sup>3</sup> The Canongate Tolbooth (1591) suggests that it was erected to discharge the function of taking tolls, and also to be a court-house and a prison. But generally speaking there was in England more differentiation of function. The town halls at Totnes, at Ipswich, at Yarmouth, and Lavenham contained courts and prisons, but made no provision for trade, while in many cases the prison was an independent building; or a gatehouse, like that on the bridge at Bedford, was used for the detention of prisoners.

Much older than any of the buildings intended for the government and police of the town are the market crosses which were erected at the centres of trade. They probably have a long history which takes them back to primitive fairs and boundary stones, but in England they sometimes underwent curious development in connection with the growth of trading. Ancient market crosses, as simple shafts, are found at Lavenham (1414) and Carlisle (1682); but they were often extended, so as to give shelter to the women who sat round them with their baskets of eggs and butter. Beautiful buildings in stone survive at Salisbury (1365) and at Chichester (1504); there was formerly a fine example at Glastonbury, while simpler structures survive at Cheddar and Sherborne. It seems to have been very common to surround the cross by a wooden roof, such as we see at Mildenhall, and at North Walsham (c. 1552) a chamber was erected over the shelter, which was sometimes approached by a spiral staircase as at Wymondham (1617). During

<sup>1</sup> Compare the Palace of the Podesta at Orvieto. Verdien et Cattois, *Architecture civile et domestique*, i. 57.

<sup>2</sup> Compare the Market Hall at Montpazier as figured on plan given by T. Hudson Turner, *Domestic Architecture*, i. 154.

<sup>3</sup> MacGibbon and Ross, *Castellated and Domestic Architecture*, v. 98.

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the seventeenth and eighteenth centuries these wooden shelters with upper chambers were superseded by elaborate buildings such as formerly existed at Wakefield<sup>1</sup> and at York,<sup>2</sup> or by the humbler hexagonal buttercrosses at Barnard Castle (1747), Burwell, and High Wycombe. Among the most picturesque of all is that at Dunster, which was not, however, erected with a view to supplying the needs of the residents for country produce, but was built when the art of spinning was widely diffused in Somerset villages, so that the women might have a comfortable shelter in which they could meet and dispose of their yarn. These developments of the market crosses as shelters for buyers and sellers did not, so far as I know, occur in Scottish towns. Crosses never seem to have been adapted in the north to serve the convenience of people engaged in trading, but they were consciously retained by royal burghs and burghs of regality and burghs of barony as an outward and visible sign of their status and authority in matters of trade.<sup>3</sup> They are for the most part simple columns, but the symbolism of the banneret, or the glove, shows their affinity with the *perrons* of Belgium, while the fir-cone as a finial seems to be the survival of a tradition from classical times. In so far as they underwent considerable change in Scotland it was through the elaboration of the base<sup>4</sup> into a substantial structure, as we may see at Preston in Haddingtonshire, and in the pictures of the old cross at Perth.<sup>5</sup> These buildings were designed with a view to the reading of proclamations and other magisterial duties. The nearest analogue to this type of cross in England is not municipal at all, but is the preaching cross, such as we find at the Black Friars' House at Hereford.

Provision was also made for another public requirement in many towns both in England and Scotland: the market-place was a convenient centre to which residents might go for their supply of water. The conduit stood close beside the cross at Cambridge and at Glastonbury; at Downham Market and possibly at Sherborne the market cross has become the conduit; at Shrewsbury the cross itself was utilised for the erection of a large cistern which

<sup>1</sup> Allen, *County of York*, iii. 278.

<sup>2</sup> Drake, *Eboracum*, p. 324.

<sup>3</sup> W. G. Black, *Glasgow Cross, with a suggestion as to the origin of Scottish Market Crosses*, p. 6.

<sup>4</sup> E. Goblet, Comte d'Alviela on 'Les Perrons de la Wallonia et les Market Crosses de l'Ecosse,' in *Memoirs de l'Académie Royale de Belgique*, 1914.

<sup>5</sup> J. W. Small, *Scottish Market Crosses*, plates 8, 109.



afforded a supply to the town.<sup>1</sup> Similar illustrations of this association may be found in Scotland, at Falkirk, at Linlithgow, and at Athelstaneford;<sup>2</sup> on the other hand, the practice of connecting the market cross with a sun-dial<sup>3</sup> seems to have been especially Scottish.

The English expansion of the market cross was after all an inadequate means of sheltering the dealers in a market, and we find in many places market halls or chepynges as well or in addition. The cross at Lynn had two wings which served this purpose, but in other places separate rectangular buildings were erected. There is a beautiful chepyng at Chipping Camden, and another at Kingsbridge; the most interesting, in some ways, is the open wooden loggia of the late fifteenth century at Ledbury; and the handsomest is the magnificent hall which was built for the cloth trade and the corn trade at Shrewsbury (1596). I know of no building in Scotland of this type, but it is interesting to find an eighteenth century survival in the Old State House which still bears the royal arms at Boston in Massachusetts.

Buildings which survive are monuments of other differences between English and Scottish town life. In the northern kingdoms there were no trading companies like the Livery Companies of London, and we should look in vain for similar halls north of the Tweed. On the other hand, the craft guilds—or trade incorporations—have left little trace of their existence in English cities; there is a joiners' hall at Shrewsbury and a house for the trades of Carlisle close by the market-place. But the trade corporations, which were of late development in Scotland, were not swept away at the Reformation, and showed their persistence by their buildings. The Magdalene Chapel in the Cowgate at Edinburgh was appropriated to them, and a handsome hall has been recently erected for their use in Aberdeen.

It is also interesting to observe that the trading affinities, which have been noticed in connection with the early buildings, appear once more in the architectural revival of the seventeenth and eighteenth centuries. Scottish towns had taken the Flemish *perron* as the type of their market crosses; and the renascence town halls at Glasgow and Dumfries had campaniles corresponding to those of Flemish towns; there are few, if any, such municipal towers in England. On the other hand, the renascence and

<sup>1</sup> T. Phillips, *Shrewsbury*, p. 134.

<sup>2</sup> Small, *op. cit.* plates 66, 43 and 77.

<sup>3</sup> MacGibbon and Ross, *Castellated and Domestic Architecture*, v. 395, 410.

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eighteenth century architects south of the Tweed were particularly fond of an open loggia, such as had formed part of the town hall at Much Wenlock, and of many market houses in England. This is found in the porch of the Guildhall at Exeter, and is a structural feature at Ross in Hereford and at Peterborough; it may be recognised, too, in the little square buildings at Fen Stanton and Brackley, or the timbered town hall which stands in the market place at Thaxted. The Italian models which exercised a recurring influence in England appear to have been altogether disregarded in Scotland, where the loggia seems to be unknown.

### II. TILLAGE

A characteristic feature of primitive agriculture which impressed Caesar<sup>1</sup> is noticeable among many peoples; tillage is merely a by-occupation with tribes which subsist on hunting, or fishing, or are pastoral and nomadic: they take an occasional crop and may move on. Even those who have settled down permanently may maintain similar habits of life: they are unable to prosecute agriculture with such success as to obtain their main sustenance from their crops, and they eke out a living by means of two or three by-occupations. It seems highly probable that agriculture remained in this primitive condition all over Scotland even after the influx of Norman settlers in the twelfth century.<sup>2</sup> Their cattle were a principal means of support throughout the country, and there were different possibilities in different districts. On the coasts where the Norse had settled there was a possibility of fishing: there were martens whose fur was an article of trade; sheep could be fed in many districts, both on the grass of the Lammermoor hills and the young heather in the Highlands.<sup>3</sup> Thus it was possible to make a living out of natural resources, though the art of tillage was little understood and the yield was scarcely more than three times the seed.

Primitive tillage, when pursued as a by-occupation, does not necessarily give rise to any social organisation: the tribesmen,

<sup>1</sup> *De Bello Gallico*, vi. 21, 22.

<sup>2</sup> The tillage was subsidiary to sheep-farming, even on the Kelso estates. Chalmers, *Caledonia*, 39 n.

<sup>3</sup> Wight, *Husbandry*, i. 391.



who occupy a hilly country, may have to make the most of a bit of ground here and there, that can be used for tillage, or to take their herds to summer quarters<sup>1</sup> away from the village altogether. Where there is no regular residence there can be no high prosecution of tillage which demands regular labour all the year round, and the practice of migration for the summer was common in the Highlands till it was put down in 1617.<sup>2</sup> There is no type of village organisation that will suit all alike; but primitive tillage fits in with patriarchal organisation, when the chief is in personal relation with each of the clansmen, and directs the affairs of his followers both in peace and war.<sup>3</sup>

A detailed account of the tribal organisation of society has been reconstructed for Wales from the codes and charters, and there is every reason to believe that the Scottish system was similar. The right to hold land depended on kinship, and was defined not by the boundaries of the area, but by a pedigree.<sup>4</sup> On the other hand, the laird did not exact menial service, though he obtained 'kain,' which was part of the produce of the land;<sup>5</sup> the food rents which he enjoyed were a tax, rather than a payment, which varied according to the qualities of the soil. This economic relationship was a sort of family arrangement. 'Of old the chieftain<sup>6</sup> was not so much considered the master as the father of his numerous clan. Every individual of these followers loved him with a degree of enthusiasm which made them cheerfully undergo any fatigue or danger. Upon the other hand, it was his interest, it was his pride and his chief glory to requite such animated friendship to the utmost of his power. The rent paid him was chiefly consumed at feasts given at the habitations of his tenants.' What he was to spend, and the time of his residence at each village, was known and provided for accordingly. The men who provided these entertainments partook of them; they all lived friends together, 'but what was friendship at first became very oppressive in modern times.'<sup>7</sup> The tenants had not the protection against arbitrary exactions which manorial

<sup>1</sup> Marshall, *Central Highlands*, 31, 45. The discontinuance of this practice is attributed to the introduction of flax and potatoes, which required attention all the year round.

<sup>2</sup> *Scots Acts*, iv. 547.

<sup>3</sup> Seebohm, *Tribal System in Wales*, 66.

<sup>4</sup> *Ibid.* 33.

<sup>5</sup> Skene, *Celtic Scotland*, iii. 231.

<sup>6</sup> Sinclair, *Statistical Account*, vi. 229.

<sup>7</sup> A Scots Act of 1469 protected the property of tenants from being sold to defray debts of Lord.

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organisation affords, nor were they under the disability of being astricted to the soil. This primitive tillage, with the simple condition of society which was appropriate to it, seems to have held its own in the Highlands till the eighteenth century, and has left traces over a good deal of the Lowlands as well: something similar existed in Wales till Tudor times, and traces of it were observed by Marshall in the south-western counties of England at the beginning of the nineteenth century.<sup>1</sup>

With this primitive land management may be contrasted the organised tillage which seems to have prevailed over the greater part of England in historic times. However complete the English conquest of Britain may have been, it does not seem to have wiped out all knowledge of the arts of life as practised in Roman Britain, and there was abundant opportunity for the re-introduction of these arts by S. Augustine and the Benedictine missionaries. The three-field (or two-field) system was an extraordinary improvement on primitive tillage; for an organised husbandry gave scope for the recuperative power of nature, and allowed land, which was regularly used for tillage, to lie fallow for one year out of three, while it spread the work of ploughing over the whole year and made tillage an occupation in which a man could spend his whole time. The three-field system involved the permanent separation of arable fields from the common waste; while the waste was chiefly used in subordination to the requirements of tillage, and not as providing independent resources, though these of course were not neglected. Domesday Book makes frequent mention of pannage for swine, and in some districts, as in parts of Cambridgeshire, dairy farming was developed to a large extent, and tillage was not the main occupation; but throughout England generally, under the three-field system, the waste was regarded as the place for keeping stock to plough the land, and sheep which could be folded on the fallow and manure it. The aim of the lord of the manor was to develop the village as a self-sufficing community which had constantly corn enough for its own consumption and something to spare as well; this was the object of medieval husbandry in England, and marks it out from primitive husbandry, which never aspired at such success.

The essential feature of this system was the practice of fallowing one of the arable fields; and this rendered it possible to

<sup>1</sup> Prothero, *English Farming*, 2.



continue cropping the same fields with comparatively little exhaustion, though of course exhaustion occurred at last, and was probably observable in many places in the fifteenth century. Still there was relatively little exhaustion of the soil, and the system appears to have continued uninterrupted for centuries. But such an organised system of tillage required the existence of definite personal relations and a definite social organism. An arrangement was necessary by which the common fields were treated in the same way in each year, and this gave rise to a definite course of cultivation on the common fields, while there was also a definite system of regulation of the stock and sheep pastured in the common waste. The common custom and regulation implied the existence of an authority by which it could be enforced; this authority might either be, in its origin, seignorial, or be built up by association of free individuals, and thus communal. It is probable that some instances can be mentioned which originated from above, and others from below; but in the ordinary manor both elements were combined, the lord of the manor on the one hand, and the homage on the other. New tenants were admitted in court, and the position of the villeins was recognised, especially in the regulation of the common waste. The lord of the manor, whose domain formed the largest part of the common fields, was in a position to require that the villeins should cultivate that domain, by lending their ploughs for the purpose and by doing week-work, as well as other incidental services, on his strips in the common fields. The lord of the manor had a direct personal interest in seeing that the land he owned was effectively tilled, and a full description of the approved system of management in the thirteenth century is given us by Walter of Henley. The steward was not, in the twelfth and thirteenth centuries, a mere receiver of rents, but an official whose business it was to see that the husbandry was effectively organised; it was only in the fourteenth century that with changed circumstances more remunerative methods of land management were discovered, so that the landlords found it profitable to let their domain on lease, and that tenants were ambitious of withdrawing from the customary system of tillage and working independently. The medieval system appears to have been highly approved in England, and adopted more and more in the thirteenth century. Waste ground was occupied by the planting of new townships which were units of cultivation; and this method of tillage, with the adherence to custom

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which it implied, became the normal condition of England as a whole.

The twelfth and thirteenth centuries were a period when great improvements of every kind were made in Scottish economic conditions. Norman influences were brought to bear under David, and also under William the Lion ; there was remarkable economic progress till it was checked by the War of Independence and the political consequences which followed from it. Great abbeys like Kelso and Melrose were planted, and the settlers, who flocked to the country, would bring with them the views of land-management which were current south of the Tweed. We are inclined to regard it as a matter of course that the manorial system of land-management was introduced generally into Scotland ; but closer examination renders this extremely doubtful. There is indeed no reason to regard Scotland as presenting a uniform system throughout, and it is quite possible that exceptional traces may be found of the organised husbandry of the manor ; we should especially expect to find them in Galloway,<sup>1</sup> where the influence of the southern invaders was strong. But there is grave reason to doubt whether the manorial land-management as described by Walter of Henley was ever introduced into Scotland at all generally.

There is one striking difference between the two countries : in England arable farming was the main thing, and the management of stock was subsidiary ; there were of course cases—like parts of Cambridgeshire—where this was reversed, and tillage was merely subsidiary to pasture farming. But what was exceptional in England was normal in Scotland. Cattle and sheep were the main resources of an estate : tillage was relatively unimportant, and the Scottish monasteries and lairds were not concerned to organise tillage as the permanent source of revenue. They received food rents paid from their tenants, and did not always find it worth while to exercise direct supervision over the method of working.

There is more direct evidence : the manorial farm in England depended on fallowing ; one of the arable fields lay fallow every second or third year. But in Scotland generally in the eighteenth

<sup>1</sup> Baillie-works were common in Galloway in the eighteenth century, and the enclosure of common waste there gave rise to active opposition in 1724 by levellers, who appear to have stood for a communal right. Chalmers, *op. cit.* iii. 286.



century fallowing seems to have been unknown.<sup>1</sup> This may be gathered from the agricultural writers of the seventeenth and eighteenth centuries, like Johnson and Donaldson ; but may also be inferred from the Act of 1617, which was designed to introduce new and improved husbandry into the Highlands. There was a definite effort on the part of King James to introduce the English model of local government—the township and the constable ; but the agricultural system which was assumed, *e.g.* in the levying of tithes, was quite different from the arable system of England. Land in Scotland was not laid out in three open fields, permanently assigned to tillage and kept in heart by regular fallowing, but in an in-field and an out-field.<sup>2</sup> The in-field was well manured and constantly cropped, but never allowed to lie fallow ; portions of the out-field were uncropped, but not worked so as to eradicate the weeds. On neither was there any habitual fallowing as it had been practised from time immemorial in England.

When we turn from the practice of agriculture to the relation of the laird and his tenants, it is also difficult to find the characteristic features of the English manor. That was an institution which depended on the organisation of labour, and the rendering of personal services on the lord's domain : the obligation to render week-work, and to place his time at the service of the lord, was the characteristic of villein tenure,<sup>3</sup> but the predial services, which are mentioned in the often quoted Kelso Rental,<sup>4</sup> are of the nature of *boon-work* or *precariae*. The Scottish lairds were in the habit of granting leases from very early times,<sup>5</sup> and the steel-bow tenancy, or stock-and-land lease, was a familiar means by which the slave might obtain economic freedom, and have land of his own to work. The last-known case of an action to recover a slave dates from 1364, and it seems very doubtful whether the domain farm cultivated by the personal services of labourers was ever a widely diffused institution in Scotland.

The English manor was territorial in character, and had nothing to do with blood or descent ; but tenure based on the blood-tie had been in possession in Scotland, and would not be easily

<sup>1</sup> The tillage of the 'Highlands is intolerable : no fallow.' Marshall, *Central Highlands*, 39.

<sup>2</sup> Marshall, *op. cit.* 30.

<sup>3</sup> Pollock and Maitland, *English Law*, i. 353.

<sup>4</sup> *Kelso Chartulary* (Banpatyne Club), ii. 461.

<sup>5</sup> Chalmers, *Caledonia*, i. 794.

## 182 Differences of Economic Development

superseded. The Welsh analogy shows what difficulty there was in displacing the tribal system and introducing English husbandry into Wales,<sup>1</sup> and it seems probable that the twelfth-century settlers in Scotland were content to allow the main features of the tribal system to remain, and tried to describe it in feudal terminology. In all parts of Scotland we hear much of kindly tenants. They occupied church lands on the Borders, in Galloway,<sup>2</sup> and in Perthshire,<sup>3</sup> on the East Coast as far north as Aberdeenshire,<sup>4</sup> while the Duke of Argyll<sup>5</sup> speaks of this tenure as familiar in the Highlands. These tenants were 'rentallers' who had fixity of tenure, and occupied a privileged position; the services they had to render were analogous to those of the freemen in a Welsh tribe,<sup>6</sup> and on the Borders they long retained their sense of dignity. 'To be a kindly tenant was the highest pride of a husbandman in the old times. It was the Border yeoman's coat of arms, the evidence of his pedigree and respectability. He bore the designation proudly through life, and after his death it was placed upon the stone above his grave, as any Border kirkyard may still testify. To be called a kindly tenant implied that one was of the kith, kin or sept of the landlord, or was the descendant of those who had held and farmed the same lands in succession, father and son, from generation to generation. It formed the feudal relation between the husbandman and the baron, just as the charter of the latter expressed his feudal relation to the crowned head of the kingdom. The term had nothing to do with payment in money or kind. The cottars and small cultivators, for instance, paid their rents chiefly in kind, but this did not constitute them kindly tenants, nor are they ever so called. The kindly tenants formed, to borrow the language of Highland Clanship, the gentlemen of the Border Clans... The tie expressed in the word was one not of money or other payment, but of blood and kinship and personal devotion, a tie which may appear strange amid the customs of later times, but which must have been invaluable in old days when mutual support was indispensable.'<sup>7</sup> The kindly tenant is a relic of a tribal system, whose

<sup>1</sup> Seebohm, *op. cit.* 43.

<sup>2</sup> J. A. Brown, 'The Kindly Tenants of the Archbishopric of Glasgow,' in *Transactions of Glasgow Archaeological Society*, N.S. v. 105.

<sup>3</sup> *Scots Acts*, 1563, c. 13.

<sup>4</sup> Brown, *op. cit.* 114.

<sup>5</sup> *Scotland as it was and as it is*.

<sup>6</sup> Seebohm, *Tribal System*, 9.

<sup>7</sup> *Edinburgh Review*, July, 1887, p. 12.



economic rights to security of tenure on payment of a low rental were recognised under a territorial system. The Lochmaben tenants secured a judgment in their favour; their advantageous rights of tenure could be disposed of as they could sell their kindliness, and as proprietors their position was analogous to the owners of tenant's right in Westmorland.<sup>1</sup> The introduction of a similar system into Ulster is a further proof of the long continuance of this tenure, which did not lend itself readily to the carrying on of agriculture in a domain farm; it is a confirmation of the view that the tribal system of tillage could not have been superseded in Scotland in the thirteenth century by the organisation of manorial farms.

The fundamental difference in character between the position of the tenants of a Scottish laird and the organisation of an English manorial farm in the Middle Ages is often obscured by the superficial resemblances. Co-operation in ploughing, with the run-rig which it involved, is common to both; so are payments in service and in kind, but it is easy to account for these resemblances.

The run-rig system, which seems to have been practically universal in Scotland, is good evidence that there was co-operation in ploughing, but co-operation by the tenants in ploughing is not a necessary sign of the existence of manorial organisation. When the tenants were each too poor to own a whole plough team, they were compelled by their poverty to arrange among themselves to co-operate in ploughing.<sup>2</sup> The ordinary Scots plough was dragged by four oxen yoked abreast, with a man, who walked backwards, leading them, while another held the plough: two tacksmen who each owned a yoke of oxen were almost compelled to combine for the purpose of ploughing, and we need not assume that the obligation to co-operate was enforced by manorial authority. Instances of this co-operation by men who were free to make their own bargains are found at Galston,<sup>3</sup> at Eaglesham<sup>4</sup> and at Little Dunkeld.<sup>5</sup> That numerous servitudes existed in Scotland is true enough, but it is by no means clear that they were the survival of a manorial organisation. Scottish lawyers regard them as attaching to the

<sup>1</sup> R. S. Ferguson, *History of Westmorland*, 128 f.

<sup>2</sup> Sinclair, *Statistical Account*, ii. 123.

<sup>3</sup> *Ibid.* ii. 74.

<sup>4</sup> *Ibid.* ii. 123.

<sup>5</sup> *Ibid.* vi. 363.

## 184 Differences of Economic Development

land, and not to persons, and are clear that personal servitude of all sorts was extinct in Scotland in the seventeenth century. Some of the servitudes were public burdens<sup>1</sup> which fell on the occupiers. It was natural enough that a lord who was at the trouble and expense of building a mill should insist that it should be used by his tenantry, but to be thirled to a mill is not a proof of villeinage. There were also services such as wainage, which may have been very onerous, but were not obligations of a servile character. The predial services of which we hear most in the eighteenth century were rendered by cottars to tacksmen, but these were of the nature of a bargain between a leaseholder and his labourers; it is not at all clear that they were a traditional obligation.<sup>2</sup> The servitudes indicate a state of society when it was convenient that payments should be made in kind and services and not in money, but they do not in themselves prove that manorial organisation existed. Still less do they give any basis for the assumption that the manorial farm was ever a common institution in Scotland. Moreover, on this assumption the silence of the burgh records themselves is perplexing. In England we read of the commutation of predial services as one of the steps in the series by which Leicester attained its status as a burgh;<sup>3</sup> we hear also of the difficulty in collecting *rep-selver* from the Abbey tenants at Bury;<sup>4</sup> and if similar obligations were recognised in the Scottish burghs which obtained charters in the fifteenth century,<sup>5</sup> we might expect to have specific mention of the commutation or of the exaction of such dues.

The Scottish land tenure and land management in the sixteenth and seventeenth centuries had a flexibility which was hardly compatible with a rigid territorial system, and ascription to the soil of particular manors. It lent itself readily to considerable migrations and to the planting of land that was practically uninhabited. It was thus that the gentlemen of Fife were encouraged to go to the Lewes, to plant the lands of the Macleods,<sup>6</sup> and

<sup>1</sup> In these might be included the repair of roads, harbours and mill-leads. (Duke of Argyll, *Scotland as it was and as it is*, ii. 326.) Tenants in the Lothians defrayed half the schoolmaster's salary and the poor rate. *East Lothian*, 106.

<sup>2</sup> See the case of Tongue. Sinclair, *op. cit.* iii. 529.

<sup>3</sup> Cunningham, *Growth of English Industry*, i. 226.

<sup>4</sup> *Chronica Jocelini de Brakelonda*, 73.

<sup>5</sup> *Report on Scottish Municipal Corporations* (1835), i. 167.

<sup>6</sup> Sinclair, *op. cit.* vi. 293.



that the Grahams were transported to Connaught. There was similar detachment in the migration of Ayrshire people to Cantyre during 'the killing time,' and in the stream of emigration to the colonies which we find beginning in Sir W. Alexander's attempt to settle Nova Scotia, and in the transference of many families from Appin<sup>1</sup> to North Carolina and Georgia.<sup>2</sup>

The eighteenth century was a great period of enclosing both in England and in Scotland, and there were superficial resemblances between the changes in the two countries. Hedgerows were planted and dykes and walls run up; run-rig was abolished, and holdings were thrown together into large farms, so that those who had hitherto worked on their own account were reduced to the condition of labourers and cottars. There were in both countries vigorous landlords who pushed on improvement, both by the covenants they introduced in leases and by their personal examples. Andrew Wight has left us a record of the husbandry practised on the best managed estates. But, despite these resemblances, we may see that the agriculture of the two countries was very different, both in the conditions which the pioneers found, in the aims they cherished and the results they achieved.

The English improver, whether landlord or tenant, desired to secure greater economic freedom in the management of land, and to get rid of the custom which rendered traditional methods of tillage obligatory. It does not appear that there was any similar tyranny of local custom in Scotland; the individual was only bound by his own agreements with the laird or his neighbours. Hence the legal process of enclosing was much simpler in Scotland than in England, where the position of each individual in the community had to be taken into account. The terms of the General Act of Enclosure, which was passed in 1695, show that only the heritors or landed proprietors were recognised as having any right to be considered; the tacksmen and cottars had no *locus standi*, and consequently the Act could be applied to his own estate by any landlord who chose, and there were no surveyors or legal expenses in the matter. In the burghs there were numerous freeholders, but as the Act did not apply to them, there are interesting survivals of the common waste, and even of communal management of common fields in Scottish burghs.

<sup>1</sup> *Ibid.* i. 488.

<sup>2</sup> Raynall, *Voyages*, v. 281.

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The agricultural improvement in England consisted in the introduction of an improved rotation of crops, both in the fields and on the waste. It was built upon the customary rotation; and the Norfolk four-course husbandry, in particular, was an adaptation of the two-field system with half fields. The chief change in England in the seventeenth and eighteenth centuries was the introduction of turnips and other green crops; but in Scotland there was a much more thorough alteration. The in-field and out-field were combined in a system of convertible husbandry: the farm was divided into two portions, one of which was laid down in grass for five or six years, while the other was utilised for a rotation of crops, and the chief improvement lay in the introduction of grasses,<sup>1</sup> which were sown on the portion of the farm that was at rest, so that better grass could be obtained and a larger stock maintained. When the time came for breaking up the pasture, it was greatly improved. Donaldson, who, like Arthur Young, had been unsuccessful personally, set up as a critic of Scottish husbandry just after the passing of the General Act for Enclosing; he has a good deal to say about sowing grasses.<sup>2</sup> This method of convertible husbandry often involved a course of five or six years on each half of the farm, and the course of cultivation introduced is similar to that which has survived in some parts of Germany,<sup>3</sup> but has little relation to the rotation of crops which was favoured by English improvers.

Much is made by Scottish writers of the importance of security of tenure if the tenants are to be encouraged to improve, and they seem to regard the English farmer as sufficiently protected by the length of his lease. It looks as if the landlord and tenant had been long associated together in the management of English land, and that there was more confidence between them than existed in Scotland—apart from kinship. The territorial proprietor had no interest in encouraging kindly tenants to improve; their security of tenure and fixed rents were an obstacle to the introduction of more profitable management,<sup>4</sup> and there can be little surprise at the efforts which seem to have been made in the seventeenth century to substitute some other arrangement for this tenure. On the other hand, the tacksman, or leaseholder,

<sup>1</sup> Lord Haddington at Tynninghame in the early eighteenth century. Chalmers, ii. 490. Sinclair, *op. cit.* xvii. 576.

<sup>2</sup> *Husbandry* (1697).

<sup>3</sup> Meyers, *Conversations-lexicon*, s.v. *Betrieb*.

<sup>4</sup> Marshall, *op. cit.* 24.



had no security of tenure, and was liable to have his rent raised if he exerted himself to improve his holding; and this is at all events a more common complaint in Scotland than in England.

There is another and more instructive difference in the activities of the English and of the Scotch improver in the eighteenth century. The English improver concentrated his attention on the staple employments of rural life—tillage and stock breeding, and sought to do away with hindrances to improvement, and to bring pressure to bear in favour of improved agriculture. He was accustomed to a state of society in which spinning and weaving were diffused in rural counties, and did not trouble about this; there was a steady market for corn and victuals, and he tried to secure that advantage should be taken of this market. In Scotland conditions were different: there were many parishes which could not supply their inhabitants with corn, and agriculture did not always afford the means of subsistence. It was this problem not only to improve agriculture, but to supplement it by the introduction of new industries. It was a matter of difficulty for the tenantry in Scotland to live by tillage only, and improving proprietors were constantly on the look-out for branches of industry which they could successfully introduce. Much pains was taken in the development of the linen industry, and of fisheries at places on the coast. These industries often resulted in the laying out of new villages, where the weavers<sup>1</sup> or fishers<sup>2</sup> had little crofts of land, as a second string to their bow, but chiefly maintained themselves by manufactures. There had been a parallel movement in England two centuries before, and Broadway in Worcestershire remains as a manufacturing hamlet which was laid out in Tudor times; but there are numbers of Scottish villages, like Springfield in Gretna, which were deliberately planted for the prosecution of some domestic industry in the eighteenth century. As the Industrial Revolution advanced, as well as from other causes, the population were no longer able to support themselves; and the maintenance of crofters, who were one of the improvements of the eighteenth century, became a terribly difficult problem in the nineteenth. The fortunes of the rural population in England in the nineteenth century have been chiefly affected by agricultural changes, while in Scotland they have been much more directly dependent on the rise and

<sup>1</sup> Little Dunkeld, Sinclair, *op. cit.* vi. 379.

<sup>2</sup> Strachur, Sinclair, *op. cit.* iv. 577.

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decay of hand-loom weaving and the other industries by which they had supplemented the resources derived from the products of the soil.

There seems to be a temptation to Scottish historians, where they are dealing with economic progress, to lay stress on English analogies, and to supplement local materials by drawing on other sources ; perhaps the foregoing paragraphs may serve as a caution against relying too readily on such information. The history of Scottish development, both in town and country, especially of local development, must be based on Scottish evidence ; and though English analogies may be useful illustrations, they may also prove misleading. That there was an original difference between the English and Scottish burgh is generally recognised, but the ramifications of this essential difference and its far-reaching effects on foreign trade, and industrial life in Scotland, are easily overlooked. It is certainly plausible to assume that the medieval organisation of agriculture was similar in both countries ; but, if the view put forward in these pages can be substantiated, it appears that the differences between rural life in England and in Scotland were far greater than is generally recognised, and that descriptions of the English manor, and the story of its breaking up, do not give us any real help in appreciating the difficulties that had to be overcome in the course of agricultural progress as it actually occurred in Scotland.

WILLIAM CUNNINGHAM.



## Reviews of Books

THE REVOLUTIONARY PERIOD IN EUROPE (1763-1815). By Henry Eldridge Bourne, Professor of History in Western Reserve University. Pp. 494. With eight Maps. Demy 8vo. London: G. Bell & Sons, Ltd. 1915. 7s. 6d. net.

A HISTORY OF FRANCE. By J. R. Moreton Macdonald, M.A. In Three Volumes. Vol. I., pp. xiv, 366, with five Maps; Vol. II., 399, with three Maps; Vol. III., 551, with four Maps. Crown 8vo. London: Methuen & Co., Ltd. 1915. 22s. 6d. net.

THE FRENCH ARMY BEFORE NAPOLEON: Lectures delivered before the University of Oxford in Michaelmas Term, 1914. By Henry Spenser Wilkinson, Chichele Professor of Military History; Fellow of All Souls. Pp. 151. With eight Illustrations. Demy 8vo. Oxford: Clarendon Press. 1915. 5s. net.

THE three works have a common interest at a moment when, whoever proves the victor in it, the present European war inevitably must reconstruct the system created in 1815. All three books are focused upon Napoleon, though one of them travels somewhat out of the orbit. They are, however, of unequal value.

Mr. Bourne, who is Professor of History in Western Reserve University, has produced a volume upon the revolutionary period 1763-1815 which is useful and clear, if undistinguished. He has no startling conclusions or heterodox ideas to elaborate, and his book, which bears evident signs of its American origin, no doubt will prove useful in the class-rooms for which, presumably, it was written. It contains eight clear maps, the first of which is interesting, and a good bibliographical note.

Mr. Moreton Macdonald's volumes are more ambitious. But we venture the criticism that the work is either too long or too short. Three small volumes are inadequate to deal satisfactorily with more than nineteen centuries of French history, and at whatever point we take up Mr. Macdonald's history we form a wish that closer concentration had permitted him to treat his subject more intensively: the post-Napoleonic period is consequently starved. At the same time, the work is in no degree a *pièce d'occasion*. It provides a careful, illuminating, and briskly written narrative of French history from Caesar to Moltke, from the Roman to the German conquest. It is also the fruit of wide reading, and those who desire a general panorama will find its pages very adequate and

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agreeable. Its chapters contain useful notes on books, and some good maps. The Index is admirable.

Mr. Spenser Wilkinson's volume is a real contribution to our knowledge and understanding of a great epoch. Napoleon, like Cromwell, fulfilled his career by means of a fighting machine superlatively efficient. What Mr. Firth accomplished in his *Cromwell's Army* some years ago, his colleague in the Chichele Chair has now done for Napoleon. The earlier chapters of the book picture the French army as it appeared in 1791, when there existed already a new spirit consciously striving to raise generalship to a higher order; when the infantry had discovered the forms of evolution best suited for its weapon; when the cavalry had fully realised the mission of that arm; when the artillery, with the best guns in Europe, had acquired a new view of its powers. 'Here were ready all the materials which a fresh and vigorous mind, inspired by the will to master them, could not but combine into a new system.'

But before that could happen a new government and an army raised and staffed upon other methods were essential. The constitution of the royal army was heterogeneous; palace guards, regiments bearing the titles of noble founders, regiments named after the provinces of France; some under the Ministry of War, others controlled and formed by their officers. 'A quarter of the regiments were composed of foreigners, Germans, Swiss, Scots, Irishmen, and Flemings, and these were governed by the military laws and customs of their own countries.' Enlistment was voluntary, and for a service of eight years: the poor, the idlers, and the unemployed filled the ranks; the middle class held aloof. The officers were drawn exclusively from the *noblesse* and *gentilshommes*, and in 1781 the courtiers were able to extort a royal decree requiring every candidate for a commission to satisfy the court genealogist that he was possessed of sixteen quarters of nobility! The decree was doubly inequitable: it closed the army to the *bourgeoisie*; and it threw a slur upon the status of those—soldiers of fortune, they were called—who had been permitted to purchase commissions or had risen from the ranks. In 1791 there were on the establishment 9578 officers, of whom 6663 were noblemen.

Between 1791 and 1794 the constitution of the armies of the Republic was revolutionised, and Mr. Wilkinson's pages elucidate the process with most admirable clarity. By the latter date 'France had at last obtained the army she required. It differed from all other armies of Europe in that it had got rid of those institutions which were purely conventional and had only a historical but no longer a practical justification. It was, therefore, better fitted for war than any of them, and, when it came under the leadership of a young general, imbued with its own spirit, who could exercise the command unhampered by the intrigues, the jealousies, and the insubordination which had ruined the army of the *ancien régime*, it was well qualified to defeat in turn those other armies, all of which clung to the ideas, methods, and institutions inherited from a dead past.'

Mr. Wilkinson's work takes its place forthwith as a standard authority in the *corpus* of Napoleonic literature.






















C. SANFORD TERRY.



# English Court Hand, A.D. 1066 to 1500 191

ENGLISH COURT HAND, A.D. 1066 TO 1500. Illustrated chiefly from the public records. By Charles Johnson and Hilary Jenkinson. Part I.: Text. Pp. xlviii, 250. 10s. 6d. net. Part II.: Plates. Frontispiece and forty-four plates. 21s. net. With Text, 25s. net. Oxford University Press. 1915.

IN this sumptuous book of palæographic study and instruction, the skill of the authors is seconded by the printing and the photographic process fac-

1 1095-1100		2 1107-1120		3 1163-1166	
4 1163-1166		5 1167		6 12th Cent.	
7 1201-1202		8 1216		9 1220-1250	
10 1229		11 1232		12 1233	
13 1302		14 1307		15 1335	
16 1371		17 1379		18 1413	
19 1429		20 1462		21 1499	



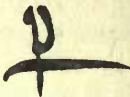





DATED EXAMPLES OF CAPITAL B.

similes executed by the Clarendon Press. Mr. Johnson and Mr. Jenkinson are justified in their compliments to the producing staff which has overcome many technical difficulties, evolved new type-blocks of letters in the text,

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and achieved brilliant advances in the large and beautiful plates. The expositors are masters of their art, and all students and almost all reviewers may with safety accord them magistral honours. Even their errors turn to profitable account, for with delightful audacity the authors, instead of apologizing for leaving out a line in their transcript of Plate xxvi., point this out as an instance of the common error of slipping a line when the same word ends or begins two consecutive lines.

Justice to a book of this sort requires mainly a statement of what was aimed at and of what has been accomplished. The object was to exhibit English 'Court Hand'—the kind of writing usually found in documents from the Conquest to A.D. 1500, and principally in law records. This script is only roughly distinct from the more formal 'Book Hand,' there

1 1130		2 1130		3 1220-1250	
4 1339		5 1368		6 1450	
7 1450		8 1475			

DATED EXAMPLES OF THE ABBREVIATED *PER*. IN THE SECOND ONLY THE P IS A CAPITAL.

being no rigid boundary between the two. An introduction sets forth the development of Court Hand as one outcome of the rapid copying necessary in legal and administrative writings, and especially in registers which by their continuity tend to stereotype distinctive styles. This is followed by a general sketch of the evolution of the hand from the curved, flourished, and split letters of the twelfth century to the smaller and shorter lettering of the thirteenth, the more vertical and rounder but flowing hand of the fourteenth, and the 'vertical, angular, or Gothic,' of the fifteenth. Methods of abbreviation receive, as is their due, a clear chapter to themselves in which the signs and their connotations are shown with chronological illustrations of the changes of form. A very elaborate and precise history of individual letters is made graphic by type-blocks, which for lucidity of instructiveness easily surpass anything in the same kind attempted by palæographers heretofore. The medieval alphabets thus chronologically and critically presented, both for capital and small letters, give the most helpful



# English Court Hand, A.D. 1066 to 1500 193

and intelligible of all palæographic lessons—lessons which few, if any, medievalists will themselves disdain.

1	77	33	22	4	5	11	88	22	0
1	7	3	2	4	5		88	9	
1	772	3	2	4	5	11	8	99	0
		33	22	4	5	11			0
1		33	2						
1	22	33	22	44	5	11	8	99	00
1	77	3	2	4	5	11			0
1	2	3	2	4	5	11	8	9	0
1	7	333	2	4	5		8		00
1	2	3	2	4	5	11	8	9	0
111	2	33	22	44	5	11	8	9	00
11	2	3	2	4	5	11	8	9	0
1	2	3	2	4	5	11	8	9	00
1	2	3	2	44	5	11	8	9	0
1	2	33	2	4	5	11	8	9	00
11	2	33	4	4	55	11	88	999	00
1	2	3	2	4	5	11	8	99	00
11	5	3	2	2	5	11	8	9	0

SETS OF ARABIC NUMERALS OF THE FOURTEENTH CENTURY.

We are, by the courtesy of the Clarendon Press, enabled to show here as examples type-blocks of successive forms (1) of the letter B, and (2) of *per*. Attention is specially given to conjoined letters, and a particularly useful plate (here also reproduced) presents eighteen sets of Arabic numerals from fourteenth century manuscripts. Punctuation, paragraph marks, and modes of deletion, have each a short section. All this explanatory apparatus

## 194 English Court Hand, A.D. 1066 to 1500

is scientific and concrete ; while it illustrates the shapes of letters and signs it also accounts for them by placing the types in their sequence of time.

After these invaluable elucidations of medieval script in general there comes the main piece of exposition, viz., the annotation of the facsimiles, in 167 pages, comprising detailed observations on each facsimile, usually including a full transcript, and always indicating the distinctive, salient, and peculiar features of the respective documents. Some of us who look back to imperfect beginnings in palæographic study, and are still gravely conscious of difficulties never overcome, may be excused if we envy a little, while we congratulate, the younger race of students the superb aids they can now enjoy.

Practical hints on transcription are offered which reflect the experience of years among records. A few examples of misreading, setting forth common forms of error, suffice to show occasional curiosities. Every reader of old script will appreciate the author's statement that an element of imagination is necessary, since 'the very possibility of seeing what is actually written often depends on the power of the reader to imagine for himself what ought to have been written.' Medieval writings are full of traps, when even the wariest can scarce escape. Reference is particularly made to the necessity of parallel study of administration, for, as was demonstrated in the recent work by Mr. Jenkinson,<sup>1</sup> particular registers and government departments develop special forms of script with contractions responsive to recurrent official requirements. While the numerous pages of notes on the documents are chiefly directed to them, considered in regard to the hand-writings they exemplify, the running commentary thus made glances at other essentials also, and the annotations taken together form a continuous and connected body of expert instruction.

It is, however, in the second part, consisting of giant facsimile reproductions (carefully described, analysed, and annotated in the first part) that the magnificence of this work most strikingly appears. A critic who recalls with keen pleasure the process of self-teaching in transliteration by such embryo facsimiles as the *Rotuli Scotiæ* and the *Registrum Magni Sigilli* afforded, looks at these latest evolutions of facsimile making with unstinted admiration. Their perfect fidelity is a triumph of craftsmanship ; the beauty and system of English official handwriting have never had a revelation to rival this. And as the documents chosen are on the whole excellent types of legal penmanship, and are illustrative on so many aspects of working medieval method, there is every warrant for commending the atlas-like and unique volume which contains them as a truly noble portfolio whether for the teacher or the student of English documentary history or for any worker in British record.

GEO. NEILSON.

THE ENGLISH FACTORIES IN INDIA, 1651-1654: A CALENDAR OF DOCUMENTS IN THE INDIAN OFFICE, WESTMINSTER. By William Foster, C.I.E. Pp. xxxix, 324. With Illustration. Demy 8vo. Oxford: Clarendon Press. 1915. 12s. 6d. net.

THE present instalment of the excellently edited *English Factories in India* covers a period which is still one of depression, which was intensified

<sup>1</sup> Reviewed in *Scottish Historical Review*, xii. 427.



## Oxford Historical and Literary Studies 195

by the Dutch War in which English shipping suffered in the Eastern seas. Thus the *Roebuck* and *Lanneret* were captured by the Dutch in 1653. In the following year a small fleet, consisting of the *Dove*, the *Endeavour*, the *Falcon*, and the *Welcome*, was intercepted by a hostile force, and the *Dove* and *Welcome* pressed on all sail and escaped, while the two remaining English vessels were sunk. Tavernier said that 'never was a fight worse managed on both sides,' but the *Endeavour* fought till she was in a sinking condition.

Nothing shows how old are certain strategic problems than the references to the position in the Persian Gulf. It is remarkable that, as early as 1622 the English had undertaken to defend the Gulf—an undertaking which they were not able to carry out during the Dutch War. It is extraordinary, too, how even at this period emissaries from Europe appeared at the Courts of Eastern potentates. Thus Charles II. sent an emissary in 1654 both to Persia and India to solicit pecuniary or other help.

As in previous volumes, much of the quaint light on social customs is retained in the *Calendar*. Thus we learn that the King of Persia desired to have English women sent to his harem, but being informed that this was impossible, he was well contented with a supply of black beaver hats to be worn by his women in order to imitate Europeans (p. 78).

W. R. SCOTT.

OXFORD HISTORICAL AND LITERARY STUDIES, issued under the direction of C. H. Firth and Walter Raleigh, Professors of Modern History and English Literature in the University of Oxford. Vol. V., Henry Tubbe, by G. C. Moore Smith. Pp. 119. Demy 8vo. Oxford: Clarendon Press. 1915. 6s. 6d. net.

HENRY TUBBE was born in 1618, and died of consumption in 1655 at the age of thirty-seven: much history was made in England between these dates, and the letters and literary remains (hitherto unpublished) of a Cambridge scholar in close touch with the Wriothesleys, Devereux, Spencers, and such personages, are necessarily of interest to the student of the period. The selection Mr. Moore Smith has given in this volume, prefaced by a brief but interesting biography (largely made up of Tubbe's own letters), comprises satire, elegy, and ode in verse, and in prose some moral and religious meditations and 'characters.' If the poems have, for the most part, no great distinction of style, they exemplify various of the versifying tendencies of the time: the value of all Tubbe's work lies rather in the lively picture it presents of the attitude of an ardent, scholarly Royalist towards King, Church, and Parliament, reflecting faithfully the depression and bitterness of his party in the hour of darkness and defeat. Probably the most permanent part of it lies in the vigorous portraits, both in prose and verse, of Tubbe's political opponents, drawn with many touches of shrewd humour and satire.

Mr. Moore Smith's carefully edited volume adds another personal note to the social and political history of the seventeenth century.

MARY LOVE.

## 196 Lucy Cazalet : A Short History of Russia

A SHORT HISTORY OF RUSSIA. By Lucy Cazalet. Pp. 88. With eight Illustrations and one Map. Crown 8vo. Oxford: Clarendon Press. 1915. 2s.

ALTHOUGH certainly short, this is a really good Elementary History of Russia. It is written in a concise manner and states its facts neatly and clearly.

The writer adopts the view that the Norsemen or Varangians came to rule over the Slavs at the latter's bidding; and, at the time when Christianity was becoming their religion, her account of St. Olga contains this pleasant sentence: 'When her thirst for vengeance was at last satisfied, she turned her thoughts to religion, and was the first Russian Princess to embrace Christianity.' The early dynastic struggles are given with sufficient though not excessive detail, until the period when the Russian princes were forced to bow their heads under the rule of the Tartars of 'The Great Horde.' This rule in the writer's opinion did not effect the habits and customs of the Russians, but 'very seriously delayed the peaceful development of the nation' and, as we hold, though it is not here stated, isolated Russia completely from the West for a long period. The rise of Moscow, through the fall of Novgorod and the Tartar decline, is shortly narrated until it reached its summit, under the dynasty of Ruric, by the conquest of Kazan. Ivan the Terrible's reign is well described, and his coquetting with the English Virgin Queen alluded to, but, his dynasty ending, no mention (perhaps not unnaturally, as the papers have only been very recently brought to light) is made of the abortive attempt to call King James I. of England to fill the vacant Tsardom. The 'false Dimitri' is here identified with the mark Otrépev, and the statement that the father of the first Romanoff Tsar, Michael Feodorovich, was 'the direct heir' to the throne is open to question, as, though his connection with the older dynasty is correctly stated, he owed his position wholly to popular election.

The reforms of Peter the Great are sympathetically narrated. Catherine II. comes in for much praise as a ruler, and her reign is considered 'one of the most glorious in Russian History.' Its origin is described thus: 'Peter III. ascended the throne, but he was weak and incapable, and was very soon made to give up his power to his clever wife, who thus became Empress in her own right. Peter died a few months later in 1762.' This little book, which is suitably illustrated, will be found useful by those who wish to know, shortly, the historic origins of our Great Ally. It records briefly the recent events down to the opening of the first *Duma* in 1906.

A. FRANCIS STEUART.

THE PLACE-NAMES OF CUMBERLAND AND WESTMORLAND. By W. J. Sedgefield, Litt.D., Professor of English Language in the University. Publications of the University of Manchester: English Series No. vii. 8vo. Pp. xliv, 208. Manchester University Press. 1915. 10s. 6d. net.

AN eminent lexical authority, discoursing a few years ago on English Place-Names, ventured on the opinion that nearly everything written



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about them was worthless. With very few exceptions, he said, the scholars who possessed the philological equipment for such a task had been so conscious of its difficulties that they were leaving the subject alone. It had therefore fallen into the hands of unqualified persons, for many of whom it had unaccountable attraction. Like all sweeping statements, this pronouncement may be regarded as inexact, though it has a certain amount of truth. The suggestion seems, when well considered, to have two flaws instead of one. The local antiquary may be deficient in philological attainments, but it is quite possible, too, for the trained philologist to be lacking in local historical knowledge. Which defect is more disastrous it is difficult to say.

The fact is that the study of place-names is extraordinarily complicated. Indeed some persons think, and the present writer among them, that we have not yet reached a stage either in local history or in philology to tackle the exposition of the names on the map of these islands with any hope of success. Until we have explored all the sources of early local history and constructed lists of name-forms as they appear in original documents from century to century, the attempts of philology to unravel their meaning, no matter how sure philologists may be of their own perfections, must be more or less unsatisfactory. In our present state of knowledge of the sources, it was not surprising to learn from Professor Sedgefield that he was conscious he had undertaken a difficult job. 'Though I began,' he complains, 'with some confidence, tempered as I hoped with caution, I have at the end to confess to a feeling of disappointment. Time after time it has been necessary to throw overboard a convincing explanation in the remorseless presence of a fresh early form. The present work may be compared to an edifice that has been built, then almost demolished, then rebuilt and altered in detail over and over again.' A confession of this kind gives the reader confidence that the elucidation of the place-names of Cumberland and Westmorland has fallen into competent hands. No one but a scholar fully acquainted with the best methods of reaching permanent results could have penned such an acknowledgment. If the author has failed to discover the earliest forms of every place-name in his list, the fault does not lie at his door. The real cause is that the sources are for the most part inaccessible. The praiseworthy part of it is that he has been so diligent and so far successful.

We have been accustomed to the exposition of place-names as evidence of tribal occupation and to the set-back of their origin to the period implied in their etymology. Dr. Sedgefield, in a heavily-leaded caution, explodes the familiar theory. It does not follow, he says, that because a place has elements of Old Norse or Old English in its composition, the name was first given in the period when either language was spoken. In a large number of instances the place-names of Cumberland and Westmorland must have originated in the Middle English period. That proposition, though warmly contested by philologists of a former generation, may now be accepted as unassailable. It can be shown very conclusively that many of the names on the map of the two counties took their rise early in the twelfth century, or soon after the Norman settlement of the district. The

characteristic of several of these late place-names is that they are reminiscent of the first grantee or of the native confirmed by the new rulers in his tenement. The author, perhaps influenced too much by a predilection for seeking a personal element in every place-name, has added unduly to the eponymity of Cumberland mythology, already over-crowded. But there cannot be much doubt that the personal element enters largely into what may be called the later name-forms, and the odd thing about these is that they have the Danish terminal. Places like Etterby, Glassonby, Ponsonby, Allerby, Boothby, and so on were named after their early twelfth century owners, or at least they embody the names of the earliest owners of which there is documentary evidence.

There need be no hesitation in warmly recommending this book. It contains a vast amount of information for the serious student as well as the general reader. To those interested in the two border counties the volume will be specially welcome, but it has a usefulness which extends beyond their boundaries. One of the chief requisites for the study of place-names is a knowledge of right method, and guidance will be found by a perusal of these pages.

JAMES WILSON.

LOWLAND SCOTCH AS SPOKEN IN THE LOWER STRATHEARN DISTRICT OF PERTHSHIRE. By Sir James Wilson, K.C.S.I. With Foreword by W. A. Craigie, M.A., LL.D. Pp. 276. With one Illustration. Demy 8vo. Oxford : University Press. 1915. 5s. net.

SIR JAMES WILSON, already recognised as an authority on the dialects of the Western Punjab, has recently devoted himself to a study of Lowland Scotch as spoken in his native parish of Dunning and in the surrounding district known as Lower Strathearn. In doing so he has furnished an independent and most valuable contribution towards the work to be undertaken and, it is hoped, completed by the Scottish Branch of the English Association, who will include in their survey all the dialects of Scotland, comparing these with one another in the interests of philology. We wish that Sir James Wilson *had not* 'resisted the temptation to make comparison with other dialects.' He might at least have given us a selection—say of a dozen pronunciations and a score of words—that might be safely regarded as characteristic of the district if not peculiar to it. His account of this Scottish dialect, however, must be estimated as full of information in every branch of the study ; careful to the smallest detail ; of great interest to every Scottish reader ; and of special value to any Englishman willing, through a knowledge of one fairly representative dialect, to take a first step towards a general acquaintance with Scottish speech.

Dr. Craigie, in his foreword, speaks for every intelligent lover of Scotch when he says, 'It is a matter of satisfaction that one of the first studies of a single Scottish dialect has been carried out with so much thoroughness, and presents so complete a survey of its special theme.' The volume contains a grammar, dictionary, and an informal manual of the dialect. Each word is spelled phonetically, after a method that is simple, sufficient, and easily mastered ; while its English equivalent is invariably given, first in its ordi-



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nary spelling, and then phonetically on the same system as the word in Scotch. In addition to examples illustrating the parts of speech, we have—arranged in groups of kindred meaning or identical interest—single words, proverbial sayings, and characteristic idioms, such as all who know the value of Scotch will find stimulating. A few examples may be added :

Glour ee muin, un likht ee middun.

Ei hay yur coagee oot hwin ut renz kail.

Ur yee oot fur plaizhur, or iz the weif wee yee?

Mii mooth juist hudz a jull.

One is glad to see the well-known phrase, *Aa'z uphaud*—meaning, I'll uphold—rendered so that anyone can recognise it ; for as Barrie used to give it in his early novels—in the form *Ise sepad*—it staggered Scotchmen. Sir James Wilson is generally correct in distinguishing between Scotch and English idioms ; but is he right in saying that the answer by a Scotchman to the remark, *It's only four miles to Crieff*, is *Ii*, but *it's uphill* ; while by an Englishman the answer is, *No*, but *it's uphill*?

The author of this book is to be congratulated on having caught and fixed one of our Scottish dialects, while yet racy of the soil and still uncontaminated by commonplaces and vulgarities from the wider world of speech, whether spoken or written. If the other dialects of Scotland are dealt with as successfully, the compilers of our new Scotch Dictionary will have all the material they can need for its happy completion.

JAMES D. FITZGERALD.

ANNE HYDE, DUCHESS OF YORK. By J. R. Henslowe. Pp. ix, 301.  
With Eleven Portraits. London : T. Werner Laurie, Ltd.

ANNE HYDE came of a comparatively obscure family and, having to retire to Holland in the Cromwellian days of her youth, was appointed maid of honour to one of the daughters of Charles I. She met the brother of her mistress and secretly married him, and thus became the wife of the heir-apparent (James, Duke of York) to the English throne, and the mother of two of England's queens. Although the Duke and Duchess scandalised Pepys at the theatre by their 'dalliance there before the whole world, such as kissing and leaning upon one another,' the marriage was not a happy one, and was much opposed by the relatives of both husband and wife. Anne eventually became a secret convert—she was fond of doing things in secret—to the Church of Rome, and may have been the chief influence in changing her husband's faith, a change which lost him and the Stuarts their throne, and gave us the Georges in due time. She died at the age of thirty-three years, of cancer, it is said, probably brought on by constant over-eating. It is reported her last words were : 'Duke, Duke, death is terrible—death is very terrible !'

The author does his best for Anne ('Nan') Hyde from the scanty records available, and where these fail him he fills the blanks by also relating the affairs of those who were connected with his heroine in various ways. He has written an interesting book, well got up and illustrated with numerous portraits, but no amount of special pleading can hide the

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fact that Anne Hyde's life was a dismal one and a failure, in spite of the social eminence to which she rose by her unaided efforts. James, Duke of York (James II. to be), was a 'veritable Prince Charming,' and a soldier of great valour—stated by Condé to be without fear—and the wonder is that he married Anne. She was a plain woman and an obstinate one, not lacking in arrogance and stiffness to others around her. She undoubtedly possessed decision, considerable wit and kindness of heart, intelligence, and possibly at times some charm of manner, but she was not a pleasant woman. She was a 'glutton,' like her daughter, Queen Anne, and a gambler, to the extent of losing even £25,000 in a single night. Not a wife easy to live with! Nor was James as a husband. Dismal, dismal was the result.

The book has some faults. It has no index, and we doubt the correctness of the statement on page 1, that Anne Hyde's ancestors can be traced as holding Norbury before the Norman conquest. There are also some small errors of fact and spelling which should not have escaped the author's notice.

Three questions to conclude. The eleven portraits reproduced are very interesting, but from what source or sources has the author obtained them? He does not tell us. Is it quite fair to speak on page 301 of Anne's daughters in connection with their father as 'the Goneril and Regan of this later Lear'? And is it certain Anne died a 'natural death'?

RONALD A. M. DIXON.

**BELGIAN DEMOCRACY: ITS EARLY HISTORY.** By Henri Pirenne, Professor of Medieval and Belgian History in the University of Ghent.

Translated by J. V. Saunders, M.A. Pp. xi, 250. Crown 8vo.

Manchester: The University Press. 1915. 4s. 6d. net.

THIS book, first published in 1910, has been competently turned into English by Mr. J. V. Saunders, and is now issued as No. XXVII. of the Historical Series of the University of Manchester. It is thoroughly interesting from cover to cover. As the author well says, 'nowhere in Northern Europe did democratic institutions grow up with more energy and result than in the towns on the banks of the Scheldt and the Meuse,' and it is the urban democracies—the only ones known in those districts before our own days—that form the topic of the book. Its nine chapters deal with the beginnings of the towns, the growth of their institutions, their economics, their history under the government of the Patriciate, the rise of the commons, and the career of the towns under democratic government, and their relations with the State. The three last chapters describe how the Renaissance, the Reformation, and the seventeenth century carried on the story.

RONALD A. M. DIXON.

**THE RELIGION OF RUSSIA: A Study of the Orthodox Church in Russia from the point of view of the Church in England.** By G. B. H.

Bishop. Pp. 94. With Twenty Illustrations. 4to. London: Society of SS. Peter and Paul. 1915. 5s. net.

It is interesting to see from this well-illustrated book the view of the Orthodox Church from the standpoint of the Church of England. The



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meaning of the ornaments and vestments are explained, and the liturgy and Divine Office expounded. The writer places the religious instruction of the clergy higher than is generally imagined, but admits that their general education is not so good. He thinks the investigation into their separate rites has done good to the mutual understanding of both churches. We wonder why he did not give a chapter on the intercourse and influence of the Orthodox Church with the Jacobite nonjuring Episcopal Church in Scotland in the days of the 'Usager' bishops. It would make an interesting study, as the scheme of a reconciliation between those churches was one of the dreams of Peter the Great.

PROMOTION OF LEARNING IN INDIA : By Early European Settlers (up to about 1800 A.D.). By Narendra Nath Law, M.A. Pp. xxviii, 158. With Two Illustrations. Crown 8vo. London: Longmans, Green & Co. 1915. 4s. 6d. net.

THIS account of how Western learning was introduced into India forms a curious portion of the history of education. The English attempt began through missionary motives—the languages employed being 'Malay' (Malayālam) or Goanese Portuguese. Danish and German missionaries, like Kiernander and Schwartz, did much. The S.P.C.K. began its activities in printing in 1714, but the first book printed in India had been Gon-salvez's *Doctrina Christiana*, printed in Tamulic characters in 1577. There is a doubt who founded the first girls' school at Calcutta, but the date was about 1780, since when the good work of female education has gone on apace.

THE BAILLIES OF LEITH : A Miscellany of Historical Articles and Sketches compiled mainly from the Records in the Town Hall. By D. Robertson, M.A., LL.B., S.S.C., Town-Clerk of Leith. Pp. x, 352. With Frontispiece. Demy 8vo. Leith: Charles Thomson, *Burghs Pilot Office*. 1915.

THE Town-Clerk of Leith has, from the records preserved in the Town Hall, compiled this interesting book dealing with the history of his town; we read of its admirals, its bailies, its former town-clerks and its ministers in its pages. He explains the former thralldom of Leith under Edinburgh, its hated rival, and shows us that 'the woes of Leith' began in the year 1329, when King Robert I. 'confirmed to the burgesses of our burgh of Edinburgh . . . the port of Leith, mills and pertinents,' and that from that date the harbour was managed by the Town Council of Edinburgh for 'the long period of 500 years.' The writer tells us of the trade and the incorporations, the Police and Town Council Acts of former times, Leith races, and 'the King's Visit' in 1822, when Leith was madly enthusiastic. The present writer can add two Leith traditions handed down by his forebears. One is of the King's visit. The King, it is said, turned to the Senior Bailie on landing, and said, 'What news, Bailie, what news?' and received the answer from the Bailie, whose interests were in the West Indies, 'Good news, your Majesty; sugar is up.' The other tradition is

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connected with the whale fishing industry (p. 329). The chief oil merchants wished, in gratitude of their prosperity, to put up a window in their church, and did so, choosing the appropriate subject for the stained glass scenes, 'Jonah and the Whale.'

**HISTORY OF THE LATIN AND THE TEUTONIC NATIONS (1494 to 1514).** By Leopold von Ranke. A Revised Translation by G. R. Dennis, B.A. Pp. xxxvi, 448. Crown 8vo. London: G. Bell & Sons, Ltd. 1915.

A REVISED translation by G. R. Dennis of this great work—for it is a great work, in spite of the author's Teutonic habit of building a theory and then finding historic authorities for it—is very welcome. It is the more so, as it contains a short, brief, but very sympathetic introduction by Edward Armstrong, who points out a few of the author's inaccuracies and imperfections, but yet is able to end with 'most honest historians would be thankful if their last book were as good as Leopold von Ranke's first,' which was published in 1824, when he was not quite twenty-nine.

**THE GERMAN WAR OF 1914.** Illustrated by Documents of European History, 1815-1915. Selected and edited by J. R. H. O'Regan. 8vo. Pp. ix, 101. Oxford: University Press. 1s. 6d.

By well-chosen extracts, sixty-one in number, the constitutional relationships of Europe are conveniently shown in skeleton from the Holy Alliance and the Monroe Doctrine to the diplomacies of the modern situation until the Italian declaration of war with Austria in 1915. Concise notes, equally competent and informing, give the necessary facts of connection, which exhibit each extract as a historical turning-point.

*The War and Religion.* By Alfred Loisy. Translated by Arthur Galton. 8vo. Pp. xxix, 87. Oxford: R. H. Blackwell. 1s. 6d. net. This striking essay reprehends the Papal neutrality on the moral issues of the war, and attempts to forecast a sort of super-Christianity of liberty, justice and humanity.

*Jacob Grimm, An Address, by William Paton Ker, President* (Pp. 12. 8vo. Oxford University Press. Price 1s. net), is an item in the batch of the Philological Society's publications. Delivered in May last, it is a beautiful tribute to the lawyer-grammarian-folklorist (*floruit* 1785-1863), in whom every philologist may, like Professor Ker, recognize a great ancestor.

*The Resurrection of Poland: For a Lasting Peace* (pp. 31. Paris: Société Generale d'Imprimerie. 1915. 4to. Price 6d.), is an earnest plea for the righting of the wrongs of successive partitions and the denial of autonomy. Among the terrific issues of the war, there is a great (if checkered and meantime fluctuating) hope of a renewed destiny for the Poles.

*The English Historical Review* for July had an unusual diversity of matter, headed by Dr. Round's critical note on various authors' propositions, for



the most part a little off guard, as to the precise model of a valid parliament. Papal taxation under Edward I., the Genoese in Chios, Tudor sumptuary laws, unpublished poems of Alex. Neckam, and a new *Fioretto* of St. Francis are among other subjects. A body of Jacobite letters in 1712-1714 appears, edited from the French archives by Mr. Wickham Legg. Partly in cipher, it deals with the intrigues for the situation impending through the expected death of Queen Anne. The Pretender's correspondent, on 26th April, 1714, assures him that both Oxford and Bolingbroke have separately sworn that after the Queen they will recognize no other king than James. Mr. Charles Johnson prints an interesting memorandum found among Exchequer documents, and assigned by him to about 1363, relative to the secret negotiations for the succession to David II. It is one more document in the proposals, and its very terms are plainly quoted in the offer made by the Scottish Parliament on 13th January, 1364-65.<sup>1</sup> This passage is the more welcome in that it was obviously preparatory to the most intimate proposal of all, which was referred to in a Rhind lecture in 1913 as of decisive bearing on the alliterative *Morte Arthure*. A valuable note by Mr. A. B. White settles the moot point why *Magna Carta* was so called, *i.e.* to what it was the antithesis. An interlined passage on a roll of 1218, substituting *magna carta* for *majori carta* shows by its context that the lesser charter to which it was thus contrasted was the charter of the forest. Mr. White must be complimented on a neat and final demonstration.

In the October number an almost equal variety prevails, ranging from the Turk on the oriental trade routes to Habeas Corpus, *plenum parlamentum*, the Alps, and Heligoland. A biography of Sir Gruffydd Lloyd, a notable Welshman under Edward I., is pieced together by Mr. J. G. Edwards. Appearing posthumously (as to our great regret was the case also with his somewhat analogous article in the last number of the *Scottish Historical Review*) a paper by the late Mr. Adolphus Ballard, collates clause by clause the comparative effect of the Law of Breteuil as a model for the constitutions of English and Irish boroughs. The first Journal, or 'Libellum,' of Edward II.'s Chamber, that for the year 1322-1323, is edited by Mr. J. C. Davies. Miss R. R. Reid, discussing the date and authorship of Robert Redmayne's *Life of Henry V.*, hitherto supposed to have been written about 1540, establishes the date as not earlier than 1574, and practically identifies the writer as a Lancashire man who was commissary for the archdeacons of Suffolk in 1586 and chancellor of Norwich from 1588 until 1625. This considerably undermines any authority assignable to the work.

*Archaeologia Aeliana* (Third Series, volume xii., 1915, 4to, pp. xxxv, 376), the annual of the Society of Antiquaries of Newcastle upon Tyne, confirms the habitual impression it makes of the issuing body as a particularly well appointed club of archaeologists. There is an agreeable diversity of subjects, with a capital set of prints and plates, notable among which are the renderings of very many of the 'Durham Seals,'

<sup>1</sup> *Acts Parl. Scot.* i. p. 137 (p. 495 red ink paging).

which are edited by the venerable Dr. Greenwell, with supplemental annotations by Mr. C. Hunter Blair. A Scottish review must needs give prominence to the fact that the present part of this careful inventory consists of Scottish private seals housed in the Durham Cathedral library, ranging in date from the twelfth century to the fifteenth—a collection of unique importance not only for sigillography but for history. The fine photographic plates of these seals, and the heraldic descriptions of each of the 283 items, plus the transliteration of the inscriptions and the numerous biographical identifications, will assuredly make this volume an object of great request as well as considerable envy among Scottish antiquaries.

Through the courtesy of the Society we are enabled to reproduce reprints of the following seals:

Plate I. Top Row.

- 2767. Randolf of Bonkil. Early thirteenth century.
- 2803. Gospatrick II., Earl of Dunbar. Early twelfth century.
- 2873. William of Lindsay. Late twelfth century.

Second Row.

- 2814. Patrick of Dunbar, Earl of March, A.D. 1367. Obverse.
- 2814. Do. do. do. Reverse.

Third Row.

- 2812. Waldeve, Earl of Dunbar, A.D. 1166-1182.
- 2809. Patrick, Earl of Dunbar, A.D. 1279.

Plate II. Top Row.

- 2982. Robert de Ros, A.D. 1423-24.
- 2884. John of Manderston, A.D. 1434.
- 2810. Patrick, Earl of Dunbar, A.D. 1261.
- 2886. Agnes, Countess of March and Moray, A.D. 1367.
- 2758. Robert Bell, A.D. 1430.

Second Row.

- 2741. Margaret, Countess of Angus and Mar, A.D. 1415.
- 2780. Muriel of Chisholm, A.D. 1433-4.
- 2840. Robert Gray, A.D. 1439.
- 2768. Walter of Bonkil, A.D. 1331.

Third Row.

- 2799. William Douglas, A.D. 1427.
- 2796. Archibald, Earl of Douglas, A.D. 1406.
- 2846. Patrick Hepburn, A.D. 1450.

Fourth Row.

- 2733. Robert Stewart, Duke of Albany, A.D. 1418.
- 2797. Archibald, Earl of Douglas, A.D. 1414.
- 2800. William Douglas, A.D. 1429.

Were it only to be regarded as an appendix to Raine's 'North Durham,' familiar to all charter students for its splendid chartulary of *inter alia* ancient Scottish charters, this section of the catalogue of Durham seals would merit the earnest gratitude of all Scottish genealogists and students of family records. Mr. Hunter Blair, librarian of the Newcastle antiquaries, ought to be better known personally than he is to the antiquarian and historical societies on this side of the Border.



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Ayton, Bonkil, Douglas, Dunbar, Home, Lindsay, Prendergast, Riston, and Wedderburn are names of account, each represented by successive seals, the full significance of all of which will only slowly be realised by the earnest searchers after dates and pedigrees and seal-craft and the descent of lands.

Thus invaluable for its directly Scottish service, the *Archaeologia Aeliana* for 1914-1915 is not less full of first-class matter for northern England. Mr. Richard Welford calendars a long series of local muniments. Miss M. Hope Dodds contributes an elaborate account of the 'Bishops' Boroughs' of Durham, such as Darlington, Gateshead, Wearmouth, Hartlepool, Stockton, and North Auckland. She discusses, with marked ability, the institutional conditions of these communities. Her conspectus of their features in relation to merchant guilds, markets, fairs, tolls and burghal customs, as well as to the parochial system, schools and petty courts, presents new facets of critical observation for the evolution of burghal types. Corstopitum remains, as it has long been, the Roman centre of archaeological labours, and the report on the excavations in 1914, by Mr. R. H. Forster and Mr. W. H. Knowles, is supplemented by special catalogues of coins by Mr. H. H. E. Craster, and of potters' stamps by Professor Haverfield. Coordinated results of the finds shew much evidence for an occupation estimated as between A.D. 90 and A.D. 110, and are thought to render it probable that the station was unoccupied from about A.D. 115 until, perhaps, A.D. 130, when Corstopitum was revived on a site with a rather more westerly centre. These weighty and interesting papers do not exhaust this most meritorious miscellany of north English archaeology, to which sixty separate illustrations, mostly photographic, add attraction as well as specific force. The editor of the volume, Mr. Robert Blair, has credit by the well equipped production of such a testimony to the continuous virility of his Society.

In the *Modern Language Review* for July Mr. Roger S. Loomis reflects an odd enough sidelight on Tristram and Iseult romances by coordinating nine groups of early illustrations, one on tiles, one on a casket, three on tapestry, three on needlework, and one on a mural painting.

Historical papers in the *Juridical Review* for October are (1) Mr. F. Watt's sketch of Lord Coke as a person, and (2) Mr. W. Roughead's 'Toll of the *Speedy Return*,' being his account of a painful episode, the trial and execution of Captain Thomas Green in 1705, for piracy—an Englishman sacrificed to Scottish passion as a sequel of Darien. It is an instructive lesson to judges not to be in haste to follow public clamour. Young Duncan Forbes of Culloden, Captain Green's sole mourner at his interment, was long afterwards to refer in parliament to the case as the shocking miscarriage of justice which it was.

In the *American Historical Review* for July Mr. W. L. Westermann maintains in relation to the decline of ancient Graeco-Roman culture that it was the loss of economic freedom even more than the loss of political freedom which brought about the disaster. Professor G. B. Adams, in a

paper on *Magna Carta and the Responsible Ministry*, gives a reasoned but rather far-drawn answer to Dr. W. S. M'Kechnie's question of the American scholar's proposition of a direct connection between Magna Carta and the doctrine of ministerial responsibility. Mr. F. A. Golder deals with the visit of the Russian fleet to the United States in 1863, when there was serious apprehension of war in Europe. The friendly reception accorded by the Americans caused some uneasiness among European powers not cordial towards the Northern cause, and the curious double effect of the visit was on the one hand to strengthen the Union against European intervention, and on the other to help in averting war upon Russia. 'Demonstrations' usually seem to mean more than they actually do. Professor George L. Burr cites from Professor Paul Lehmann the 'Middle Ages' as a term in Goldast's *medium ævum* (1604) and the Swiss scholar Vadian's *media ætas* (1518) besides a still older but less definite *media tempestas* in an Italian bishop's letter of 1469.

In the issue for October Miss B. H. Putnam traces the persistent effort made, during the period after the Black Death, to restrict the wages claimed by priests in England whose depleted ranks had given the survivors a monopoly that was too powerful to be brought under efficient control for a quarter of a century. The analogy with the Statute of Labourers is critically discussed. Mr. E. S. Corwin, seeking to ascertain precisely what the French objective was in the support given to the American Revolution, concludes that it was not primarily either the acquisition of territory or the securing of trade, but was more than anything else a blow at British power. Mr. C. W. Colby, examining 'the earlier relations of England and Belgium,' with a side glance at some baser concepts of political morals, ends with the acknowledgment that in August, 1914, 'many people in England considered the Belgian question first from the standpoint of duty, and were willing that their country should discharge important obligations because it was the *right* thing to do.' He shows a consensus from Pitt to Palmerston and Gladstone indicative of a growth of British sentiment much less selfish than it was to begin with, towards the maintenance of Belgian neutrality. Mr. C. R. Fish passes a very adverse judgment on the operation of conscription in the American Civil War under a law which he regards as both impracticable and undemocratic, and as not a substitute for volunteering, but a stimulant towards it.

*The Iowa Journal* for October surveys the Iowa State legislation for 1915, and traces the history of Presbyterianism in Iowa city since 1836.

*La Nation Tchèque* (1st October) looks 'with a veritable sentiment of anguish' towards Sofia, where 'once more the Bulgarian people against its will and in despite of its sympathy for Russia is led to the abyss by an ambitious despot.'



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PLATE II.

SCOTTISH PRIVATE SEALS.

See page 204





## Communication

RUNRIG. Mr. Romanes's interesting note about the abolition of run-rig in the regality of Melrose suggests some points of interest to philologists, especially in connection with place-names. The term 'runrig' may be taken in modern usage to be a compound of the word 'rig,' having retained in Lowland Scots the sound of Middle English 'rigge' and Anglo-Saxon 'hrycg' which in modern English has been softened into 'ridge.' But did the term 'runrig' originate in Middle or Old Northern English? If it did, it must have been written and pronounced 'rinrig,' preserving the sound of Middle English 'rinnen' and Anglo-Saxon 'rinnan,' as is done in Lowland Scots to this day. 'Rin awa' hame, lassie!' is good Scots still, notwithstanding forty-two years of School Boards. How should the vowel change from 'rin' to 'run' have taken place in the compound long before School Boards were dreamt of? In the course of a statement on *Grazing and Agrestic Customs of the Outer Hebrides* submitted by Mr. Alexander Carmichael to the Crofters Commission, 1884, and too interesting to remain buried in a blue book, the following passage occurs:

'The term Run-Rig seems a modification of the Gaelic *Roinn-ruith*—'division-run.' . . . In Gaelic the system of run-rig is usually spoken of as *mor earann*—'great division,' or *mor fhearann*—'great land.' Occasionally, however, an old person calls the system *roinn-ruith*. This seems the correct designation, and the origin of the English term run-rig.'<sup>1</sup> This has the singular effect of transposing the meaning of the two syllables, inasmuch as *roinn* means 'a division,' and *ruith* is 'to run.' Will a competent student of Old Gaelic or Erse pronounce upon this?

In the Melrose document of 1742 described by Mr. Romanes the term 'rundale' occurs as alternative to and synonymous with 'runrig.' Now the syllable 'dale' or 'dal' is of peculiar significance in the study of place-names, for it occurs both in Celtic and Scandinavian speech and bears a very different meaning in each, although the root meaning—that of share or division—is common to both. In Gaelic compound place-names it is found, I think invariably, as a prefix, signifying a portion of land, a farm or croft. Familiar examples are Dalnaspidal, the croft of the hospital or wayside shelter; Dalrymple, the farm of the crooked pool (on the Ayrshire Doon);

<sup>1</sup> *Report of the Crofters Commission, 1884, Appendix A, p. 451.* The whole of Mr. Carmichael's paper is full of interest. I would suggest that it should be redeemed from the obscurity of a blue-book by being republished in the *Scottish Historical Review*.

Dalry, the King's croft, etc. But the Icelandic *dalr* and the Swedish and Danish *dal* bear the sense of a dale or valley, that is, a portion of land separated from the rest by mountains. In British place-names it always appears as a suffix, and generally indicates a former Norse or Danish occupation, as Halladale and Sordale in Caithness, Helmsdale and Sletdale in Sutherland; the latter, having received a pleonastic Gaelic prefix, has become Glensletdale, as has also Glenstockadale in Wigtownshire. In the old Gaelic names of Stranid and Strathannan, which have been changed to Nithsdale and Annandale, it is possible that the suffix represents the Anglo-Saxon *dæl*; more probably the Middle English 'dale,' for the usual Anglo-Saxon term for a valley or glen was *denu*, whence the common suffix 'den,' 'dean' or 'dene,' as in Hassendean in Roxburghshire and Rottingdean near Brighton.

It may be noticed in passing how fertile in different meanings this syllable has become in the English language, in all of which the root-sense of separation may be traced: dale and dell; to deal, whether in the direct sense of dividing, as to deal in a game of cards, or indirectly in trade; a great deal, *i.e.* a large portion; to dole, *i.e.* to distribute portions; deals, *i.e.* a tree divided into boards.

But all this does not help towards explaining in what language the term 'rundale' had its origin. Obviously the suffix indicates a division of land for cultivation, which suggests a Gaelic survival from the far-off days when Melrose occupied the bare headland—*maol ros*—now known as Old Melrose. Jamieson gives and interprets 'runrig' in his dictionary, but not 'rundale.'

Monreith.

HERBERT MAXWELL.



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# The Scottish Historical Review

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## Scottish Influence on Orkney

ORKNEY and Shetland were colonized by the Norwegians in the seventh, eighth and ninth centuries, as were also the Hebrides, Caithness and Sutherland.

The Norwegian earldom of Orkney and Shetland was founded by King Harald Hairfair about the year 880. Caithness and Sutherland were subdued and ruled as an independent state by the earls of Orkney from about the year 890 until 1014, when Caithness was definitely annexed as a Scottish earldom. This happened during the reign of the first king of all Scotland, whose daughter became the second wife of the Earl of Orkney. The son by that marriage was made the first earl of the Scottish earldom of Caithness, while his half-brothers, by the first marriage, succeeded to the Norwegian earldom of Orkney.

However, two lines of earls of Orkney and Caithness did not start here, because the first earl of Caithness succeeded in claiming a share of the earldom of Orkney as well, and in time his line became sole earls of both Orkney and Caithness, and thus owed allegiance to two sovereigns, a position which they manipulated in their political interests from time to time. The subsequent detachment of Sutherland, and the vicissitudes of the earldom of Caithness need not concern us here.

Norway ceded the Hebrides in 1266, and wadset Orkney in 1468, to Scotland.

The new surroundings of the Norwegian colonists, which would influence their customs and laws, were : geographical—proximity

to Scotland or Pictland ; topographical—their settlement on the existing Pictish townships and cultivated lands ; social—contact with the Picts and Scots ; and racial—intermarriage.

The result of proximity and actual intermixture of the Norse, Picts and Gaels, naturally resulted in a certain amount of equilibrium taking place. In the early days of the colonization the influence was greater on the part of the Norse, *e.g.* in place-names, laws, customs and language—many Norse words were borrowed in Gaelic, while very few Gaelic words were used in the Norse of the colonists ; whereas in the later days it was all the other way—the Norsemen in the Hebrides now speak Gaelic, and those in Orkney the Lowland dialect of English. Contrariwise, one must not forget the Western influence on Norway in Viking times, influences derived from the west and carried back to Norway.<sup>1</sup>

The influence of proximity, in trade and exchange, would certainly be expected to modify such customs as the Norse brought with them—they very readily adapted themselves to new circumstances when it was to their advantage.

Racial influence was particularly strong. Excepting the first three earls of the ninth century, all the earls of Orkney, by intermarriage, were half Gaelic until 1139, when a Gaelic line succeeded and ruled till the fourteenth century, when it was succeeded by a Lowland family. There being little in common between the Gaelic and Norse tongues, the latter remained unaffected until the advent of the Lowland earls and their Lowland followers.

The Gaelic settlers in Orkney would at once assume Norse patronymics which corresponded with their own practice, similarly as the Norsemen who settled among the Gaels became *mac-* this and that. When the Lowland settlers, with fixed place-surnames and speaking a kindred language, arrived, they quickly asserted their preponderance. Fixed place-surnames and Lowland English were introduced, and have since held sway. The early Lowland settlers undoubtedly were the first to assume Orkney place-names as their surnames, with little 'ilks' all to themselves. A Scottish fugitive or 'broken Hielan' man' would thereby be rewarded for his extinction by a new and unique name and a glorified designation 'of that ilk.'

The change from Norse to kindred Lowland English was easy, encouraged by commercial convenience and the definite transference of the islands to Scotland in 1468. With the

<sup>1</sup> Alexr. Bugge, *Vesterlandenes Indflydelse paa Nordboernes Samfundsforhold.*



Lowland earls the Norse language ceased in charters in Orkney, although it lingered in charters in Shetland until the sixteenth century, and in the dialects in isolated districts until the eighteenth century. It is related that Kirkwall was already a Scottish Royal Burgh while Orkney was still Norwegian territory, and it certainly had town-bailies in 1433. The Earl of Orkney was Chancellor of Scotland in 1454, so that these changes need not surprise one.

Let us now consider various indications of Scottish influence in detail.

*Land Valuation.* In order to levy *skatt* or taxation for the support of the government, land valuation was a necessity on the foundation of the earldom and on the conquest of the Hebrides, Caithness and Sutherland. *Skatt* is still levied in Orkney on a 'pennyland' valuation which is peculiar to Orkney, Shetland, Caithness and the Hebrides. There is every indication that this is the original valuation. The pennyland valuation had no prototype in Norway. We do not know anything of early valuation in Scotland. We only know that the oldest valuation in Scotland, called 'old extent,' was much later than the pennyland, because the pennylands in the Hebrides are valued in old extent, and it is generally believed that old extent dates from the time of the Alexanders. In 1326, old extent is referred to as 'of the time of Alexander III.' (1249-1286), but as it is also referred to as 'old extent' in *Bagemon's Roll*, of 1275, and as being different from the then actual value of land, it is a question whether a valuation made by Alexander III., at the most only twenty-six years previously, could be then described as 'old.'

A taxation was made in the time of Malcolm IV. (1153-1165), which presupposes a valuation,<sup>1</sup> and one would expect that at the

<sup>1</sup> In Seebohm's *The English Village Community*, it is shown that the English *hide* of 120 acres corresponded with the Scottish *ploughland* and the Irish and Manx 'quarter' of a *bailebiatagh*; and Professor Mackinnon, in *Place and Personal Names in Argyll*, states that the *dabhach* or *davoch* corresponded with the *tirung* or ounce-land, and contained about 104 Scots acres, or 120 English acres. In a document of 1424, quoted by Dr. Erskine Beveridge in *North Uist*, 41, the *tirung* is equated with the *davach*.

The English division of land into ploughlands, or hides of 120 acres, was probably introduced into Scotland in the time of King Malcolm, 1005-1034, or soon after, when English influences were at work. From the fact that 'old extent' valuation is uniformly 40s. *per* ploughland it would appear that the division into ploughlands was contemporary with that valuation. Its late date is indicated by the fact that the older *davach* was variously equivalent to from one to four ploughlands. In the case of North Uist, the ounce-land was valued at

very latest a valuation of Scotland was made in the reign of the first king of all Scotland, 1005-1034.

However, there is no relation between the 'old extent' and the 'pennyland' valuations. Scottish land denominations were oxgate, husbandland and ploughgate, and the Pictish davach, whereas in Orkney and the Hebrides there are pennyland and ounceland (O.N. *peningsland*, *eyrisland*, Gaelic, *peighinn*, *tirunga*). The pennylands of the Hebrides were valued in marks of old extent, probably on their cession to Scotland in 1266, in the time of Alexander III. It is quite possible that old extent was rectified in his time, which may account for that valuation being ascribed to him, as already mentioned.

In Orkney and the Hebrides an *eyrir* or *unga*,  $\frac{1}{8}$  mark, was divided into 18 pennies, and not into 20 pennies, as in the case of the English, and later Scottish, marks.

An ounce of 18 and a mark of 144 pennies is unknown in Norway. The old English mark, which would be current in Scotland, contained 13s. 4d., or 160 pennies, of which  $\frac{1}{8} = 20$ d. In 1538, in Shetland,<sup>1</sup> a pure silver mark = 12 Shetland shillings of produce [= 96 pennies of cloth = 48 ells of cloth + 48 pennies of butter = 8 lispunds of butter],  $\frac{1}{8}$  of which mark = 18 pennies; which gives the clue to the puzzle. But why was the Norse mark = 144d. or 12s.? Here we have an instance of probable Scottish influence.

Seebohm<sup>2</sup> shows that the old Norse mark, or half of a 16 oz. lb., was founded on the Merovingian pound, of which the penny = 28.8 wheat grains, as compared to the penny of 32 wheat grains of Charlemagne's *nova moneta*, which became the standard of England.

It will thus be apparent, on calculation, that the Norse mark = 12 shillings of English money, exactly as it was reckoned in Shetland in 1538. From this it may be concluded that the old

6 marks or 80s. 'old extent' = 2 ploughlands, and in Islay the ounceland = 10 marks or 133s. 4d. =  $3\frac{1}{3}$  ploughlands (*A Gaelic Dict.*, 1902, s.v. *peighinn*), which bears out MacBain's statement that the *dabhach* was equivalent to from one to four ploughgates.

An indication of the date of 'old extent' is found in *Rotulus Redituum* of Kelso Abbey in 1290, in which it is stated that a husbandland was let, without *stuh*, or outfit, for 18s. This was an increase of 80 per cent. on the 'old extent' valuation of 10s., which appears to carry it back to the time of Malcolm.

It, therefore, appears to be proved that the Orkney ounceland was originally founded on the davach, and that it consisted of 120 acres or thereabout.

<sup>1</sup> *Orkney and Shetland Records*, i. 75.

<sup>2</sup> *Tribal Custom in Anglo-Saxon Law*.



Norse mark (of 160 pence of 28·8 wheat grains each) was used as the basis of the Orkney and Hebridean pennyland valuation, and that it was called a 'twelve shilling mark'<sup>1</sup> and subdivided into its actual value in old English pennies, viz. 144d., an ounce or  $\frac{1}{8}$  of which = 18 pence. This would certainly have been a convenience, if not a necessity, if the English penny was alone current, as it probably was, seeing that the bulk of the trade and exchange would have been with Scotland, in which English money was in use. This unusual division of the ounce into 18 instead of 20 pence has hitherto baffled and puzzled every writer on the subject.

The value of the old Norse mark was thus 12s. English (=  $12 \times 3 = 36$ s. modern English coins), as compared with the old English mark of 13s. 4d. (=  $13\text{s. } 4\text{d.} \times 3 = 40$ s. modern English coins). Down till the fourteenth century a 12 oz. lb. of silver was coined into 20 shillings in England, but from that time down to the sixteenth century, the English coinage was depreciated in weight until one lb. was, and now is, coined into 60s. In Scotland the depreciation went on until, in 1600, the lb. was coined into £36, so that the ratio of sterling to Scots is 1 : 12—£1 Scots = 1s. 8d. stg.

*Land-purchase Valuation.* In Orkney and Shetland there is a land-purchase valuation which is not found in early times in Scotland or elsewhere, so far as the writer knows. This valuation must have been made a long time after the pennyland or rent-valuation, which will be apparent from the following illustration. In 1299, one pennyland, in Shetland, was valued at one pure gold mark = 8 pure silver marks,<sup>2</sup> or 1152 years' purchase ( $8 \times 144\text{d.} = 1152$ ). It is also stated that the rent of the mark of land was  $1\frac{1}{2}$  mællir (= 9d. Shetland, *i.e.* stg., see Goudie's *Shetland*, 178, 1 shilling Shetland = 2 meillis), or  $\frac{1}{16}$  the purchase price. This is what was called in Shetland a '9 penny mark,' a mark of land which paid 9d., or produce of that conventional value; these pennies of rent varied from 4-12 per mark, representing from  $\frac{1}{36}$  to  $\frac{1}{12}$  the purchase price. This also proves that the mark purchase valuation had been made long before 1299, as otherwise the rent of a mark of land would have been uniformly 6d., or  $\frac{1}{24}$  the purchase price, which was the recognized ratio at that time. Another important feature

<sup>1</sup> In the same way as a Norwegian mark, which was worth three English shillings, was called a 'three shilling mark' in Norway itself.

<sup>2</sup> *Orkney and Shetland Records*, i. 38.

is also proved, viz., that the mark valuation was fixed and not subject to rectification to suit altered values—this was accomplished by means of the varied rent. A *tirunga* in North Uist<sup>1</sup> was valued in old extent (c. 1266) at 6 marks rent =  $53\frac{1}{3}$ d. rent *per* pennyland, as compared with the above-mentioned Shetland pennyland at 72d., which proves conclusively that the mark valuation of the Hebrides was, as it is actually called, 'old extent' rent-valuation, and not a Norse purchase-valuation, for which there was no need.

Why was there a purchase valuation in Orkney and Shetland and not in the Hebrides? Two historical events point to the necessity for such an unusual valuation: first, *circa* 890, Orkney and Shetland were fined 60 gold marks (= 480 silver marks) as *wergild* for the slaughter of the king's son. As the islanders were unable to pay that sum, the earl paid it for them, in return for which the landowners gave up their estates to the earl and thus became his tenants *in capite*. This sum would represent about 12 years' purchase of the pennylands in the islands. But, as undoubtedly the pennylands differed in value even at this early date, a purchase or redemption valuation would have been required in order to fix the amount at which the estates could be redeemed—it is distinctly stated in the Saga that the owners hoped to redeem their estates. In 1137, we are informed that the earls were the universal heirs of all men, and that the representatives or 'heirs' of these men could only redeem their ancestral holdings for a lifetime, after which the lands again reverted to the earls.

The second event which required a purchase valuation occurred in the year 1137, when the earl ran short of money with which to complete the building of St. Magnus' Cathedral. He thereupon made an offer to the tenants that he would allow them to buy back their estates outright for one mark for each *plógsland*. Captain Thomas suggested that the existing mark-valuation was made at that time. A *plógsland*, and a mark of land in Orkney, is estimated at about one acre. On this basis we get the following result: marks of land in Orkney and Shetland about 28,000 = £16,800 old English, less  $\frac{1}{3}$  for earldom and church lands = £11,200 old English = £33,600 in modern English money, available to complete the cathedral.

The indication that the mark-valuation was an old one in 1299 seems to carry it back to 1137, which was only 162 years before.

<sup>1</sup> Erskine Beveridge, *North Uist*, 41.



*Norse and Scottish Law.* Scotland as a united kingdom began in 1105. Cosmo Innes states that its laws and charter forms were derived directly from England. For this reason great care has to be observed in dealing with unusual legal terms in Orkney, because many Norse, English, and Scottish terms are identical. It is only by the peculiar application of the terms that one can detect their source. A few instances will suffice.

In Shetland, in the eighteenth century, there was a distinction drawn between a wound inflicted above or below the 'end.' Scotch, *aind*, breath; O.N. *önd*, breath, *anda*, to breathe. There is no such word in Old English. In Norse law there was no distinction between the penalties for wounds inflicted in the body or the head, while in Scotch law there was, and the regular forensic terms are 'above' or 'below the aind.'

The Scottish expression 'borg and haimold' occurs in Shetland. O.N. *borg*, a pledge, *heimoll*, property in one's full possession. In Scots law this referred to a pledge which the seller had to give the buyer that the goods bought would be delivered into his full possession. In O.E. *heimoll* does not occur. As there is no phrase in Norse law corresponding to this, the occurrence of the term in Shetland must be traced to Scotland.

How did Scotland come by these Norse terms, with a meaning peculiar to Scotland and unknown in England? 'Wreck, waith, hafwreck' occurs in Orkney and Shetland English charters of the sixteenth century and after, but not in their Norse deeds. The regular Scotch phrase is 'wreck, waith and ware,' wreckage, waif and driven sea-weed. The term *haf-rek*, sea-wreck, is pure Norse, and does not occur in O.E. The Icelandic term is *vág-rek*, wave-wreckage. Scotch, *waith*, (1) hunting, (2) what is caught in hunting, (3) stray animals; O.N. *veiðr*, (1) do., (2) do.

The writer is unable to find any reference to strayed animals in old Norse law, but there are plenty of Icelandic words for such, e.g. *sauða-hvarf*, *villu-ráfandi sauðr*, stray sheep, etc. What does 'waith' in Scottish charters mean? Scotch and Orkney *chemys-place*, a head house, manor; O.N. *heimilis-*, *heimis-garðr*, a homestead, but the O.N. for head house or manor is *höfuð-ból*.

Scotch and Orkney *landimers*, boundaries; O.N. *landa-mæri*; O.E. *ge-mære*.

Scotch and Orkney *steel-bow*, a farm let with the stock. Scotch *bow* is used for stock, corresponding with O.N. *bú*, and *steel* might well be O.E. *stille*, fixed. The corresponding

terms in O.E. are *land setene*, and *stuht*, the latter occurring in Kelso in 1290.

Scotch and Orkney (fifteenth century) *goodman*, a landowner. In Scotland, *probi homines*, good men, was applied to vassals or subjects. A goodman was one who held lands of a subject-superior. When these vassals were promoted to crown holdings they were designated by the higher title of 'lairds' (Cosmo Innes). In Scotch juries the members were described as good men and true in 1261 and after; and later we find the members of the large jury described as gentlemen, whether they were so socially or not. In Norse law *góðir-menn*, good men, was applied to any respectable men, tenants or landowners, as members of a jury or other judicial body, and socially it was applied to all householders, whether tenants or owners; whereas *bestir-menn* was applied to the upper ten. In Orkney, in c. 1426, in a Norse document, while various 'good-men' are mentioned, it was decided that a proposed deputation to the King of Denmark should consist of the 'best men.' In 1433, 'goodmen' was applied to the common people in Norway, while in charters of the fifteenth and sixteenth centuries it is applied to tinkers, tailors, soldiers and sailors as witnesses, etc.

The lögrétta (assize) of the Lawthing in Orkney and Shetland consisted of members nominated by the government officials, precisely as in Scotland, with this difference, that the members of the Norse assize were chosen from the goodmen tenants and landowners, whereas the early Scottish assize was chosen from the goodmen landowners.

Now, curiously enough, in the fifteenth century we find the Orkney assize restricted to landowners in accordance with Scottish practice, and further we find the members of the *hirðmannastefna* (formerly a meeting of the earl's bodyguard, but then a sort of Scottish great assize dealing with land disputes), called 'gentles,' corresponding with the 'gentlemen' of the large assize in Scotland. The whole forensic terminology is borrowed direct from Scotland: witnesses, 'bystood, saw and overhead,' the assize were 'maist worthy and quha best knawis the verity'; they gave 'domes,' 'suith-saying,' etc. All these are unadulterated Scottish forensic terms, used in Orkney while it was still Norwegian territory, but then its earl was Chancellor of Scotland, and the islands were flooded with Lowland settlers.

It is remarkable that in the transition from Norse to Scottish charters in Orkney, there is a marked change in the enumeration



of the appurtenances, emoluments or pertinents. The Norse charter contents itself with the general term *lunnindi*, emoluments, whereas the Scottish charter of the same period enumerates these emoluments in a string and jingle of corrupt Norse words. Did the Scottish lawyer note down, from oral tradition, such unusual terms as 'ryth royth samy eng,' etc.? Possibly Scottish charters would be used to place on record consuetudinary privileges comprehended in the *lunnindi* of the Norse charters, especially as the Norse language and customs were fast dying out.

In charters of conveyance of *óðal* (udal estates) the reason of the sale is frequently given as 'the great need,' poverty, etc., of the seller. In Norse law no such 'need' is required, except in the case of the next heir of the *óðal*, to whom it must be first offered. If the next heir can plead poverty he can thereby have the time limit for purchase extended. Was the 'great need' of the seller expressed in Scottish charters?

The Old Norse *veizlu-jörð*, feoff, became *borlan*, *bordland*, a term which came from England *via* Scotland, and was quite at home in Orkney in 1500.

O.N. *á veizlu*, guest-quartering, the burden of entertaining the ruler or landlord when on circuit, was by the Caithness people, in 1152, called '*on kunn-mið*,'<sup>1</sup> Gaelic, *commaid*, conveth. Cosmo Innes was doubtful as to the Gaelic form of conveth, but there can be little doubt that it was similar to the Norse custom. The O.N. *á-sætis-kaup* of Shetland, in the sixteenth century, corresponding to the Scottish *gersum* and the Norwegian *tredieaars-tage*, a fine payable every third year for the renewal of the three years' lease, amounting to one year's rent, included a sum in lieu of the entertainment of the landowner, which was called, O.N. *landbólaveitla* for *landbólaveizla*, afterwards called *watile* (N.G.L. iv. 441 n.).

The Scotch and Orkney *ligepoustie* occurs in Orkney in 1557,<sup>2</sup> a Scottish forensic term, meaning in sound health; O.Fr. *ligepoesté*. This word is derived by the editor of the document: 'Apparently from O.N. *liggja* or Sc. *lig*, to lie or recline, and Sc. *postit* or *post* used in connection with sickness (see Jamieson): *i.e.* when he lay bed-ridden'! This shows the danger of seeking a Norse derivation without regard to Scottish forensic terms.

*Topographical Influence.* Captain Thomas has traced the Orkney township settlements back to the *pet*, *foir* and *dún* of the Pict

<sup>1</sup> *Ork. Saga*, text.

<sup>2</sup> *Records of the Earldom of Orkney*, Scot. Hist. Soc. 7, 262.

and the *baile* of the Culdees ; the *pet* and *baile*, the enclosed lands of the Kelts, became the *tún* of the víkingar, its rough surrounding wall, the *tún-garðr* and the Keltic *sleibh*, the hill-side, was the *brekka*, *mýrr* and *fell* of the Northmen.

Is it not the case that the inhabitants of Orkney and Shetland are, from an anthropological point of view, identical with those on the east coast of Scotland, where, of course, there is a large strain of Norse blood ?<sup>1</sup>

ALFRED W. JOHNSTON.

<sup>1</sup>The writer hopes that this paper may elicit further information from others who may have given special attention to one or other of the wide range of topics noticed.



## Seventeenth Century Receipts

THE following receipts are transcribed by Mr. Robert Lamond from the final pages of the Diary<sup>1</sup> of the Rev. Robert Landess of Robroyston, who about the year 1670 records them as 'singular remedies' and 'physical receipts.'

However they may strike us at the present day, they were accepted without protest by practitioner and patient alike a couple of centuries ago. They do not seem attractive either in their preparation, or composition, or application, but there are others quite as bad, if not worse, extant in the old hand-books of medicine for popular use. For this is only a brief selection from the many that exist, and it would be easy to enlarge it with others of the same sort. It must not be supposed that those under consideration were invented by the writer of the manuscript from which they are now printed. On the contrary one or two at least were known centuries earlier, and a good number are contained in immediately antecedent and contemporary literature. Though some I have failed to locate, I have little doubt that with a sufficiently large library to consult, they also would be found in print.

It may be worth while to indicate where some of the receipts can be found, if not word for word, at least without essential alterations.

The first receipt to cure the gout is to be found in *The second part of the Secretes of Maister Alexis of Piemont*, 1563, f. 76, and, with a few verbal changes, in Sir Hugh Plat's *Closet for Ladies*, 1656, f. 58.

If the sufferer should have any scruples about the preparation as given, there is another of like character which he might prefer. It is taken from *A Rich Storehouse or Treasurie for the Diseased*, by G. W., 1630, p. 188, and is as follows :

Take a fat Goose and plucke her, and dresse her as if she should be eaten : then stuffe the belly of her with three or foure young Cats well

<sup>1</sup> See *S.H.R.* vi. 373.

chopped into small pieces, with a handfull of Bay-salt, and twenty Snailles, and then sew up her belly againe, and roast her at a small fire, and saue all the dripping of her, and keepe it for a precious Oyntment, as well for the Gowt, as also for all other kinde of diseases in the ioynts. Probatum est.

But these are not all, and the two following may be quoted as a sample of the variety of cures under the different diseases which are recorded in the books.

Brugis (*The Marrow of Physicke*, 1640, p. 31) supplies another savoury preparation :

Take a fat Dogge, and kill him, and take out his Guts, and Bowels, and Gall, but keepe in the Heart, and Lungs, and Liver, then fill the body full of Frogges, and blacke Snailles, and sowe him up strongly, and rost him on a Spit, as long as he will drop one drop, then put the Liquor in a cleare Vessell, and put thereto a pint of Oyle of Bay, and blacke Soape one ounce, and temper them together, and anoint the grieved Part therewith.

Levens (*The Path-way to Healthe*, 1632, f. 78) has still another treat in store for the man who has done himself too well :

Take an old fat Cat and flea her, and draw forth her guttes, and bray the Cat, and put her altogether in a fat Ganders belly, and put thereto halfe a pound of Pepper, Mustard-seede, and Parsly seede, of each foure ounces, Worme-wood and Garlicke a good quantity. Bole armoniack sixe pennywaight, then rost it, and the greace that droppeth from the same, keepe it, and annoynt the Patient withall, and by the grace of God the ache will goe away, for being thoroughly annoynted therewith, it presently helpeth him.

There are many remedies for pains in the head; this one is given by Alexis, *Secretes*, Part II., f. 77.

The use for pains in the ears of goose grease with earth wormes or with garlick and saffron is to be found in *The thyrd and last parte of the Secretes of Maister Alexis of Piemont*, 1562, f. 36. The same cure is also recommended in *A Rich Storehouse*, p. 138, and by Lancelot Coelson, *The Poor-Mans Physician and Chyrurgion*, 1656, p. 75.

Hyssop boiled with vinegar for toothache is among the cures in *A Rich Storehouse*, 1630, p. 309, and in Sowerby's *The Ladies Dispensatory*, 1652, p. 53; the decoction of frogs boiled in vinegar and water as a remedy against toothache is mentioned on p. 51.

Milk of spurge dropped into a hollow tooth is recommended in *The Ladies Dispensatory*, p. 54, and by Robert Lovell, *A Compleat Herball*, 1665, p. 413. Tippermalluch (*Receipts*, 1712, p. 43) prescribes washing of the mouth every month with decoction of spurge. Mezereon, or spurge-olive, is said to be still used to



relieve toothache, but as it is very acrid, it must be carefully applied. Its irritant effects were known to the old writers.

'To remove the pain and grief of the gout' by means of the skin of a vulture's foot is contained in Alexis' *Secretes*, Part II., f. 14. No doubt, as he says, it 'is a marvelous thing.'

This prescription is specially interesting, because it belongs to a different category from the others, which involve the preparation of certain raw materials, so as to develop their curative properties. In this case, however, there is no preparation, and the cure is a *sympathetic* one, or, as Oswald Crollius would say, by *similitude*.

Many remarkable properties are possessed by the vulture, according to Kiranus, but the haunting doubt in the present case is whether the 'great foule called a Vultour,' as Alexis has it, was so abundant at Robroyston some two hundred and fifty years ago, that the Reverend compiler of the present receipts could lay hands on one and apply the proper foot, whenever he had a twinge in his own. The initial difficulty of Mrs. Glasse fades into insignificance by comparison.

The receipt for frog ointment for gout I have not observed in the books.

Betony infusion or powder for gout or sciatica is included both in *The Ladies Dispensatory*, p. 174, and in Lovell's *Herball*, p. 41.

The two receipts 'To stay Vomiting' are given by Tippermalluch, p. 66, and the second by Brugis, *The Marrow of Physicke*, 1640, p. 33.

The mugwort, as a bitter tonic, and the fennel, as an aromatic stimulant, might have some effect.

Mastic is an astringent, but is not much used in medicine.

Agaric here seems to be that which grows on the larch. The powder is irritant, but the infusion, either in mead or muscadell or in syrup of vinegar (Lovell, *Herball*, p. 136), is said to heal a cough. The syrup of maidenhair has no great virtue, but has been used for catarrh. Agaric, made into pills with frankincense and juice of hyssop, is good for the cough, according to Alexis (*Secretes*, 1562, III., i., f. 7).

Elecampane is an aromatic tonic, and has been used as an expectorant. Along with honey it is mentioned in *The Ladies Dispensatory*, 1652, p. 67, and as good for a cough by Lovell, *Herball*, 1665, p. 137.

As beneficial for a cough beans and radish are quoted in *The Ladies Dispensatory*, p. 69, and cherry tree gum in white wine,

p. 68. Lovell (*Herball*, p. 82) says that the gum with wine and water heals old coughs. All the receipts are enumerated by Tippermalluch, *Receipts*, p. 50. The gum is emollient and demulcent.

Brimstone in a half-roasted egg is given by Alexis, *Secretes*, III., i., f. 38, and a more exact preparation in Part I., i., f. 34. It is contained also in *The Ladies Dispensatory*, pp. 67 and 71, and in Tippermalluch's *Receipts*, p. 50.

The cures for the falling of the uvula are mentioned by Petrus Hispanus, Pope John XXI., in his compilation *Thesaurus Pauperum*. The author died in 1277, and the book was printed in 1494, in Italian, so unless they were interpolated later, the receipts are of long standing. They are contained in the Italian edition of 1531 (e iiiii and vj), and in the English translation by Humfre Lloyd, of which an edition appeared in 1552 and at other times (see Copland's edition, *s.a.*, H vj and viij). From that source they may have passed into Tippermalluch's *Receipts*, p. 48.

A gargle of hyssop in vinegar as a cure for the squinancie is in *The Ladies Dispensatory*, p. 59, but it may be observed that the same decoction is used for toothache.

The ventosing process is described by Valescus de Tharanta, *Philonium*, 1535, f. cxxviii.<sup>1</sup>

For the squinancie or quinsy, the first remedy seems to have been highly esteemed. It is given by Petrus Hispanus (1531, e iiiii, English translation H vj) with the substitution of a bull's gall for the honey, and the second also is recommended. The first reappears in the seventeenth century with some modifications, for in Salvator Winter's *Pretious Treasury*, 1649, the ashes of centory are added, whereas in W. Lovel's *Approved Receipts*, 1663, the material is to be boiled in milk and drunk night and morning, and both by Winter and Lovel a white dog is specified. Varignana requires (*Secreta*, 1520, f. 30) that the dog shall have been fed on bones. But, unfortunately for the reliability of the cure, Timothy Bright quotes it (*The Sufficiencie of English Medicines*, 1615, p. 113) for epilepsy: 'Feede a white dogge tyed up for 14 daies together with bones onely, and the fifteenth daie take a spoonefull of the dung burnt and give it fifteene daies together, against the falling sicknesse'; where both conditions

<sup>1</sup> Valescus lived in the latter half of the fourteenth century. After thirty-six years' study and practice he began to compile his book in 1418, but it was not printed till 1490. It is a full conspectus of the medicine of his time.



are united. All the receipts are included practically in Tippermalluch's list, p. 49. Such stercoraceous remedies recur over and over again in these old medical receipt books, and their general use and importance are emphasized by Valescus, *Philonium*, f. cxxvij.

They are not of modern origin, by any means, but were in use among the Greeks and Romans, judging by Galen's denunciation of them and of Xenocrates, who apparently advocated them, for his works have not come down to us; 'no need to mourn,' is Schelhammer's comment. In the seventeenth century the subject seems to have been revived with some vigour. Daniel Becker, of Königsberg, made a compilation entitled *Medicus Microcosmus*, published at Rostock in 1622, and at London in 1660. He wrote, too, on the weapon-salve and on the Prussian knife-eater (a predecessor of the present man); his choice of subjects was, therefore, unusual.

Johann David Rulandus, of Ratisbon, wrote *Pharmacopœa Nova*, Nürnberg, 1644, which seems to be almost a burlesque, and a suitable motto for which would be 'Every man his own drug store.'

Christian Francis Paullini wrote what he called a *Dreck-Apotheke*, Frankfurt a. M., 1696, which is sufficiently descriptive. The subject is referred to by Caspar à Reies, *Elysium Jucundarum Quæstrionum Campus*, 1670, Quæstio VII., and there is other literature.

Winter, p. 10, quotes peony roots in sack for the falling sickness. The seeds and root of the plant seem to have been a standard and official remedy. It is mentioned by Varignana, *Secreta*, 1520, f. 8; by Bright, *English Medicines*, 1615, p. 118; by Lovell, *Herball*, 1665, p. 333.

The two receipts for diseases of the eyes will be found in Alexis's *Secretes*, Part III., f. 36. But if the 'salammoniak' specified is what is now known by the same name, the 'burning' of it is not quite intelligible.

Fennel was a recognized specific for troubles of the eyes. The decoction of the roots in water dropped in the eye is given by Petrus Hispanus (Italian, 1531, b. viii.; English, E iv.). 'Omnis feniculus prodest visui et eius usus visum acuit,' says Benedetto da Nursia (*De Conservatione Sanitatis*, Romæ, 1475, cap. xlv.), and it comes up a couple of hundred years later in *The Ladies Dispensatory*, 1652, p. 26, and in Lovell's *Herball*, 1665, p. 143, where the present receipt is given.

The cure for deafness is contained in Alexis' *Secretes*, 1562, III., i., f. 33, and later in *A Rich Storehouse*, 1630, p. 142, with modifications.

Vinegar poured into the ears to stop bleeding at the nose is mentioned by Alexis, Part III., f. 37.

Sage, mugwort and smallage had various virtues assigned them, as will be seen both in *The Ladies Dispensatory* and in Lovell's *Herball*, but the mixed decoction of them in wine drunk for the colic is not amongst them, nor would it be of much use, if colic then meant what it does now.

For the gout a poultice of rosemary, darnel meal, and vinegar is recommended in *The Ladies Dispensatory*, p. 170.

The cure for the itch is not confirmed by any of the authorities consulted.

The specific for quenching thirst is in Alexis, Part III., f. 39.

Tippermalluch, p. 100, quotes the remedy for purging by vomit, and in *The Ladies Dispensatory*, p. 315, rind of radish, drunk in honied water, is prescribed.

There are receipts for fastening the teeth and keeping the body laxative, in most of the books, but they are different from those here recommended.

The catching of wild fowl by a decoction of Belenge is described in *The Vermin-Killer*, of which there were many editions. So too the killing of rats and mice is effected in a great many ways. One similar to this is included; only cork is used instead of sponge.

As is plain from the receipts the origin of the disease, its treatment, and the specific and its action were unknown. There was a pain or trouble; but what caused it, why there was a pain at all, why it was where it was rather than somewhere else—all was beyond the conception and skill of the household practitioner. The airy way in which palsy, epilepsy, jaundice, deafness, cataract, calculus, fever, gout, and so on were treated and pronounced curable in a few days by decoctions of some common plants, or less attractive matters, must have been very cheering to those afflicted.

When these seventeenth century receipts are taken as indicative of the medical practice of the time, when there was no sanitation and people were afraid of fresh air, is it surprising that in 1665 London had a visit of the plague? and is it not surprising that sick people after doses of such preparations ever recovered?



To the investigations of pure science the nation is indebted after all for an improved medicine and a more reasonable pharmacopœia.

Would not the nation be equally remunerated in every other direction by a whole-hearted fostering of scientific research and its indispensable assistance to industry and general well-being ?

JOHN FERGUSON.

RECEIPTS FROM THE DIARY OF THE  
REV. ROBERT LANDESS.

*A Singular Remedie for gout or cramp.*

Take a fatt young whelp, scald him like a pige, take out ye gutts at ye side therof Then take Netles and stamp them with 2 unces of Brimston with 4 yoks of eggs and 4 unces of Turpentine, Incorporat all together and put it in the whelps bellie, so sowd up that nothing of this composition come out, Then Rost the whelp at a soft fire, keep the Dropings that comes from him and anoint the grived place therwith : and in the mean time Rub the paidn place softlie befor you anoint it.

*Here are some physicall Receipts which have been found verie profitable and helpfull to several persons under ye following diseases.*

*To ease any payn of ye head.*

Take violet oyl and woman's milk of each a like quantitie, and mix in them ye yoke of a hen's egg ; when wrought together, and lay it on cadass or tow plaister wise, warm to ye place wher the payn is.

*For payns in ye ears.*

Take ground worms and boyl them in gooss grease, and when they are well mixt take and strayn them and then pour in a litle of that liquor in the ear that is paynd.

Or take the Juice of onyons with garlik or saffron and mix them well w<sup>h</sup> gooss greass and when it is tollerablie warm and straynd put a litle therof in ye paynd ear.

*For the toothake.*

Take a handfull of hyssop when it is Boyld with a Mutchkin of fresh vinager untill ye half of the vinager be consumd, Then wash yo<sup>r</sup> Mouth w<sup>h</sup> ye water therof, and it will remove the payn of ye tooth.

*Another for ye same use.*

Boyl frogs with water and vinager and wash yo<sup>r</sup> mouth therewith.

*Another for ye same.*

Take the root of Spurge and boyl it with whyt wyn and of y<sup>t</sup> decoction take & wash yo<sup>r</sup> mouth once in ye month ; and it will remove ye payn.

*For removing guttish payn.*

Apply the Skin of ye right heel of the big vultur to ye right heel of the patient and the Skin of the left heel of ye same fowl unto ye left heel of the patient.

*Another for the same.*

Boyl a frog in oyl olive untill ye flesh therof be divyded from ye bones and when this oyntment is warm anoynt the paynd place therewith.

*Another for ye same.*

Let the person that is paynd with the gout or Sciatica use the herb Betony steeping it in his drink and sometymys eating the conserve of it and at sometymys let him boyl it in his broth, and in ye winter tyme let him take the poudrer of Betonie dryd in the Sun or Winde.

And for allaying the swelling of this payn Let him take the Leavs of tobacco anoynted w<sup>h</sup> the oyl of Roses.

*To stay Vomitting.*

Take the roots and leavs of Mugwort, wormwood and fennell brayd together and taken w<sup>h</sup> a little warm honey, this stops vomitting; Or aloes mixt with cold watter and drunk.

*Another for ye same troubl.*

Take Mastik and bray it and then mix it with the whyt of an egg and vinager, and lay it plaister ways on tow or cadess and apply it to the breast, this strengthens the stomok and stays vomiting.

*For the cough.*

Forbear all salt, sharp and strong liquors.

Some comend the infusion of agarik viz. two drahms therof brayd and laid to steep at night in a cup of Meath or Muscadell, in the morning strayn it and therin put a litle of the Syrup of Maidenhair and drink it up.

Somtyms thrie parts of sugar candy and a fourth p<sup>t</sup> of Enula compana. i.e. alacompayn provs verie helpfull.

But to aged persons: Sallet oyl & sweet wyn is most beneficial.

*Another to ye same troubl.*

Beans taken in meat, or radish boyld and eaten is good for an old cough. Or an Onion roasted under the embers and eaten w<sup>h</sup> sugar candie and fresh butter.

Or cherrie gum drunk in whyt wyn mixt with water.

*Another for ye same.*

Take the poudrer of brimston als much as you can take up w<sup>h</sup> yo<sup>r</sup> thrie fingers and put it in an egg half roasted & give it to ye patient fasting fo<sup>r</sup> five mornings together.

But if the patient be a chyld give it only thrie mornings.



*For the falling of ye Uvula or palat of ye throat.*

Boyl hysop in vinager & gargaziz<sup>1</sup> the throat therwith.

Or shave the croun of ye head and sett a ventese<sup>2</sup> theron.

Or salt made verie hott and tyed to ye Nap of ye Neck in a cloath. or the pith of a wheat Loaff mixt w<sup>h</sup> salt & applyed hott.

*For ye Squinacie.<sup>3</sup>*

Dry mans dung or dogs dung and bray it to pouder, then mix it with honey and when it is warm apply it to ye patients craig.

Or take the pouder of amber or dogs dung and Blow it in the throat of the patient w<sup>h</sup> a pen or pype.

*For ye falling sicknes.*

Take the roots of Piony pouderd and drink it in aill or warm broath, this will relive the patient if taken befor ye disease continue long.

This hath been known to cause a woman have an easie deliveranc in childbearing.

*For dimness in the eyes.*

Take Salt armoniak burnd & well brayd & mix it with ye pish of a young chylnd and therwith anoint yo<sup>r</sup> eyes often.

*Another for ye same.*

Take the Juice of fennell roots brayed and mix it w<sup>h</sup> honey & boyl both with a slow fyr untill they be thick as honey then put it in a box of brass; and when you make use of it, mix it w<sup>h</sup> womans milk and it will be helpfull.

*For deaffnes.*

Tak a quik Eale and rost it alyve on a spitt Then take the greass y<sup>t</sup> dropeth from it and keep it in a clean cup: Then take a garlik head roasted on clean sinders and when it is roasted take a cod or husk of ye garlik at a tyme & put it into the greass when warm and put it hott into ye ear when warm, holding that ear up for a litle spac, and you shall see a filthie humor come out of ye ear which hinders hearing.

But if ye deaffnes be occasiond by cold or other accidents then take the Juice of colworts and mix it w<sup>h</sup> warm water & drop it in ye ears.

*For bleeding at ye Nose.*

Take vinegar and pour it in ye ear on that side; & if both bleed, put it in both ears.

*For ye Collike.*

Take Sage, Mugwort and Smallage a like quantitie of each and boyl them in a pynt of whit wyn untill the thrid part be consumd, then strayn it and give it to ye patient to drink when it is milk warm, at least 4 unces or therby at a tyme.

<sup>1</sup> So spelled = gargarize, i.e. gargle.

<sup>3</sup> So spelled = equinancie, i.e. quinsy.

<sup>2</sup> So spelled = ventose.

*For preventing the gout.*

Take the roots of rosemarie and boyl them well in vinager & wash the feet & legs w<sup>h</sup> ye decoction.

*For removing ye Itch in children or others.*

Take a handfull of green Mints & lay it in old pish 24 ho<sup>rs</sup> or therby, that it grows tender, & then yo<sup>r</sup> body therwith washen when warmd befor you goe to bed at night, will remove the Itch.

*For quenshing thirst.*

Take ye yoke of a hens egg well roasted and mixt w<sup>h</sup> oyl olive and swallow it down.

*A safe receipt for purging by vomit.*

Take half a mutchkin of Sack and seeth in it tuo spoonfull of radish ; and when it hath boyled half in strayn it & drink it up w<sup>h</sup> a litle of Sallet Oyl, this helps to remove the cough.

But if ye vomit do not work then take a litl of ye Syrup of Oximell and put yo<sup>r</sup> midl finger in yo<sup>r</sup> mouth as farr as you can reach it and this will help you. If you vomitt too much, wash yo<sup>r</sup> feet w<sup>h</sup> hott watter.

*For fastening the teeth.*

Take whyt coral, or harts horn, burnt mirh & sanguis draconis, of each a like quantitie, pouder and search<sup>1</sup> them & then use them in a peice of lining cloath for a dentrifice.

*A safe mean for keeping the body laxative.*

Let everie housholder y<sup>t</sup> hath a garden mynd to have ye herbs of, Mercuri, Mallows, Leetice, Beets and Spurge growing therin, wherof a laxative broath may be made therof ; thus, first Boyl a litl fresh beef or a chicken in water w<sup>h</sup> ye 4<sup>th</sup> p<sup>t</sup> of Spurge & 3 p<sup>ts</sup> of ye rest of ye herbs, and add to these a litl Marygold ; this solubill broath may be used ofen in ye Spring & at ye fall of ye leaff, which is a great help to health.

*A Trap or bait for takeing of Wyld Fouls.*

Take the roots and seed of Belenge and steep them in water the space of 24 ho<sup>rs</sup> or therby ; Then Boyl all in that Water wherin they wer steeped, so that ye seed drink up the water.

Then lay it wher ye wyld foul useth to hant : and when ever they pike it, they fall a sleep, so you may take them w<sup>h</sup> yo<sup>r</sup> hand.

*A receipt for killing of rats without poyson.*

Take so much of Spung as you think fitt and cutt it smal in peeces to ye quantitie of a pease or litl bean, Then anoynt it w<sup>h</sup> Butter or dipt in Tallow and alse many of these as you think fitt spread them in a litl burnt Meill in a reteird plac wher the rats hants ; and after they have swalloed these they swell in ye rats and causeth them to dy.

<sup>1</sup> i.e. searse or searse=to sift finely.



## The Last Episcopal Minister of Moneydie

A RECENT number of this *Review*<sup>1</sup> contained a memoir of James Atkins, Bishop of Galloway, and the present article deals with his son-in-law, Mr. William Smyth,<sup>2</sup> who was minister of the parish of Moneydie, in Perthshire, at the time of the Revolution, and was a strenuous champion of Episcopacy. Wodrow and other writers have described the 'sufferings' of the Presbyterians in full detail, but comparatively little attention has been given to the corresponding persecution of the Episcopalians, and Mr. Smyth's case is typical of the hardships endured by the clergy in the central counties of Scotland.

William Smyth belonged to an old Perthshire family, the Smyths of Braco and Hoill,<sup>3</sup> who claimed descent from Thomas Smyth, physician to James III.<sup>4</sup> William Smyth's father, Patrick, laird of Braco, a direct descendant five generations removed from the physician, was left an orphan in 1603, and along with his younger brother, Andrew, was committed to the charge of George Graham, Bishop of Dunblane.<sup>5</sup> In 1615 the Bishop was translated to the see of Orkney, and took the boys with him to his

<sup>1</sup> *S.H.R.* xii. 135. Since that article was published Miss Dowden has kindly lent me an account-book of the Bishop's covering the years 1662-8, when he was Rector of Winfrith, in Dorsetshire. It reveals a certain number of personal details. It shows that by this time he always spells his name 'Atkins,' not 'Atkine.' His wife is seldom mentioned except when he pays her milliner's bills—a very moderate expenditure—and she took little part in the household management, which was in the hands of her daughters. Lillias, the eldest, married at the end of 1666 (Hutchins, *History of Dorset*, i. 164) her cousin, Mr. Patrick Smyth, son of the Rector's sister, Rebecca. I may take this opportunity of correcting a mistake in the previous article (*S.H.R.* xii. 143, near the foot): Lillias Atkins did not marry twice; it was her daughter, Lillias Smyth, who married Mr. George Cheyne.

<sup>2</sup> The name was always pronounced 'Smith.'

<sup>3</sup> Two small properties near Scone: Braco is not to be confused with another property of that name near Greenloaning.

<sup>4</sup> *Great Seal Register*, 1424-1513, No. 1357.

<sup>5</sup> *Edinburgh Testaments*, Alexander Smyth, 10th August, 1607.

new diocese, where Patrick Smyth eventually became a wealthy and influential man.<sup>1</sup> During the Civil War he was placed by the Estates on the Committee of War for Orkney, but he supported Montrose's expedition in 1650, and was captured and confined in Edinburgh Castle.<sup>2</sup> On 28th April, 1655, he was drowned on his way from Stronsay, one of the Orkney Isles.

His family was patriarchal: he had three wives and twenty-three children, besides a supplementary list of at least three illegitimate daughters. The first wife was a daughter of Bishop Graham, but William, the subject of this paper, was the fourth son of the second wife, Margaret, daughter of Henry Stewart of Killinan, and widow of Hew Halcro, younger of that ilk.<sup>3</sup>

William Smyth was born in Orkney on 6th November, 1646. In July, 1661, his brother-in-law, Mr. John Gibson, minister of Holm, wrote: <sup>4</sup> 'I think William sall prove a pretty schollar: if David <sup>5</sup> prove so, its more than I expect.' William was sent to the College at Edinburgh, and graduated Master of Arts in 1665.

His eldest surviving half-brother, Patrick, had left Orkney, and in 1664 bought from the Duke of Lennox the barony of Methven, in Perthshire.<sup>6</sup> The purchase included the patronage of the collegiate church of Methven, and on 22nd September, 1666, he presented his young brother to a prebendal stall.<sup>7</sup> The position was a sinecure; William Smyth was not yet of age, and his theological education was not completed, even if it had begun, for on 24th February, 1667, he matriculated at St. Mary's College, St. Andrews, as a student of divinity.

At the end of the year he arrived at Winfrith Rectory, Dorsetshire, on a six months' visit to Mr. James Atkins, afterwards the Bishop, probably with a view to gaining experience in parochial work. The introduction no doubt came through his first cousin, Mr. Patrick Smyth,<sup>8</sup> the Rector's nephew, who had recently married

<sup>1</sup> Peterkin's *Rentals of Orkney*, Nos. III., IV., V., *passim*; *Orkney Sasines*, 25th April, 1639.

<sup>2</sup> Bishop Guthry's *Memoirs*, ed. 1748, p. 169.

<sup>3</sup> *Orkney Sasines*, 25th April, 1639; *Orkney Testaments*, Hew Halcro, 21st October, 1640; *Scots Peerage*, i. 397.

<sup>4</sup> Methven Castle Charter Room.

<sup>5</sup> His immediately older brother, born 25th October, 1644.

<sup>6</sup> *Perthshire Sasines*, vol. iii. fol. 30.

<sup>7</sup> *Ibid.* vol. iii. fol. 311.

<sup>8</sup> His mother was Rebecca Atkins, the Rector's sister; his father was Andrew Smyth of Rapness, William's uncle.



the eldest daughter of the house ; and as it turned out, William found favour in the sight of Marion, the second daughter. She was about twenty-two years old at the time, but they were not married until more than ten years later.

Shortly after this visit—the exact date is uncertain—he was collated by Bishop Guthry of Dunkeld to be colleague to his brother-in-law, Mr. David Drummond,<sup>1</sup> minister of Moneydie, a rural parish six miles north-west of Perth, and on Mr. Drummond's death before 1676—the date is again uncertain—he was left sole minister of the parish, where he remained for another twenty-two years.

His marriage to Marion Atkins took place in September, 1678, her father being by this time Bishop of Moray. They had a son and two daughters—Anna, baptized 27th October, 1679 ; James, baptized 18th January, 1681 ; and Janet, baptized 19th December, 1682.<sup>2</sup> Both daughters seem to have died unmarried.

The records of the Presbytery of Dunkeld, which begin in 1681, reveal nothing of interest with reference to Moneydie, but in the summer of 1687 Mr. Smyth was chosen by the Bishop and Synod to be Constant Moderator of the Presbytery, and very soon he had to face the situation created by the Revolution. The first hint of the coming storm is to be found in the minutes for 8th December, 1688. The Moderator happened to be absent, but he sent 'ane account of ane express he received from My Lord Bishop q'in he desires y' the brethren may be interrogat if they prayed for the young prince : q° after interoga<sup>one</sup> answered affirmative : the account q'of was sent to his Lo/.' The 'young prince' was of course James, Prince of Wales, the Old Pretender, about whose parentage there was not a little doubt.

Two months later the Revolution was an accomplished fact, and the Church was at once faced with a grave crisis. As early as January, 1689, the Presbyterian ministers forwarded to the Prince of Orange a congratulatory address, in which they took the opportunity of entreating him to restore the Presbyterian establishment. On the other hand, the Episcopalians had taken little or no active part in the overthrow of King James ; the clergy were for the most part Jacobite in sympathy, and even when it became known that William of Orange was in favour of a moderate Episcopacy, the Bishops refused to take the oath of

<sup>1</sup> Episcopal Chest, Theological College, Edinburgh, No. 203 : 16. Katharine Smyth, William's half-sister, married Mr. Drummond as her second husband.

<sup>2</sup> Moneydie Register.

allegiance to him. Bishop Rose went up to London as the representative of his Church in the hope of persuading William to maintain Episcopacy in Scotland, but when he was admitted to an interview he deeply offended His Majesty with the ungracious utterance: 'Sire, I will serve you so far as law, reason, or conscience shall allow me.'<sup>1</sup> The Estates soon brought matters to a head by coupling with the formal proclamation of William and Mary an Act requiring the clergy to pray for the new sovereigns and, contrary to their oath of allegiance, to abjure King James; and proceeding on the principle that to the victors belong the spoils, William's first Scots Parliament passed an Act abolishing Prelacy on 22nd July, 1689,<sup>2</sup> and another establishing Presbyterianism on 7th January, 1690.<sup>3</sup>

The Episcopal Presbytery of Dunkeld continued to meet till July, 1689, when some of the members 'form'd a design to have addressed the Pr. of Orange, which the moderator perceiving and not being able to prevent by their superior numbers, dissolved the Presbytery in the King's and Bishop's name and authority.'<sup>4</sup>

In the South and West of Scotland the congregations took the law into their own hands, and in a few months 'rabbled' about three hundred of the 'curates' out of their parishes, but in the central counties not only the nobility and gentry, but the bulk of the people, were friendly to the Episcopal clergy, who were thus able for a time to retain their livings and defy the law.<sup>5</sup> In Perthshire the authorities had to adopt siege tactics and attack the parishes one by one. Each year the combined Presbytery of Perth and Dunkeld applied to the Privy Council for sentences of deprivation against two or three ministers, the complaint always being that they had failed to pray publicly for Their Majesties; and with the help of the civil arm the sentences were made effective, and Presbyterian ministers were settled, generally after a struggle.

Mr. Smyth's turn did not come till 1693, when the Presbytery made a special effort. On 10th January of that year he and five of his brethren from neighbouring parishes appeared in person

<sup>1</sup> Keith, *Historical Catalogue of the Scottish Bishops*, p. 71.

<sup>2</sup> Thomson's *Acts*, ix. 104.

<sup>3</sup> *Ibid.* ix. 133.

<sup>4</sup> Edinburgh Episcopal Chest, No. 203:16.

<sup>5</sup> *Perth Hospital Registers*, 1665-1712, Rev. James Scott, 173-174. (Advocates' Library MSS.)



before the Privy Council and pled guilty to the usual charge, which is expressed in forcible language.<sup>1</sup> It alleged that they 'have publictly preached and exercised the ministeriall functione within there ounne respective houses and paroches . . . and have been so far from evidencing the sense they ought to have had of there Majesties' preservation and releiss of the grievous circumstances the nation then lay under, that when the said proclamation<sup>2</sup> of the Estates was sent to them, at least came to there hands, or of which they had knowledge, they were so far from testifying there gratitude in giving due obedience thereto that neither the day appoynted nor at any tyme since syne did they read the said proclamation . . . but on the contrair in contempt of these proclamations he actually preached dayly since syne without praying for there Majesties as King and Queen of this realme, convocating severall paroches, stirring up and fomenting there disaffectione to the government, encouradgeing there Majesties' enemies and discouradgeing there loyall subjects, sometymes not only prayeing for the late King James and that God would restore him and make his crown to flourish upon his head, but also at other times to pray in such ambiguous termes that there hearers could not understand that they prayed for there Majesties.'

The Council accordingly declared their livings vacant, prohibited them from preaching or exercising any ministerial function, and ordered them to leave their manses before Whitsunday. This sentence sounds conclusive enough, but Mr. Smyth treated it with indifference, returned to his living, and continued his ministrations for five years more.

During this period his private life was embittered with a family squabble over the succession to the estate of his father-in-law, Bishop Atkins. Mr. Duncan Robertson, the husband of the Bishop's youngest daughter, considered that his wife had the sole right to the property, as her sisters had received portions of 4000 merks each on their marriages, and he raised an action against them and their husbands. An attempt at arbitration failed, and the litigation dragged on till 1696, at one time reaching such an acute stage that Mr. Smyth had to find caution to avoid being imprisoned. Eventually a compromise was reached.<sup>3</sup>

<sup>1</sup> *Acta*, 10th January, 1693.

<sup>2</sup> The proclamation of 30th April, 1689, ordering the clergy to pray for William and Mary, and to abjure James.

<sup>3</sup> *Decrets* (Durie), 30th November, 1689; *Register of Deeds* (Durie), 13th February, 1699.

In 1698 the Presbytery again took up the case of Mr. Smyth and five other deprived ministers, who were still holding out against the sentence of the Privy Council. At their meeting on 11th May they appointed one of their number to go to Edinburgh and get letters of horning so that they could raise processes of ejection, and on the 26th it was reported that the letters had been obtained.<sup>1</sup> On 16th June Mr. Smyth wrote to Thomas Graeme of Balgowan, patron of the living, that in obedience to the charge of horning he had removed from the manse, and he forwarded the keys of the church. The Presbytery directed Mr. Dinning to declare the kirk of Moneydie 'vaiking' on Sunday, 26th June, but at the next meeting he reported that though he had carried out their instructions he could not get into the church, so the clerk was ordered to write to Balgowan requiring him to give up the keys, 'otherwise they will be obliged to take another course.' Balgowan bowed to necessity, and the kirk of Moneydie was at last surrendered to the Presbyterians.

Though William Smyth had to retire after nine years' resistance, he merely withdrew to the neighbouring parish of Methven, where the laird, his nephew David Smyth, was an active Episcopalian and Jacobite, and there he continued to conduct services in his own house for the benefit of his fellow churchmen in the district. He was not molested for eleven years, but in 1709 he was guilty of two acts which the Presbytery could not overlook. Arrangements had been made by the Episcopalians to adopt the English Prayer Book, and he was one of the first clergymen in Perthshire to use it. Moreover, he attended at Perth in November, 1709, at the funeral of Mr. Patrick Strachan, late incumbent of Mains, and robed in a black gown with a service book in his hand he conducted the burial service.<sup>2</sup> The Presbytery at once took action, and summoned him and Mr. Thomas Rhynd, chaplain to Balgowan, who had assisted him on that occasion, to answer a charge of 'intrusion.'

The libel against Mr. Smyth, a very lengthy document, starts with a preamble: <sup>3</sup> '1°. That wheras the puritie of religion and particullarly of Divine Worship and uniformity therin is a signall blissing to the Church of God, and that it hath been the great happiness of this Church ever since Her reformation from Popery to have enjoyed and maintained the same in a great measure, yet it is of verity that you, the said Mr William Smyth, have not

<sup>1</sup> *Perth Presbytery Records*, vol. iv. foll. 207, 208, 211, 212.      <sup>2</sup> *Ibid.* vi. 321.

<sup>3</sup> Printed in full in Dean Farquhar's *Episcopal History of Perth*, pp. 61-63.



only in a most disorderly and irregular maner intruded upon the Parioch of Methven, where there is a fix'd Gospel Ministrie, but that also by an avowed dischargeing of the severall parts of the ministeriall function, you have introduced a set form of worship, and that in direct opposition and contradiction to the known principles of this Church contain'd in the Confession of Faith (which is that God should not be worshipped according to the imaginations and devices of men, or any other way not prescribed in the Holy Scriptures), contrary to the constant practice of this Church, yea and which was not so much as attempted dureing the late Prelacy, and likewise in contempt of the standing acts of the judicatures of this nationall Church peremptorily prohibiting these and the like innovations.'

The offence at the funeral of Mr. Strachan is then libelled as an act 'of most dangerous consequence, as manifestly tending to grieve the godly, lay a stumbling-block befor the weak, and to harden Papists in their superstition.'

A second offence is next averred, that of administering the Sacrament of Baptism to several children 'cross to the constitution and practise of this church.'

The libel against Mr. Rhynd was in similar terms.

The accused were cited for 10th January and again for 14th February, 1710, but failed to appear, so the Presbytery decided to proceed with the case at their next meeting. On 8th March they met betimes, and at seven o'clock in the morning the case was called. Once more the accused were absent, but they sent as their procurator Mr. James Smyth, chirurgeon apothecary in Perth, Mr. William Smyth's son, who was provided with a 'declinator and protestation,' in which on behalf of each defender he refused to acknowledge the jurisdiction of the court.

The authorship of this document cannot be determined, but it shows a keen appreciation of the weak points in the adversary's position. On behalf of Mr. William Smyth it states :<sup>1</sup> 'It may be thought strange that one in my circumstances, who have lived so many years among you, without giving disturbance to any person, should now be processed befor you for intrusion, baptizeing of children, and innovation in worship, as your libell agt me bears, since it's notarly known to you all that I am a Minister of the Gospell of the Episcopall Communion, and, as I have hitherto lived, so I hope to continow in the unity of the Catholick Church and its Government descended with Christianitie

<sup>1</sup> Edinburgh Episcopal Chest, No. 456.

itself from the dayes of the Apostles. And therefor I cannot, without schismatically seperating from that great and venerable body, owne any spirituall jurisdiction in you ; for (1°), albeit the present lawes have impowered you to prosecute such Episcopall Ministers as continow in their Churches, or desire to be assumed by you into the Government of the Kirk and have subjected such to your discipline and cognisance, in so farr as they are really scandalous, erroneous, negligent and insufficient, yet since I am in neither of these cases and the lawes have not subjected such as I am to your discipline, who, without possessing any Church, Manse, Benefice, or keeping any publick Meeting-House, doe only worship God in my owne family. (2°) As to the crimes of intrusion and baptiseing, these are purely civill and only cognosable by the Judge-Ordinary, such as the Privy Councill &c., and therefor, as I am nowayes subject to your jurisdiction on this acco<sup>t</sup>, so you are not judges competent therin. (3°) As to the English Liturgie, which you call innovation, contrary to the purity of the Gospell, and worshiping God according to the devises and imaginations of men, I think it is agreeable to the Word of God and the practise of the Primitive Church, and is no innovation, being universally practised at the begining of the Reformation. . . However, you having declared yourselves aga<sup>t</sup> the English Service, are parties, and therefor cannot be judges in this matter, nor I any wayes obliged to acco<sup>t</sup> to you for the same. And therefore I doe decline your authority and jurisdiction in the premisses for the reasons foresaid, and protest that you proceed no further therin.'

The Presbytery considered the protest in private and then delivered their 'minde in the affaire,' 'declaring the said Mr. Wm. Smyth contumacious for severall reasons, one of which was that they could not be declined by any person, they being a judicature of Christ Jesus.' The obvious fallacy of begging the question seems to have escaped their notice, but another criticism on his position was better founded—that there was 'not so much as a shaddow of excuse for his not personal compearing, the same<sup>1</sup> being subscribed at the place where and the day when the Presbyterie did meet.'<sup>2</sup>

Having repelled the preliminary plea to jurisdiction, they ordered the case to proceed, 'and accordingly witnesses then present for each article thereof were sworn, purged and examined in all legal and due form in the hearing of his proxie and several

<sup>1</sup> The declinator.

<sup>2</sup> *Perth Presbytery Records*, vol. vii. fol. 22.



gentlemen espousing his cause, who desired to be present during the said tryal, for what end they know best themselves.'

The libel was found proved on all counts in the case of both the accused, and a full report of the proceedings was sent to the Synod, who ordered the Presbytery to lay the whole matter before the Committee of the General Assembly for Overtures.<sup>1</sup> The Committee gave it as their advice that the Presbytery 'should proceed to declare them Intruders and Innovators in the Worship of God, and require the Magistrat to make their sentence effectual, and, if he shall refuse to do it, that they instrument him, and send over their instrument extended to the Church Agent, that criminal letters may be raised against the saids Innovators.'

Accordingly at their meeting on 31st May, 1710, the Presbytery appointed a Committee 'to draw up a draught of a sentence declarative of their guilt and discharging relative thereto.'<sup>2</sup> On 14th June the Committee reported 'that they had not gotten that appointment obeyed, they being thronged with business since the last Presbyterie,' and the excuse was repeated at every meeting till 13th September, when their report was produced and adopted.<sup>3</sup> The delay had given time for moderate counsels to prevail, and the sentence cannot be called vindictive in tone. It set forth<sup>4</sup> that 'the Presbyterie of Perth, having given him time to reflect upon his former way, and to deliberat upon the dangerous and dismal tendency of the course he is engaged in . . . but now, after all, finding that any longer delay is not like to be profitable, but rather prejudicial to such whom by their restless endeavours they [the Innovators] are labouring to seduce, and that by our silence we may not be found guilty in not doing what at present we judge incumbent to us, in giving our joynt testimony against the shameful deflection which he hath made from the purity and simplicity of Gospel ordinances, and the divisive courses that he is still cleaving to, therefore we . . . discharge the said Mr. William Smyth from intruding any longer upon the Paroch of Methven, or any other Paroch within the bounds of this Presbyterie, as also from introducing innovations and ceremonies not warranted by the Word of God and contrary to the purity of doctrine professed and uniformity of worship at present practised in this Church, least he meet with that challenge, 'Who hath

<sup>1</sup> *Perth Presbytery Records*, vol. vii. fol. 1.

<sup>2</sup> *Ibid.* vol. vii. fol. 11.

<sup>3</sup> *Ibid.* vol. vii. foll. 13, 22.

<sup>4</sup> *Ibid.* vol. vii. foll. 22 seq.

required these things at your hand? In vain do you worship Me, teaching for doctrines the commandments of men'; and providing he would suffer the word of exhortation, then, if either he tender the Glory of God, the success of the preached Gospel, and the quiet of this Church and Kingdom; or if he have any regard to his own peace, either now or at a dying hour, we would in the fear of the Lord obtest him seriously to consider what such innovating and divisive courses, if not timously prevented, will terminat in to him and those seduced by him. But, if to his former contumacy he shall superadd this, to despise our faithfull warning and authoritative prohibition, then, as he may tremble to be found among those by whom offences come and cause divisions contrary to the doctrine that we have received, and of the dreadfull doom of evil men and seducers, their waxing worse and worse, deceiving and being deceived, so we must proceed according to our duty and his merit.'

This sentence was appointed to be read from all the pulpits in the Presbytery on 24th May, but it does not appear that any more drastic action had to be taken in Mr Smyth's case. He gave way, but he executed his retreat in good order, and in 1712 removed to his son's house at Perth, 'where he always read prayers to as many as pleased to hear them, when the Minister of the Meeting House was obstructed by the Magistrats.'<sup>1</sup>

The Presbytery took similar action for innovation against three other ministers in 1711, and Mr. James Smyth, who seems to have had a taste for ecclesiastical controversy, again appeared with his declinator, but with no greater success than before.<sup>2</sup>

The Presbytery, however, had overreached themselves, and Scott says<sup>3</sup> that their severity was one of the arguments used in Parliament and at Court in favour of the Toleration Bill which became law in 1711.<sup>4</sup>

Mr. William Smyth's career was not likely to bring him riches, and the one extant letter from him, dated 18th December, 1713, is an appeal to his niece, 'the lady Methven,' to pay him the balance of some money which she owed him. He wrote:<sup>5</sup> 'I am ashamed of giving you this trouble, yet I hope you'll excuse

<sup>1</sup> Edinburgh Episcopal Chest, No. 203 : 16.

<sup>2</sup> Farquhar, *Episcopal History of Perth*, pp. 72 seq.

<sup>3</sup> Perth Hospital Registers, 1665-1712, p. 403.

<sup>4</sup> 10 Anne, cap. 7.

<sup>5</sup> Methven Castle Charter Room.



me since my necessities will allow me to have neither law nor good manners.'

The last mention of him comes in connexion with a curious incident which happened in May, 1716, after the Jacobites had been driven from Perth and the town and district were in the occupation of the King's troops. Sir David Threipland of Fingask, who was married to a niece of Mr. Smyth's, was a prominent Jacobite, and had fled to avoid capture, leaving his wife, who was in delicate health. The arrival of the Hanoverian dragoons at Fingask upset her so much that she was prematurely delivered of a son. The rest of the story may be told in the words of one of her grandchildren.<sup>1</sup>

'It was thought that, under the distressing circumstances of her situation, she could not survive, and a clergyman of the Episcopal Church in Perth was sent for privately—the clergy of that persuasion being marked men at that period as known adherents of the Jacobite cause. He, having administered the Holy Communion, proposed, as so favourable an opportunity might not occur again, to baptize the child. This suggestion, communicated in a whisper to the nurse and others, was at once assented to by them. But the difficulty consisted in knowing by what name the infant should be called, his father having left no directions, and the poor mother being thought to be much too weak to be consulted on the subject. The good lady, however, heard a little of what was passing near her bed, and drawing back the curtain she called in a faint voice, 'Stuart, Stuart!' This was enough, and by that name was my father christened before the clergyman left the house.'

The identity of the clergyman is settled by an entry written in a later hand on a fly-leaf in the Perth Register of Baptisms: '1716. Stuart Threipland, 2nd son of [Sir] David Threipland of Fingask and Dame Katharine Smyth, daughter of David Smyth of Barnhill, was baptized by Mr. Wm. Smyth 19th day of May.'

It only remains to be said that Lady Threipland recovered and lived till 1762, and the puny baby was Sir Stuart Threipland, third baronet, who became President of the Royal College of Physicians, Edinburgh. He went through the '45, and died at the age of eighty-nine.

Mr. William Smyth died at Perth on 28th July, 1718,<sup>2</sup> aged seventy-one, his last thirty years having been spent in

<sup>1</sup> Fittis, *Perthshire Sketches*, p. 213.

<sup>2</sup> *St. Andrews Testaments*, 5th August, 1719.

strife. His wife was alive in September, 1715,<sup>1</sup> but it is not known when she died.

The career of his son James has an interest of its own. He was a convinced Jacobite, and took an active part in the rebellions of 1715 and 1745, particularly in the earlier rising, when Perth was the headquarters of the Pretender's army. Colonel John Hay occupied the city on 16th September, 1715, on behalf of the Earl of Mar, and James Smyth was one of the leading citizens who, 'cloth'd with weapons and instruments bellical,' welcomed the invaders. Five days later Colonel Hay nominated him and five others to act as commissioners<sup>2</sup> in place of the regular magistrates, who had either deserted or been driven from the town. Next day the commissioners met and divided the various civic offices among themselves, James Smyth being appointed a bailie,<sup>3</sup> and on 3rd October they filled up a complete Town Council, which continued to act until the end of the following January. They raised two companies of foot, and on 9th January, when the Chevalier entered the town, they presented him with an address of welcome. James Smyth attended the Council meetings regularly, and sat as a Magistrate in the Burgh Court. He followed the Jacobite army to Sheriffmuir as surgeon with horses 'loadned with drogs.'

The former magistrates resumed their functions on 10th April, 1716, and a month later ordered the prosecution in the Burgh Court of about ninety of the rebellious citizens. By this time Mr. Smyth and most of his associates had fled into hiding, and in September the case was tried in their absence. The Court found 'that the burgesses have forefaulted their burgesship, discharge them (who have already fled out of the town) ever again to return thereto to reside therein under penalty of £200 Scots, and ordains extracts of their Burgess Tickets to be torn at the Mercat Cross.'

Some of the accused were rash enough to return, and the fines were promptly exacted from them, but James Smyth kept away until the passing of the Act of Indemnity.<sup>4</sup> Thereupon he and his friends attempted reprisals by bringing a suspension of the sentence in the Court of Session.<sup>5</sup> His name stands first in a list

<sup>1</sup> *Register of Deeds* (Mackenzie), 11th April, 1716.

<sup>2</sup> Municipal Archives, Perth.

<sup>3</sup> *Perth Town Council Records*.

<sup>4</sup> 3 Geo. I. cap. 19.

<sup>5</sup> *Decrets* (Mackenzie), 25th February, 1718; *Arniston Session Papers* (Advocates' Library), vol. v. No. 31.



of eighty-five suspenders, so presumably he was the *dominus litis*. The grounds of suspension were (1) that as the Magistrates were the complainers in the original action they ought not to have acted as judges in their own cause; (2) that as the action was really a criminal process it ought not to have been tried in the absence of the accused. The first plea, which seems the more formidable, was abandoned, and the Lords of Session repelled the second, leaving the conviction to stand, though its practical effect had been nullified by the Act of Indemnity.

In the interval between the two rebellions Mr. Smyth conducted a large practice as a surgeon. He was twice married. His first wife was Anne, daughter of Alexander Watson of Aithernie, in the parish of Scoonie, Fife, and by her he had three daughters—(1) Margaret, who married in 1740 Dr. Thomas Carmichael of Perth; (2) Jean, who married in April, 1749, Martin Lindsay,<sup>1</sup> eldest son of James Lindsay of Dowhill, in Kinross-shire. Martin Lindsay was tried at Carlisle for joining in the rebellion of 1745 as secretary to Laurence Oliphant of Gask and Lord Strathallan, the governors of Perth, but was acquitted; (3) Anne, who married Dr. Robert Wood of Perth.

His father-in-law, who was Provost of St. Andrews, 1710-1716, and also represented the burgh in Parliament from 1703 till the Union, fell into financial straits, and in December, 1735, Aithernie was exposed to a judicial sale. Mr. Smyth bought it for £24,000 Scots,<sup>2</sup> and afterwards settled it on his daughter, Mrs. Carmichael, and on her only son James, afterwards Dr. James Carmichael-Smyth, who became a leading physician in London.<sup>3</sup>

Mr. Smyth married as his second wife (contract dated 26th October, 1742),<sup>4</sup> Margaret, daughter of James Lindsay of Dowhill, a sister of his son-in-law, Martin Lindsay. He had no family by her.

For many years Mr. Smyth was a manager of the Episcopal Meeting House in Perth. Down to the death in 1735 of their senior incumbent, Mr. Henry Murray, the congregation lived harmoniously, although there were controversies in the church regarding the use of the Scottish Liturgy in place of the English Prayer Book, and also regarding the position of the Bishops, who had ceased to be associated each with a particular diocese. Mr.

<sup>1</sup> *Edinburgh Marriage Register*.

<sup>2</sup> *Decrets* (Durie), 3rd January, 1736.

<sup>3</sup> *Dictionary of National Biography*.

<sup>4</sup> *Particular Register of Sasines*, Fife, 20th August, 1743.

Murray's death left Mr. Laurence Drummond in sole charge, but he was 'but a valetudinary man,' and it became necessary to find an assistant for him. In 1739 a young clergyman, Mr. Robert Lyon, was selected after much opposition, but he was 'advanced' in his views, and apparently not conciliatory to his opponents. Within a year matters came to a head on the question of his stipend, and a definite schism in the congregation took place.<sup>1</sup> The malcontent faction managed by an underhand trick to get the minute-book out of the possession of Mr. Drummond. Mr. Smyth, Mr. George Stirling, surgeon, Dr. Carmichael, Mr. James Lindsay of Dowhill and others supported their clergy, and Mr. Smyth induced Mr. Drummond to circularize the congregation in such forcible terms of protest that the other side raised an action of damages for slander against them in the Burgh Court. The result of the action is not recorded, but Mr. Smyth's party found themselves excluded from the meeting-house in Bunshes Vennel, and had to set up a meeting-house of their own elsewhere. In 1745 they raised an action in the Court of Session to compel their opponents to hand over the building and the minute-book,<sup>2</sup> but before the action could be decided the tide of rebellion swept over the city, and most of the Episcopalians came out on the Jacobite side.

Mr. Lyon himself accompanied the Jacobite army as chaplain to Lord Ogilvie's regiment. He was taken prisoner, tried, and executed at Penrith on 28th October, 1746. In his last letter to his mother he prayed that God would reward the families of Mr. Smyth, Dr. Carmichael, Mr. Graeme, and his other benefactors and well-wishers.<sup>3</sup>

At the outbreak of the rebellion Mr. Smyth was a man of sixty-four, but he acted as surgeon to the Highlanders,<sup>4</sup> and in other ways threw himself into the struggle. In February, 1746, when General Hawley drew up a list of rebels in Perth against whom precognitions were to be obtained, he summarized the case against Mr. Smyth and his friend Mr. George Stirling :<sup>5</sup> 'both often with the Young Pretender 1745 : almost at all times with Strathallan and Gask ; and it's said they both joined and assisted the Rebel

<sup>1</sup> Farquhar, *Episcopal History of Perth*, chapters xiv. and xvi.

<sup>2</sup> *Perth Town Council Records*.

<sup>3</sup> *The Lyon in Mourning* (Scottish History Society), i. 9.

<sup>4</sup> *Jacobite Lairds of Gask* (Grampian Club), p. 150.

<sup>5</sup> Fittis, *Historical Gleanings Concerning Perthshire*, p. 197.



Guard, who assaulted the loyall inhabitants and killed one and wounded others of them for ringing the Town bells the 30th October 1745, being the King's birthday, and they both introduced many Ladies to the Pretender publicly in the Town's House.'

Evidence against him was obtained, but no action followed, and the reason may be inferred from the narrative of a Mr. Cant, who says :<sup>1</sup> 'The late Mr. James Smyth, a celebrated physician and surgeon of Perth, whose character and memory will be long remembered with pleasure in this town and country, was active in doing many good offices to the inhabitants, saving them from prison and fines by his influence and interest with the governors and commanding officers of the rebels.'

He died at Perth on 8th March, 1765,<sup>2</sup> aged eighty-four.

His arms—the Methven coat with a difference—were recorded in the Lyon Register on 24th March, 1760 : '*azure*, a burning cup between two chess rooks in fess *or*, within a bordure of the last ; crest, a dexter hand holding a lancet ready for action all proper ; motto, *arte et labore*.'

JOHN A INGLIS.

<sup>1</sup> Fittis, *Historical Gleanings Concerning Perthshire*, p. 217.

<sup>2</sup> *Scots Magazine*.

## Nithsdale at the Union of the Crowns

THE object of this article is to show the state of one district in the south of Scotland about the time when James VI. came to the throne of England.

To write a complete account of old times is often impossible ; the facts which have reached us are too disjointed ; they are chiefly to be found in the *Register of the Privy Council*. The difficulty about these entries is, that while we get the complaint, probably a very one-sided and exaggerated statement of the trouble, we often do not learn what the reply to it was or how the matter terminated. Probably the parties frequently settled the dispute between them ; clearly much was determined by the Court of Session or the Justiciary Court, and in one case at least those involved were ordered to appear before the Warden of the Marches. We only hear of the dispute when actually before the Council. The origin of the quarrels or the provocation is not mentioned as a rule ; we merely have the general prefix to the complainer's statement that his opponent 'had conceived ane deidly enmity agains him.' At the same time, a great mass of fragments have come down to us relating to these old quarrels. Taken together they throw an immense light on the condition of things at the end of the sixteenth and the beginning of the seventeenth centuries. They make us realise how very unruly the Border counties, especially on the West Marches, were before and for some time after the Union of the Crowns.<sup>1</sup> After this the old turbulence gradually died out.

The following incidents occurred chiefly in Upper Nithsdale round about Keir and the adjoining parishes. It was under the Warden of the West Marches, but a good way off the Border. Our 'auld inimies' from the other side seldom pushed their raids so far, cattle driving was less common than on the March, yet the turbulence of the Borders indirectly affected it.

<sup>1</sup> Scott's *Minstrelsy*, 1802 Edn., Introd. xlviii.



The Maxwells, Douglas of Drumlanrig, Kirkpatrick of Closeburn, and Grierson of Lag were the most influential families in the district. The Maxwells were the greatest of these, and their estates extended far beyond it. Nearly all the Dumfriesshire lairds were much connected by blood and marriage, yet this did not prevent their quarrelling.<sup>1</sup>

In 1579 there was trouble between the Laird of Applegirth (Jardine) and Thomas Kirkpatrick, younger, of Closeburn; they fought out their quarrel in the streets of Dumfries. Roger Grierson of Lag and his brothers Thomas and John became involved; Lag and Thomas stated they were endeavouring to make peace when a certain David Carlysle attempted to shoot Thomas with a pistol, 'whilk did discharge and he narrowlie did eschape at the plesoure of God'; another man attacked Lag with a sword. Two Carlysles were put to the horn over it. The matter came up more than once; from the subsequent entries it would appear that Lag and his brothers were not mere onlookers, but were attempting to help young Closeburn; the two brothers were summoned for the hurting and blood drawing of Edward Maxwell of Portrak and of John M'Briar, servant of the laird of Amagill. M'Briar, the Provost of the Burgh, had tried to intervene, but Habbie Jardine attacked and wounded him and a brother of Maxwell of Cowhill; Habbie was denounced. The principal parties were ordered to sign a Bond of Assurance to keep the peace in the meantime; Jardine refused and was ordered to obey; they were all to appear again before the Council, and there our information ends.<sup>2</sup> Later on the parties would probably not have got off so cheaply, but the Crown was only feeling its way in the meantime.

About twelve years later the Kirkpatrick's were involved in another dispute. Closeburn was principal sheriff of Dumfriesshire; in those days it was common for the great landowners to have a Charter of Barony which gave them wide powers of jurisdiction over those within their own lands; naturally this led to disputes regarding the rights of these men and those of the Crown representatives. Kirkpatrick's office involved him in questions with Drumlanrig. Douglas and a certain Grier of Marginalloch came before the Council with the following story. They said Drumlanrig had obtained a decree before the Lords of Council

<sup>1</sup> *Border Papers*, i. pp. 72 and 416-17; *Hist. MSS. Com.* 15th Rept. viii. p. 26 (43).

<sup>2</sup> *Reg. P.C.* iii. pp. 263, 268, 767.

and Session against Closeburn as sheriff, exempting him, his friends, tenants, and servants, from the jurisdiction of Kirkpatrick in both civil and criminal cases during the dependence of the 'feid and inmitie' between Douglas and Closeburn, yet the latter had apprehended Grier and intended to try him by an assize 'for certain allegeit crymes of thift,' and so, under pretext and colour of justice, to bereave him of life, although Grier 'is an honest and trew man altogidder innocent of these crymes quair with maist maliciouslie and unjustlie he is burdynnit be' Closeburn. In fact, they said this pursuit of Grier is occasioned by 'ane particular evill will and malice' borne by Kirkpatrick against Drumlanrig; Grier being 'ane proper dependair upoun him, and partaker with him in all his actions; especially the quarrell and controversie betwixt Drumlanrig and Closeburn.' Moreover, Grier's 'wyffe standis within the third degree of consanguinitie with Drumlanrig, swa he is his specialle freind &c and tharby comprehendit under his exemption.' Closeburn did not appear, and was ordered to liberate Grier within six hours after a charge, under pain of being considered a rebel.<sup>1</sup> Closeburn brought the matter up again; he lodged a complaint against Sir James Douglas, whom he accused of interfering with him in the execution of his office as sheriff 'be the forceable taking from the place of judgment of thevis and malefactoris,' and at other times by 'acclameing' them as his dependents; in particular, he alleged Drumlanrig had done this in the case of Thomas Grier, 'ane common and notorious theiff,' who had stolen from John Grier in Cormiligan 'threttane Scheip'; all which and other matters he had confessed; yet Douglas had claimed that he was his man and withdrawn him from the sheriff's jurisdiction.<sup>2</sup> Kirkpatrick said that he had appeared on the day assigned, but the case had been continued several times, and for his alleged disobedience he had been denounced; that Grier was not Drumlanrig's man at all, but the man of the Earl of Glencairn, and Grier's wife was not of kin to Douglas. However, as Drumlanrig eventually appeared and Closeburn did not, the letters against Douglas were suspended.<sup>3</sup>

There was again trouble between these two lairds regarding their respective jurisdictions. Kirkpatrick complained that, when he was holding a court at Penpont, Douglas had violently taken away a man, John Wilson, whom as sheriff he was going to try for theft; the reply of Douglas was, that he had come peaceably

<sup>1</sup> Reg. P.G. iv. pp. 696, 735.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.* pp. 624 and 642.



and reclaimed the man as being under his jurisdiction as bailie of Mortoun; the Council upheld him.

The Douglas regality came up again in 1623; this time it was Kirkpatricks who were in trouble. The Earl of Nithsdale, Lag and Amisfield were accused of arresting without just cause two Kirkpatricks who were servants of Douglas and within his regality. They were set at liberty on finding caution to appear and underlie the law for their crimes.

Not long after the original trouble we find the Kirkpatricks at feud with the powerful Maxwells. Closeburn brought the matter before the Council as follows. The King had forbidden his subjects to make leagues or bands without his permission; yet a large number of people, who are enumerated, including some eighteen Maxwells (one of whom was Homer Maxwell the Commissary of Dumfries; his office sounds peaceful, but Homer was the reverse; he found much caution); there was also John Haining of Barngaver, 'callit the Fowlair,' Gilbert Grierson of Doune (Drum?), a son of Johnston of Carnsalloch, and Thomas Grierson, younger, of Barjarg. These men, Closeburn stated, 'has lately maid and subscrevit ane unlauchfull band and league' binding them all by oath to defend each other in their actions 'in the law or by (*i.e.* beyond) the law,' and to account the action of one to be common to them all; under colour of which they oppressed the peaceable subjects in the Sherifffdom of Dumfries, 'committing maist heavie and oppin oppressionis and injuris againis thame';—in particular, they had come on 3rd April last to the number of some two hundred persons to his land of Rouchill (Roughisle) intending to intrude the said Robert (Thomas?) Grier into same; 'quhilk they had not fallit to have done, wer it nocht the said compleiner being foirseine of their enterpryse assemblit certane of his freindis for the defens and maintenance of his awn possessioun.' Closeburn asked that the bond should be discharged and the authors punished. Most of them were charged to appear, and not doing so, were put to the horn.<sup>1</sup> Apparently the accused disregarded the sentence against them, as in the same year<sup>2</sup> the King issued a commission to Gordon of Lochinvar, Campbell the sheriff of Ayr, Roger Grierson of Lag, and Closeburn, to apprehend Barjarg, his son, and several others who had been put to the horn for not finding caution, but who had 'proudly and contemptuously' remained unrelaxed. The subject of such bonds is too wide a matter to go

<sup>1</sup> *Reg. P.C.* v. p. 74.

<sup>2</sup> *Ramage*, pp. 206-9.

into here. The common form was a bond of man rent. The Closeburn of 1572 had granted one to Lord Maxwell, so had the celebrated Johnie Armstrong, and most of the considerable lairds of Dumfriesshire and the Stewartry.<sup>1</sup>

Lord Maxwell is not mentioned in connection with the beginning of the dispute; it is evident he was involved in it: during the same year Closeburn comes again before the Council with a complaint against this lord as follows: Lord Maxwell, as Warden of the Marches, had proclaimed 'ane day of trew to be haldin in May.' The whole inhabitants of the wardenry were charged to accompany him under the usual penalties, for which Lord Maxwell now intended to pursue Closeburn and his friends on account of their absence—'Albeit neither he nor yit they durst repair thither nor yit dar thay repair to ony utheris dayis of trew to be holden heireaftir for feir of thair lyveis,' because Lord Maxwell and he were at feud, 'and kindness and friendship is given up betuix thame, in sa fer as not onlie hes the said Lord tane upoun him the patrocinie and defens of all the said compleinaris unfriends, bot alswa huntit for his lyffe and dailie awatis the occasioun to bereve the said compleinair of his lyffe.' For instance, upon the 3rd of April last Lord Maxwell assembled his kin and friendship to the number of 200 persons and sent them to the complainer's land of Roughisle to have dispossessed him 'thairfra, upoun intention always gif the said complenair had cum to resist thame, to have bereft him of his lyffe,' and since then Thomas Grierson of Barjarg and Gilbert Grierson of Drum, the said lord's men, with armed convocation of his tenants and servants to the number of four score persons, came 'to Bardonoch, being within the schoit of ane hacquebute,' to the lands of Rouchisle, and 'dischargeit ane grite noumer of hacquebutis and pistollettis at him and his servandis, and had not faillit to have slane him wer (it) nocht he wir bettir accompanied for the tyme.' Further, on 30th April last Closeburn had sent certain of his friends to Dumfries; 'the said Lord, upon advertisement thair of directit xxiii of his men and servandis,' who sought for Kirkpatrick's friends in all parts of the burgh where they were accustomed to haunt, 'stoggit beddis' in the search, and would have slain the servants if they had found them, on which occasion they cruelly hurt John M'Mudie, servant to the good man of Kerse, the cousin of Closeburn. In short, he dare not meet Lord Maxwell unless with his 'haill kin and friendship to protect him; quair-

<sup>1</sup> Scott's *Minstrelsy of Scottish Border*, 1802 Edn., vol. i. pp. 57-8 and 204, etc.



upoun sum grite inconvenientis will not fail to fall out.' Kirkpatrick appearing by a representative, but Lord Maxwell not appearing, the Lords exempted Closeburn from that Lord's warding and justiciary; apparently they did not punish the Warden for the outrages.<sup>1</sup>

To 'stog the beds' seems to have been not unusual in those times; we find it mentioned again in 1636.<sup>2</sup> It meant they drove their daggers through the beds on the chance of some one being concealed in them. Probably more took place regarding the quarrel of Closeburn than has come down to us; it was not till 1595 that Thomas Grierson, younger, of Barjarg, came before the Council about it, and said his not appearing on the previous occasion did not proceed from contumacy, but from 'mis-knowledge.' Ferguson of Craigdarroch was his cautioner for £200 that he would appear on 14th March, and Kirkpatrick not appearing then, the letters against young Barjarg were suspended.<sup>3</sup>

That Closeburn should have had a quarrel with Lord Maxwell in 1593 is strange, for he fought on that lord's side in the battle of Dryffe Sands in this very year; it was the last great feudal engagement, the culmination of a really great feud between the Johnstons in Annandale and the Maxwells in Nithsdale. The Maxwells had become practically hereditary holders of the office of Warden of the West Marches; in 1577 they fell into disfavour, and the wardenry was conferred on the head of the Johnstons. This gave rise to a quarrel that lasted many years, in the course of which the head of the Johnstons was murdered, while two Lord Maxwells died in consequence of it, one at Dryffe Sands and one on the scaffold for the murder of Johnston. The matter belongs rather to the lower part of Dumfriesshire than to Upper Nithsdale.<sup>4</sup> The instructive part of the story for us is the manner in which it illustrates the bitterness of these feudal rivalries. The Johnstons refused Lord Maxwell quarter when he asked for it; to revenge this his son risked death on the scaffold, and was guilty of a treacherous murder. During the course of the quarrel the wardenry shifted about between the two families.

Even after the Union, in 1606, Carmichael, when Warden of the West Marches, was murdered by the Armstrongs.<sup>5</sup>

<sup>1</sup> *Reg. P.C.* v. pp. 88-9.

<sup>2</sup> *Reg. P.C.* 2nd series, vi. pp. 291-2.

<sup>3</sup> *Reg. P.C.* v. pp. 215 and 645.

<sup>4</sup> Sir Herbert Maxwell's *Hist. of Dumfriesshire*, pp. 204-20.

<sup>5</sup> Pitcairn, vol. ii. p. 504.

In 1600 Closeburn was security for five Kirkpatricks, that they would answer upon fifteen days' warning for coming to the prison house of Dumfries and releasing John Kirkpatrick of Knowheid, a common thief, warded there by Grierson of Lag by direction of His Majesty's lieutenant for certain 'points of theft' committed upon Lag. There were others involved in the trouble, including Homer Maxwell the Commissary. They were ordered to appear before the Warden of the West Marches.<sup>1</sup>

In 1600 Drumlanrig, Closeburn, Lag, Amisfield, and Lochinvar, with several Maxwells, Johnstons, and others, were summoned before the Council at Falkland to give their advice for the quieting of the Borders.<sup>2</sup> The advice was most necessary, only the parties to the troubles raise a question whether they were the most suitable persons to give it. This was only one of several occasions when the principal people in the district were sent for by the Council regarding similar matters.<sup>3</sup> In 1585 they had been summoned to receive directions for 'the weill and quietnes' of the country, when among others Lord Herreis and a round dozen Maxwell lairds were sent for,<sup>4</sup> but Lord Maxwell is not mentioned.

Whether their advice was valuable or not it did not prevent two of these lairds quarrelling in the year following, when the Master of Elphinstone complained on Closeburn's behalf that Lag, with John Grierson in Lonikfurd (Longford), Grierson of Bargatton, and Gilbert Grierson, called the 'Tailyeour,' had attacked him and his friends with pistols, in spite of the Acts of Parliament against using 'hagbuts and pistolets.' They did not appear, and were denounced as rebels,<sup>5</sup> but brought up the matter again shortly after. They stated that they were innocent 'altogidder of that cryme.' The matter was referred to their oath of verity; Grierson of Bargatton deponed he was present with the Laird of Lag, and heard pistolets shot, but neither had nor shot pistolets himself. Gilbert, 'callit the Tailyeour,' deponed he was not with Lag at the time. They got off, but the letters against Lag and Grierson in Longford were put into execution, as the latter had not appeared, and the Lords held it had not been verified that Lag was out of the country, as he contended at the time stated.<sup>6</sup> Charteris of Amisfield had become cautioner for them for 500

<sup>1</sup> *Reg. P.C.* vi. pp. 88-9 and 636.

<sup>2</sup> *Reg. P.C.* vi. p. 136.

<sup>3</sup> *Reg. P.C.* iii. p. 735.

<sup>4</sup> *Reg. P.C.* iii. p. 735, see vi. p. 136. See longer list of Maxwell lairds and vassals in *Book of Covenanters' War Committee of Kirkcudbright*, pp. 226-7.

<sup>5</sup> *Reg. P.C.* vi. pp. 207, 224, and 678.

<sup>6</sup> *Reg. P.C.* vi. pp. 224-5 and 678.



merks and £1000 respectively ; he was held to be liable for these sums.<sup>1</sup> This referring the matter to the oath of the accused was a frequent proceeding ; sometimes it was to his 'great oath' ; this may often have been done on account of the want of evidence or the difficulty of bringing it from a distance at that date.

Obviously it was not a very satisfactory course. In 1636 James Grierson in Besiwallie was charged by Thomas M'Murdie and his wife with a most violent assault. It was said that 'he stoggit the beds and cut off four of the wife's fingers, and the thumb of their daughter with his whinger, struk her dog though the craig,' got Thomas on the ground and with his knees 'so birsed and bruised him he has made him rimburst,' so as he would never be able to labour for his living, etc., etc. He threatened to take the wife's life unless she would swear never to tell that he had hurt her. This accused got off because on probation the matter was referred to his oath, and he 'being deeplie sworne upon his knees denied the same to be of veritie.'<sup>2</sup>

About 1604 Closeburn had much trouble with his eldest son ; this or the consequences of it dragged on for about a generation. The matter came before the Council in 1605. The father complained that during his absence furth of this realm on the king's business this eldest son had behaved himself 'maist unkyndlie and unnaturallie to his mother intending to possess himself of Closeburn's whole living.' In the first half of this year he had several times ejected Thomas Grierson of Barjarg, his father's tenant furth of the lands of Roughisle, and let them himself, also he had cruelly assaulted Barjarg because he would not renounce his obedience to Closeburn. He pursued one of his father's servants 'for his slaughter,' and in April, when Jean Cunyng-hame, this son's mother, was drying some corn at the kiln of Closeburn, he came there and 'maist barbarousllie kaist his modir undir his fiet and hurt and birsit hir.' Various other iniquities of the son are enumerated, including his cutting Closeburn's woods and intimidating his tenants. Both father and son appeared before the Council, and afterwards there was procedure in Court of Session, the result of which was decrees were obtained against the son for violent profits and other matters.<sup>3</sup> The year before it first came before the Council, Kirkpatrick of Kirkmichael had been security for young Closeburn, that he would not harm Barjarg.<sup>4</sup> The trouble was brought before the Council again in

<sup>1</sup> *Reg. P.C.* vi. pp. 224-5 and 678.

<sup>2</sup> *Reg. P.C.* 2nd ser. vi. pp. 291-2.

<sup>3</sup> *Reg. P.C.* vii. pp. 147 and 272.

<sup>4</sup> *Reg. P.C.* vi. p. 818.

1610, when the son was sent to the Tolbooth. An arbitration followed between the father and son, the result of which came to be, Closeburn was to sell part of his barony of Robertmuir (where Wanlockhead mines are), to pay certain debts, and the son was to get certain lands. As late as 1620 Barjarg was pursuing this man before the Council for the violent profits found due some fifteen years before. By 1630 the son seems to have succeeded to his father; we find him put to the horn for a debt of 5,530 marks. Lag as sheriff principal was charged to apprehend him; he found the Castle of Closeburn all locked up, but could not find the laird of it.<sup>1</sup> In 1632 the same man was still struggling with his debts to Barjarg and others; he had paid 13,000 marks to them and was out of prison on protection, which was continued.<sup>2</sup> Here our information stops. We have been told that in quieter times long after, the Barjarg family acquired Roughisle from the Kirkpatrick through a marriage.

In the same year that Kirkpatrick brought his son first before the Council there was trouble between Lag and Kirkpatrick of Frierscarse. According to the story told, Kirkpatrick had had a seat in the kirk of Dunscore for eight or nine score years; this must have been in the original kirk where the old graveyard is now. He complained that Lag had 'with convocation of the legies casten down the same, and built another in place thair of for his own use.' Then the son of Kirkpatrick of Aliesland and others had 'cuttit down and kawkit this seat to pieces.' Both parties were ordered to enter themselves prisoners in Edinburgh Castle. Lag was certainly in the castle that year; his father had suffered in the same place before him in 1587.<sup>3</sup>

The Griersons of Barjarg were a turbulent family; they were Lord Maxwell's vassals, which may have been partly the reason they were involved in the troubles with the Kirkpatrick. The most serious difficulty this family got into was through the murder of a person of their own name in 1597.<sup>4</sup> The complaint in the matter was brought forward in the name of Cuthbert, the son of Gilbert Grierson, and his three uncles, etc. It stated that Gilbert and his predecessors had been past the memory of man kindly tenants of the 10s. land of Nether Barjarg in Holywood (Keir), and his right and kindness thereof had never been disputed till

<sup>1</sup> *Reg. P.C.* vii. pp. 147, 272; x. pp. 679-80; 2nd ser. iii. p. 564.

<sup>2</sup> *Reg. P.C.* 2nd ser. iv. p. 443.

<sup>3</sup> *Reg. P.C.* vii. pp. 70, 75, and 607.

<sup>4</sup> *Reg. P.C.* v. pp. 424 and 768.



Thomas Grierson of Barjarg, with two of his sons—‘Having ane greddie desire unlauchfullie to attane possessioun of the said 10s. land, because the same lay ewest to his boundis and duelling,’ not only ‘maisterfullie and violentlie intrusit himself and his sonis in the landis above written in the month of June last bipast and extrudit the said umquhile Gilbert furth thair of, but also upon . . . last with unlawful weapons, upon forethought felony and malice awaited the said Gilbert at his awne rowme of Bardannoch,’ where he was for the time carrying ‘certain wand flaillis hame to his awne house of Bardannoch and thair shamefullie, cruellie, and unhonestlie set upoun him and slew him, to the utter wrack and undoing of the said Gilbert (Cuthbert?) his son, being a barne not past the age if aucht yeiris, and his twa puir susteris being baith faderles and moderles.’ The defenders did not appear and were denounced rebels. The next year Barjarg and his sons compounded for their escheats, presumably in connection with this matter. What other punishment they incurred is not mentioned.

This is not the only murder connected with Keir parish about this time. In 1606 order was given to denounce Lord Maxwell for not exhibiting Robert Grier of Kirkbride (in Keir) his man, servant, and tenant, who had wounded Thomas Smith in Kellieston and Bessie, his daughter, so that he died shortly after.<sup>1</sup> They were a tough lot of people, those Griersons of Kirkbride, to recover damages from. Evidently the trouble arose out of something of the sort, for we find that in 1596 Thomas Smith, the father of this John Smith, obtained a decree against the same man for coming to the lands of Kellieston, breaking open his house, lockfast places, etc., and spuilzieing certain goods. Smith had had Robert put to the horn in 1602, the son complained to the Council, yet he could not get compensation or goods, though Grier had been six years at the horn. Lord Maxwell was held responsible for this man and denounced for not appearing. The Laird of Lag, ‘the defender’s chief,’ was assoilzied because he declared by his ‘grit aith’ that the accused was not household man or tenant of his.<sup>2</sup> In 1605, that is, nine years after the violent theft was committed, the captain of the guard was ordered to seize both the culprit’s person and goods for his proud and contemptuous rebellion.<sup>3</sup>

In 1610 Geillis Rorysone in Penfillane accused James Grierson, the brother of Barjarg, Gilbert Grierson of Auchingibbert, and others of hamesucken, and of coming to his ‘peit stak woune by him in that summer and avoudlie upoun fair daylicht keist fyre to

<sup>1</sup> *Reg. P.C.* vii. p. 182.

<sup>2</sup> *Reg. P.C.* vi. p. 334.

<sup>3</sup> *Reg. P.C.* vii. p. 140.

his said peit stak and treasonable byrnt the same peites in asses, and thairwith violentlie kaist down to the ground his keale yaird dykis, and with their cattell eittit, trampit, and destroyit his haill herbis growand within the same.' In August of the same year they came to his dwelling house in Penfillane, attacked him with swords, tried to take his life, giving him 'several bloody woundis in divers partis of his body to the effusioun of his blood, left him for dead and violentlie reft from him a lyming web worth xx pounds.'<sup>1</sup> A summons was granted, and there our information stops.

Barjarg was not always opposed to the law ; when he was on its side he had his own troubles. In 1615 Sir William Grierson of Lag was appointed sheriff of Dumfriesshire. What knowledge either he or Closeburn, whom we saw previously acting in the same office, had of law does not appear : a strong hand and local influence seem to have been the primary qualifications for a sheriff then. The somewhat dubious antecedents of the Barjarg family did not prevent Lag appointing the laird of Barjarg one of his deputes, which involved him in the following matter the next year. Dame Elizabeth Carlile of Torthorwald owed a certain Mark Gledstanes, a burgess of Edinburgh, some money ; he obtained decree against her and she was put to the horn. Mark raised letters of caption, evidently with the object of imprisoning the lady, and charged this sheriff depute to apprehend her. Accordingly, on 13th November, Mark and the Depute 'forgaddering with the said rebel betwixt Thorthorwald and Lochmaben, the Sheriff Depute laid hold of her and took and apprehendit hir willing hir to ryde with him to Dumfries,' but Dame Elizabeth, 'not onlie refusit to go with him, laying hirself flatlie down upoun the ground, and maisterfullie withstanding the said schiref depute, bot also scho causit raise ane schoute in the country, geving wairning to all hir freindis and servandis who were instructit to attend to that warning and come to hir.' A list follows of Carlyles and others who were said to have come to the lady's assistance to the number of 200 in all 'on fute and horse,' including William Sinclair of Blaus, her spouse, and George Douglas, her son, armed with 'swerdis, gantillatis, plaitislevis, jakis, lanceis, steilbonnetis, with hagbutis and pistolletis,' they not only took her violently out of his hand, but committed a most fierce assault upon poor Mark and wounded him on the head ; two men 'presentit bend pistoletis to the said Markis breist, avowing to

<sup>1</sup> *Reg. P.G.* viii. p. 823.



schoote two billotis through him, quhilk they had not fallit to haif done, wer it not be the providence of God the pistolletis misgaif.' They apprehended Mark and detained him as their prisoner, till persuaded 'by his violent blooding he wes lyklie to die in thair handis, thay put him from thame, and resolveing to mak an end of him, they of new agane invadit and persewit him of his lyff; left ane broken lance sticking fast in him; ane grite nowmer of bones are taiken oute of his head; at the verie tyme of the invading of him thay maist disdainfullie cryit and said that thair sould not be ane penny auchtand to the said Mark before they left him; they reft his purs frome him with (the) letteris of horning and avowit with many horrible aithis to gar him eate thame.' William Sinclair, the husband, appeared and was admitted not to have been present; two others were assoilzied, because they denied the charge on oath; the rest were denounced rebels.<sup>1</sup> What the Sheriff Depute was doing all the time this was going on does not appear.

The following year there was trouble at the mill of Glenesland; Adam Kirko in Chapel and Maisie his sister were taking up the multures of some corn that were being ground at Masie's mill there. Caldwell, the miller from Glenesland, and Grier of Drumloff came armed and attacked them, and with their 'feit and handis strak and dang Masie and maid her blood at neis and mouth and left her lyand upoun the ground for deid and with thair horses over raid Adam, trampit him underfeit, gaif him mony bauch and bla stryakis, and left him also lyand for deid.' The charge was held proved, and the accused were sent to the Tolbooth of Edinburgh to remain there at their own expense during the Council's pleasure.<sup>2</sup>

It was not merely that these old feuds were accompanied with much blood shedding; much wanton destruction of property, apparently even common theft, took place in connection with them also. For instance, in 1602 Cuthbert Grierson of Dal-skairth brought the following matter before the Council. Several Maxwells, Herries of Mabie, Kirko of Bogrie, etc., came armed and searched a house at the Brigend of Dumfries for him and others for their slaughter, avowing to have their lives. When they could not get them there, they afterwards went to the house of Matho Grierson, his uncle, at Marthrewin, one of the complainers—'spuilzied his whole moveables, broke open his chests and took away his whole writs, especially his evidents of his lands

<sup>1</sup> *Reg. P.C. x. p. 443.*

<sup>2</sup> *Reg. P.C. x. p. 478.*

of Marthrewin. The matter was remitted to the proper judge, but the Council was evidently suspicious about it. The King had been in Dumfries recently, yet nothing had been said regarding the matter, though the complaint had been raised before this; the Lords considered the complainer had executed the summons in this way on purpose to cause the other side unnecessary trouble by bringing them to Peebles, where the Council then was sitting, and the defenders got £20 for their expenses,<sup>1</sup> while both parties had to find law surety. Contrary to the usual course, the surety required from the complainers was greater than what the respondents had to find. Before the century was half over the representatives of both Dalskairth and Bogrie were prominent Covenanters.

In another case in 1597 the complainer said Watt Irving of Robgill and others 'brak the syde of his stane hous enterit thairin and thifteouslie staw and away tuke furth theirow aucht oxen, ten ky, and twenty sheep, with his hail insicht pleinessing and moveables with ii<sup>c</sup> [200] markis,' which they had divided among them to the complainer's heavy wrak and heirship. The defenders did not appear and were denounced.<sup>2</sup>

In 1613 there was a complaint in connection with Longford on the Laird of Lag's estate, near what is now Carsphairn. Some M'Adams and others masterfully broke open the locked doors of a house and carried them away; with saws, axes, etc., 'they cutt it seive the hail geistis and ruiff' of the house, threw the same to the ground, and carried off all the timber work. They got off, the matter being referred to their oath, and they swearing it was not true.<sup>3</sup>

In those times to compound for a murder was not unknown. The Earl of Galloway had brought a case against Lochinvar and others for resetting a criminal in connection with the death of a man described as a poor gardener; the earl said he was his man; the other side contended he had nothing to do with the earl. The matter had been in treaty for a settlement, and offers of satisfaction had been made. In order that the latter might be adjusted, the earl gave several assurances to the accused to travel freely and do business in the country, so that if there was any reset it was done during the time of this assurance. It was contended that the object of the prosecution was to annoy Lochinvar, who was residing in England, and could not possibly appear,<sup>4</sup> so the matter was continued.

<sup>1</sup> *Reg. P.C.* vi. p. 475.

<sup>2</sup> *Reg. P.C.* v. p. 380.

<sup>3</sup> *Reg. P.C.* ix. p. 532.

<sup>4</sup> *Reg. P.C.* 2nd series, iii. p. 557.



Charges of hamesucken—that is, coming to a man's house with the intention of assaulting him and doing so—are now rare ; in the sixteenth and seventeenth centuries they were common. Fire-raising was more frequent ; among the common offences were thefts of farm animals, particularly on the actual marches. This appears not so much from the *Register of the Privy Council* as from the Justiciary trials. A Circuit Court was held at Dumfries in 1622. Most of the indictments at it were for such crimes as 'the steiling of twa fat scheip,' 'twa yawis,' 'ane stott,' 'four rouch unclippit scheip,' 'fifteine wedderis,' 'a carcase of salt beiff,' 'ane meir of four yeir auld,' 'ane greit swyne,' 'a three yeir auld quay,' 'thrie nolt,' 'ane bull,' etc. Among the accused were Johne Armstrong, 'callit Bauld Jok,' and Archibald Irvine, 'callit Gawin's Ritchie.' The convictions show Bauld Jok's fate was to be 'drounit in the Watir of Nith ay quhilk he be deid.' Five others were condemned to be hanged.<sup>1</sup>

Formerly most of the important landowners had charters giving them within their own lands jurisdiction, both civil and criminal, with powers of pit and gallows—that is, capital powers<sup>2</sup>—equivalent to the French 'high and low justice.' The number of 'Gallow Hills' through Scotland shows that these powers were not allowed to rust. As a man could be hanged for stealing, and this was common, the number of executions must have been appalling. This was not peculiar to Scotland. Though our land may have been more turbulent than England, the executioner was equally busy there in those days. During the reign of Henry VIII. 72,000 persons were executed.<sup>3</sup>

There is a specious glamour over these Border rovers, with their reckless life of danger and their quaint sobriquets. They have been immortalised in ballads that are hardly historical and show only the attractive side of the story. The account given of one by Sir Walter Scott shows us that the reality was a very sordid life of lust, blood, and rapine ;<sup>4</sup> yet in the very instance he gives, though the ruffian had been most justly condemned for his many and repulsive misdeeds, and the villainy of his life was known by his own confession, we find a powerful laird endeavouring afterwards to take revenge for his execution.

<sup>1</sup> Wilson's *Annals of Hawick*, pp. 194-214.

<sup>2</sup> Cosmo Innis, *Legal Antiq.* p. 59.

<sup>3</sup> Macaulay's *Essay on Southey's Colloquies*.

<sup>4</sup> Scott's *Minstrelsy*, 1802 Edn., Introd. p. cxv.

The ruling powers were sometimes not very consistent in their enactments, which cannot have aided the enforcement of the law. For the defence of the realm they compelled the lairds to supply themselves with arms ; for the peace of the realm they prosecuted the same men for using these weapons. One of the common headings in Pitcairn is 'Shooting of Pistolets.'

In such a state of society, with its many private feuds and quarrels, these numerous jurisdictions must often have led to unsatisfactory results. The government kept some check on their actions, and if the baron's actions in his judicial capacity were called in question he might get into trouble. We find an illustration of this in connection with the Drumlanrig family. Margaret Newlands, relict of Thomas Johnstoun of Carsborne, complained to the Council that Sir James Douglas of Drumlanrig had resolved to possess himself of her 'kindly rowm' of Carsborne, which she and her husband held of him. She stated that Douglas came one night with his servitors, all armed, to their house, where, 'he being their maister was lovingly ressavit,' and remained almost till break of day. Then craftelie and cullordlie, under the pretext of friendship, he willet her husband 'to go with him to Drumlanrig.' Her husband put on his 'butis' and did so, but on his arrival there he was cast into 'a strait prison.' Then Sir James 'causit certane personis deale with him anent quhat sowmes of money he would gif for a new rentell and farder richt of the said rowme.' He agreed to pay 500 marks, and paid 400 of this, on which he hoped he would have been freed from prison, and that 'he and his spouse sould have bene sufferit to have brookit the said rowme, but undir cullour of law and schaw of justice,' Sir James, by a led assize of his own servants, 'caussit unjustlie convict her umquhill husband of certane capitall crymes (quhairof he wes most innocent) and thairwith executed him to the deid.' He thereafter 'craftelie and subtilie concluding to eject hir and hir fatherles bairnis out of the said rowme, did urge hir ather to pay a yeirlie tewtie abone the double of the availl of the said rowme or to leive the same,' with the result that he 'hes violentlie ejectit thame thairfra.' Both parties appeared. The answer of Douglas was that Johnston was a fugitive for theft and reset of theft ; that he as lord of the regality of Drumlanrig had apprehended him, imprisoned him in Drumlanrig, and tried him by a jury, by whose verdict he was 'most worthelie execute and hangit to the deid.' He produced the proceedings in the Court of Regality. Johnston had been declared a fugitive on 17th May,



1603, and again on 24th December, 1606. He was accused before that court of 'common theft, infang and outfang.' The names of the jury are given. They were chiefly from Keir, which was not under Drumlanrig at the time, and most of them lairds, two being Kirkpatrick and six Griersons, including Barjarg and his brother. They found him guilty, and he was adjudged to be taken to the place of execution beside the barns of Drumlanrig.<sup>1</sup>

The Lords of the Council acquitted Douglas. It certainly sounds as if he had not proceeded without good grounds; still, one would have liked to hear the cross-examination in the case. Had Drumlanrig had any negotiations with Johnston about his rent while in prison? Why was there an interval of three and a half years between the two proceedings?

In 1612 the heir of Drumlanrig was accused on a charge of having 'invaded William Kirkpatrick of Kirkmichael, taking him prisoner at Dressetland, carrying him to Drumlanrig and keeping him there for six or seven days.' Kirkpatrick gave Douglas a letter stating that the prosecution was raised without his knowledge, and was untrue, so the accused was acquitted. The Drumlanrig family seems to have been very successful litigants.

We have seen what complaints were made regarding Drumlanrig's exercise of his private jurisdiction, but even being a sheriff and representing the King did not free officials from criticism to the authorities. In 1621 Lag was sheriff of Dumfriesshire. A Robert Philip wrote the Commissioners of the Middle Shires a long letter as follows: 'Pleis your lordships thift inccressis nichtlie in Annandale, Eskdaill, Ewisdaill, and the nethir pairtis of Nithisdaill, sa that in all pairtis of the cuntreyis thair is nichtlie mony stoutis committit, and quhen men that wantis thair geir dois bot speik of ony brokin man, thay sueir till burne all that the trew man hes, sa nather the ministeris in the cuntrey in Annanderdaill nor uther trew men dar, for feir of greittar inconvenientis and skaithis tak upoun thame to speir stolin geir, bot lymmeris ar sa insolent and unreullie because thair is not ane gaird nor na uther havand commissioun till apprehend lymmeris, that thair cair nocht quhat thair do, and sa in this caise the cuntrie is wraikit in all pairtis. And now laittle this last oulk, thair wes amang mekill mair, sum geir stollin fra servandis of the Laird of Laggis in ane pairt of Annanderdaill that is callit Rökkell; and albeit honest simpill men durst nocht

<sup>1</sup> *Reg. P.C.* viii. pp. 445-6.

speir thair geir nor promeis saw silver, yett he has gevin geir and gottin his mennis geir speirit ; and he being this yeir Shireff he hes tane ane of the theiffs that duellis in Torthorwall callit Roddane, and ane uther that duellis upon his awin land in Rokkell, and hes committit tham in the pledge chalmer in Drumfreis, and thai haif confest the thift, and hes gevin up sundrie marrowis ; and *gif thai be richtlie handillit yt apperis thai can giff up mekill mair, for thai ar puir bodyis and hes nocht quhairupoun to sustane tham selffis in prisone.* Thair is sundrie honest men in Annanderdaill, sik as the Laird of Brydkirk and sum utheris that hes money freyndis hes tryit thair guidis stollin fra tham, and the steiellaris ar fled for the present. Bot except thair be sum that hes commissioun and power till tak tham as the gaird had, thai will nocht by lang idill, bot (y)it steill mair, for thai will agre with silk men as ar of power and freyndschip ; bot for uther trew men that hes not power, they respect them nocht,' etc. Possibly this letter gives a highly coloured account of the state of the county ; one would expect an improvement instead of a retrograde movement as the writer indicates. The suggestion that a thief should be starved in prison on the chance that he might disclose more stolen goods, is as much at variance with modern views as the unsafe condition of Dumfriesshire in 1621 differs from its modern security.<sup>1</sup>

Sometimes when the accused had been put to all the trouble and expense of going to Edinburgh, their accuser did not appear. Complainers were also liable to be intercepted. In 1618 a certain Geillis Roryson complained that she had an action before the Council against Lag, Barjarg, etc. She stated that while on her way to Edinburgh about this, she was met on the highway beside Keir Mill by Grier of Beuchane and others who were armed and sent out by the opposite side ; they seized her, imprisoned her for six days at Keir Mill till the diet fixed for her case was past and the other parties acquitted. After this, on a Sunday, several other people, chiefly Griers, came to her house in Penfillan, 'tirrit' the same, broke open her 'kistis,' cut down her lint and kail, assaulted her seriously till she waded into the river, and threw stones at her there. She failed to prove her charge.<sup>2</sup>

As time went on we find the nature of many of the complaints changing ; family feuds are rarer, the church and trouble arising out of theological differences come more into them. As early as 1590 several persons, one of whom was from Keirside, were

<sup>1</sup> Reg. P.C. xii. p. 775.

<sup>2</sup> Reg. P.C. xi. p. 411.



charged as troublers of ministers.<sup>1</sup> In 1628 an order was given to apprehend a certain Gilbert Brown of Baglee and others for refusing to submit to the discipline of the kirk. Elsewhere this man and another are described as 'twa excommunicat papists.'<sup>2</sup> Various other similar cases are given, of which one that happened in Dunscore may be taken as an example. It occurred in 1631. John Moffat in Craigenputtoch and Robert Hannay his tenant 'took the lawer aff its proper place in the pulpit, and to the contempt of that holie actioun despitefullie slang the lawer with the water being in the same in the mids of the Kirk.' Also he broke down the churchyard walls and fed his cattle there. What became of Moffat we do not hear, but Hannay complained that though he had given satisfaction to the kirk session of the parish, and had a certificate from the minister, who was present, yet he had been detained in the Tolbooth for eight days; in spite of this the case was remitted to the Lords of the High Commission for trial.<sup>3</sup>

In 1676 the heritors of Dunscore were fined 5000 marks for a violent assault and robbery some people committed on the minister and his wife in the manse; there were other similar cases in Dumfriesshire and Galloway.<sup>4</sup>

Only a few of the numerous feuds, quarrels, and outrages in Upper Nithsdale alone recorded in the minutes of the Privy Council can be referred to here; it is not easy to grasp the meaning of these disjointed and incomplete stories of an utterly different state of society. The fact of being mixed up in such affairs did not in the least indicate that you were regarded as disreputable. We find the nobles and leading lairds accused at one time of bloody assaults or worse; at another period we may meet the same person arresting criminals under a special warrant from the King, or attending generally to the county business and its peace; we find them elected by the freeholders as members for the shire serving on juries, exercising responsible offices, or summoned to advise the Government how the general lawlessness might be put down. Evidently this part of Scotland was looked upon as particularly unruly, and its condition gave anxiety to the ruling powers at the time. The lawlessness was not, however, confined to parts such as the Highlands or the Borders; even in the

<sup>1</sup> *Reg. P.C.* iv. p. 522.

<sup>2</sup> *Reg. P.C.* 2nd ser. i. p. 413.

<sup>3</sup> *Reg. P.C.* 2nd ser. iv. pp. 223, 311, 654.

<sup>4</sup> *Reg. P.C.* 3rd ser. iv. 509; v. p. 155; iii. pp. 100 and 324.

High Street of Edinburgh there was an affray between the Lairds of Edzell and Pittaroo in 1605 which lasted from nine at night till two in the morning.<sup>1</sup> The people involved in these feuds were the very men by whom a large part of the jurisdiction of the land was exercised in virtue of their baronial courts, in which they used their capital powers. How far the wrongdoers suffered it is difficult to say. Sometimes they got off practically scathless; we have seen the wrongdoers in one instance sent to prison where they had to support themselves. Often they were punished, at least to the extent that the culprit or his cautioner had to pay a fine or indemnify the injured person; for instance, we meet one man fined £100 for wounding two men.<sup>2</sup> In 1623 Gilbert Grier of Castlemaddy had to find security to pay Gilbert Geddes £100 if found due by the Council for wounding him;<sup>3</sup> or the culprit had to meet the amount in his bond of caution, which came to the same thing. Punishment was more often inflicted as time went on and the Government began to tighten its hold on the country, matters which might have been passed over at an earlier date on the parties merely finding security to behave, received exemplary punishment at a later date. For instance, about 1614 Drumlanrig was fined 3000 marks for sending six 'cartellis in scar and terror' to others in connection with a dispute between Lords Sanquhar and Kilmaurs and himself.<sup>4</sup> It is likely that much of the debt in which we find many families involved owed its origin to such troubles arising either through fines paid to the Crown or compensation paid to the injured.

While the incidents mentioned indicate a general state of lawlessness, it by no means follows that we can accept all of the complaints without criticism. Evidently the stories lost nothing in the telling; the agony is long drawn out, and 'the greit effusion of the Compleineris blude' bulks largely in the plaintiff's tale: it is surprising how often he recovers after being left 'lyand on the ground for deid.' Probably most of the incidents were not the one-sided, unprovoked assaults which the complaint would indicate. Very often both sides were made to find security; this indicates a common culpability. Sometimes parties, who at first hold themselves out as mere onlookers or even as peacemakers, are found to have been participating in the fight. The amount

<sup>1</sup> *Memoir of Chan. Seton*, by Geo. Seton p. 69.

<sup>2</sup> *Reg. P.C.* ix. p. 648.

<sup>3</sup> *Reg. P.C.* xiii. p. 373.

<sup>4</sup> *Memoir of Chan. Seton*, by Geo. Seton, p. 109.



of harm done by all the shooting of 'pistolets and hagbuttis,' accompanied by the direst threats, was slight : when the borderer took to cold steel he accomplished more, for the pistols were liable not to go off ; yet there was much brandishing of swords and shaking of daggers that came to little. It is suggestive how Closeburn knew when his opponents were coming to trouble him about Roughisle and managed to be on the spot in time with a larger force than theirs. From the fact that the differences between him and his son went to arbitration, we should gather the son had something to say for himself. Had the death of Cuthbert Grierson been merely a brutal murder, such as those by the Muirs of Auchendrane about the same time, the Barjarg family could hardly have held up their heads again, while in point of fact we find them holding a responsible office within twenty years of it, and they sat on juries and took their full share of the troubles in between.

The amount of caution or security found in those times in matters general and particular, civil and criminal, was enormous ; it might be under a general bond that they would keep the peace, as in 1597 ;<sup>1</sup> or against thieves, as in 1602 ;<sup>2</sup> or that they would each be liable for their servants, tenants, and followers.<sup>3</sup> It might be for a debt, though more commonly it was found in connection with some act of crime or turbulence, as the instances given show ; or that a person already at the horn would not be resetted or assisted ; sometimes it was merely that they would obey some Act of Parliament, such as that compelling them to buy armour.<sup>4</sup> Some instances of this have been given, but even in connection with the troubles of which specific mention has been made, most of the references to the finding of security have been omitted. This process, or some analogous one, was the great engine by means of which the peace of many European countries was preserved and improved. In our country it might be in connection with some special application, such as lawburrows, or the ordinary Bonds of Caution, with catalogues of which many pages of the Privy Council register are taken up. The English expression, 'being bound over to keep the peace,' is still familiar to us, and France and the Netherlands had similar forms of procedure.<sup>5</sup>

Before the first quarter of the seventeenth century had expired a distinct improvement had taken place in the condition of matters ; we find the lairds, particularly the more powerful,

<sup>1</sup> *Reg. P.C.* v. p. 745, etc.

<sup>2</sup> *Reg. P.C.* vi. p. 825.

<sup>3</sup> *Reg. P.C.* iii. p. 736.

<sup>4</sup> *Reg. P.C.* vii. p. 40.

<sup>5</sup> *Scot. Hist. Rev.* v. p. 515.

appearing less and less before the Council as culprits. If lawlessness had not disappeared, it was at least chiefly confined to a lower grade of society and not done so openly. Yet as late as 1626 Stapleton in Annandale was fortified and held by 'unanswerable persones' against the authorities, Edward Irving, sometime of Stapleton, being the leader, accompanied by a number of fugitive 'lymnaris of the late Bordowris.' In 1635 Commissioners of the Borders were appointed to put down malefactors; the remarks in connection with these commissioners indicate that the Borders were still in a bad state.<sup>1</sup>

We believe the improvement to have been due to two causes. James VI. clearly had his defects; it is to his credit that he steadfastly set his face against this lawlessness, even before the Union he had reduced it; after his succession to a richer and more peaceable kingdom he was strong enough to put it down. In 1508 the Crown was too weak to prosecute Lord Maxwell for the fight at Dumfries when he defeated the Crichtons,<sup>2</sup> though Drumlanrig and others went through the form of a trial for the matter. In 1584 this lord was able to defeat the combined forces of both the Crown and the Johnstons, and in the next year the Estates voted £20,000—a large sum in those days—for an expedition against him, which came to nothing. By 1613 the Crown was strong enough to have the son of this lord executed for the murder of his rival Johnston.<sup>3</sup> Down to the Union the Border outlaw had his uses, at least he was a thorn in the side of the rival kingdom; once the Union had been accomplished it was every one's interest to suppress him. The position of matters changed completely: the marches disappeared, and the wardenry ceased to exist; the Border counties became known as the Middle Shires; the Border laws were repealed. Peace came slowly, but the executioner had much work to accomplish first.<sup>4</sup>

It requires an effort to realise what life was in those days. For a person to find his way so far now would be a serious matter for him. What must a journey from Keir to Edinburgh have meant long ago before railways were thought of, when the only roads were unsafe bridle-paths. Possibly your opponent might arrange that you should be intercepted on the journey. And yet this journey

<sup>1</sup> *Reg. of Gt. Seal*, 1635, p. 159; see also *Book of Carlawerock*, ii. pp. 50-1.

<sup>2</sup> M'Dowall's *Dumfries*, 3rd edn. p. 177.

<sup>3</sup> Sir H. Maxwell's *Hist. of Dumfriesshire*, etc. pp. 204-220.

<sup>4</sup> *Hist. of Roxburg*, etc. by Sir Geo. Douglas, chap. xiii. p. 334.



had to be undertaken by poor people who previously might not have left the parish where they were born. At the end of the journey the person whom the injured man had to confront might be the most powerful laird or noble in his district, a friend of the individual members of the Court, and possessed of many means of making matters uncomfortable for his poor neighbour afterwards. It required a tough race to face all this, yet the peasantry did so.

One of the greatest puzzles about such times is the amount of law which existed alongside of great disregard of the law. We read of culprits, and particularly thieves, being regularly tried and executed ; we know that in the worst periods the succession of the same families to estates was likely to continue longer than in our own time : the Kirkpatrickes had been in Closeburn for three hundred years, and were to remain there for two hundred more. One would imagine a laird could hardly have been safe to stir outside the immediate neighbourhood of his castle, yet we know that most of them held more or less widely scattered estates. All of these lands required to be visited and protected ; they were generally in the owner's charter of barony and all under the one jurisdiction.

Within a few years the whole condition of matters changed ; feudal strife diminished, troubles arising out of conflicting religious tenets took its place : the people, whose violent lawlessness the Crown had with so much difficulty curbed only shortly before, banded themselves together to resist what they held to be the tyranny of the King. In other words, one generation saw them moss-troopers ; the next saw them Covenanters.

ROBERT GRIERSON.

## Municipal Elections in the Royal Burghs of Scotland

### II. FROM THE UNION TO THE PASSING OF THE SCOTTISH BURGH REFORM BILL IN 1833.<sup>1</sup>

AFTER the union the corruption of Scottish burgh management became even more marked. Another inducement appeared, the control of parliamentary elections, and another competitor stepped forward, the government. James VII., of course, had tried to secure the services of the commissioners of the burghs, but he had relied principally upon direct methods, removing his opponents from office. The Hanoverian government had an easier task, as the number of representatives was much smaller, only fifteen members being sent to Westminster by the Scottish burghs. They were elected by delegates chosen by the town councils, and it was generally necessary to bribe the delegates, not, says Lord Cockburn, 'that the councils were left unrefreshed, but that the hooks with the best baits were set for the most effective fishes.'<sup>2</sup> In many of the burghs the neighbouring landowners had great influence which was generally at the disposal of the government. The prospect of some gain from a share in parliamentary elections and the hope of assisting in the disposal of the common property of the burghs induced people to seek office, and also caused many quarrels in the towns. Disputed elections and double elections were common. In 1734 an act was passed to prevent these double elections, declaring that at the annual elections no magistrates or councillors were to separate themselves from the majority in order to elect another set of magistrates.<sup>3</sup> The prevalence of these abuses was ascribed to the vicious system by which each council elected its own successor, thus enabling the

<sup>1</sup> See *Scottish Historical Review*, xiii. p. 111.

<sup>2</sup> Henry Cockburn, *Memorials of His Time*, p. 88.

<sup>3</sup> E. and A. Porritt, *The Unreformed House of Commons*, ii. 122-3.



government to be kept in the same circle. When the sets of the burghs were written down by order of the convention in 1708 it was found that this system, with some minor differences, was practically universal. Alterations were made in the constitutions of a few of the towns in the eighteenth century, sometimes by the intervention of the convention, before which, in accordance with the act of 1706, disputes were brought, if both parties agreed to refer their differences to this tribunal. A few changes were made in sets by decreits arbitral of private persons. The disputes seem to have been due more often to jealousy on the part of those excluded from office than to any ardent desire for reform in general, and any changes that were made were in detail, not in principle. Wodrow wrote in 1727 that 'this horrible corruption in the choice of Members of Parliament will, some time or other, throw us to convulsions, if some speedy remedy be not applied. . . .'<sup>1</sup> The convulsions were, however, long in coming, though individual burghs were often distracted by lengthy feuds.

In Queensferry there was a litigious person called George Hill, who both in 1710 and in 1725 complained about the elections in the burgh. In 1710 he declared that the last election had been 'by partialty and mastership,' as four of the old council were not allowed to vote nor were the burgesses who were not of the principal faction. By the ancient custom of the burgh all burgesses should have been allowed to vote, so the election was unlawful and the excluded burgesses thereupon elected a council of their own and raised a reduction before the lords to suspend those whom they called the 'usurping' magistrates. But this reduction was only raised until the convention should meet, 'the proper court in which to find remedy.'<sup>2</sup> Both parties submitted to the convention, which issued a new set for the burgh in which the election of the magistrates was vested in eighteen councillors and fourteen burgesses. Hill complained again in 1725 about the Queensferry election, and then the magistrates complained of his dealings with the revenue when he was in office; but in the end both parties submitted to the convention, which issued a decreit arbitral to settle the disputes.<sup>3</sup> Some of the burgesses of Dunfermline appealed to the convention about various customs that

<sup>1</sup> R. Wodrow, *Analecta*, iii. 435.

<sup>2</sup> *Convention Papers*, B. 226. *Representation . . . by George Hill. . . . Answers for the present Magistrates.* (City Chambers, Edinburgh.)

<sup>3</sup> *Convention Records*, iv. 508-9.

had been lately introduced in the elections tending to restrict the magistracy to the same people. A committee was appointed to look into the matter, and the burgesses and the town council submitted to its decision. A new set was drawn up intended to secure that the same people should not remain on the council for more than two or three years, and that 'concerts and engagements' by merchants or craftsmen for influencing the elections in favour of their own class 'known as chapeling, whereby members are not at liberty to proceed according to their consciences but according to the opinion of a majority were it never so wrong' should be prevented.<sup>1</sup>

The cases of Inverness and of Edinburgh were the most important with which the convention had to deal, as they led to the decisions in the court of session which affected its position. According to a set given to Inverness in 1676 the trades were excluded from the town council, so in 1722 they made application to the magistrates and council for redress, and it was arranged that they should have three members on the town council, subject to the approval of the convention. When the matter was brought up before the meeting of the commissioners in July, 1722, this alteration in the set was approved, but the commissioner from Dundee protested and was supported by Aberdeen and Cupar, on the grounds that the convention could not alter a set which it had given forty years earlier; that the precedent was bad, as burghs might alter their constitutions at pleasure, and so magistrates might scheme to keep themselves in office; and that the changes were an encroachment on the rights of the guildry. It was answered that the convention could alter sets which were not given by charter or by act of parliament; that the inhabitants of Inverness were agreed upon the desirability of the change; and that the concession to the trades was too small to hurt the interests of the guildry. Nevertheless some members of the guildry objected, and declared that the convention had no right to alter the constitution.<sup>2</sup> As the set had originally been given by the convention the guildry were not on very strong ground when they objected to a change being made by the same authority, and it was found that the convention had power to make alterations in sets which it had given.<sup>3</sup>

That this power did not extend to making alterations in sets generally was found some years later, when a case concerned with

<sup>1</sup> *Miscellany of the Scottish Burghs Records Society*, pp. 240-60 (1723-4).

<sup>2</sup> *Convention Records*, v. 312-3, 319-20.

<sup>3</sup> Morison, *op. cit.* iii. 1839-40.



changes in the constitution of Edinburgh was brought before the court of session. The fourteen incorporations of the city had each to send in a leet of six persons to the town council, which shortened it to three, from whom their deacon had to be chosen. Six of these deacons were members of the council, the other eight had votes in certain questions. As they were anxious for complete freedom of election it was proposed that the authority of the convention should be invoked to make such a change. The lord provost and others objected, however, and the question was brought before the court of session. One party asserted that the convention had no parliamentary power of altering a set, and that in the cases where it had made changes both parties in the burgh had submitted. The other declared that the sets of the burghs very probably originated in the chamberlain's court; that the convention came in place of the chamberlain, that it had power to alter sets, and that such a power had been recognised by the court of session. The judges this time, however, found that the convention had no power to alter the set of a burgh.<sup>1</sup>

Two acts were passed in George II.'s reign to guard against illegal elections, but by the first only a magistrate or councillor was given the right to complain of illegal elections, and by the other only 'any constituent member at any meeting for election previous to that for the election of magistrates' could complain of wrong done at such a meeting.<sup>2</sup> Nevertheless, in spite of this act, it was decided by the court of session in 1818 in an Edinburgh case that constituent members of various corporations for elections of deacons held before the election of 1817 had no title to bring complaints against these elections, *i.e.* that none but actual members of the town council had the right of complaint.<sup>3</sup> Two Wigton burgesses complained about an election in 1781 on the grounds that the appointed day had been changed by the bailies and clerk erasing an entry in the council book, but the court of session found that the inhabitants were not legal complainers.<sup>4</sup> In the cases where the elections were found to have been illegal poll elections were generally granted, because,

<sup>1</sup> Morison, *op. cit.* iii. 1861-3.

<sup>2</sup> 7 Geo. II. c. 16. sec. 7; 16 Geo. II. c. 11. sec. 24.

<sup>3</sup> *Report from the Select Committee to whom the Several Petitions from the Royal Burghs of Scotland were referred* (1819), vol. vi. p. 9.

<sup>4</sup> *Substance of the Reports of the Grievances Transmitted by the Committees of Burghs of different Boroughs, in Answer to the General Instructions Transmitted by the Committee of Convention at Edinburgh* (1789), pp. 27-30.

said the reformers, the inhabitants had elected the magistrates before the act of 1469 was passed, and therefore, if there was no old council to elect a new, the poll was the only constitutional way of renewing the government.<sup>1</sup>

Towards the end of the eighteenth century in Scotland as elsewhere there was an awakening of the spirit of reform, and the scandalous mismanagement of municipal affairs focussed the attention of the would-be reformers on the burghs. Inspired by the *Social Contract*, the writings of Paine and others, they were convinced that the remedy for all the rampant evils which they saw lay in popular election, which, they said, was established in Scotland, before the act of 1469 'erected the standard of Despotism, where Liberty had so long resided, and . . . covered the country with the darkness and torpitude of slavery, in place of the light and spirit of freedom.' Certainly the vices of the self-elective system were very evident. Some towns were held firmly in the clutches of a certain family of the burgesses, as Brechin, where John Mollison was elected provost in 1747, and his son John, a minor, was made a councillor. Mollison senior continued in his office until 1766 and was succeeded by his son, who was still provost in 1789, while the family connections had filled most of the other offices. In Cupar each councillor nominated a successor, who elected him again the next year, and so thirteen councillors went out of office one year and returned to it the next. In other burghs the neighbouring nobles or lairds were at the head of affairs. The Galloway family managed both Whithorn and Wigton, though most of them did not live in the neighbourhood, and Lord Garlies, who was on the council of both, was in the navy. The yearly elections in Dumbarton were directed by the agent of the Duke of Argyll. Such power made corruption easy, both in parliamentary elections and in the financial affairs of the towns. In Dunfermline, where two councillors retired every year and were generally brought back to office in the next, John Wilson, who died in 1778, had been on the council for nearly fifty years, and during the greater part of the time he had 'the address to manage the whole council in every political contest.' Great efforts were also made to influence single municipal elections when a parliamentary contest was to follow, and the fewness of the electors favoured such interference. Inverkeithing was the scene of a heated dispute in 1781 between Captain Haldane and Admiral Holburn 'with a view to the

<sup>1</sup> *Edinburgh Review*, 1818, vol. lx., article on 'Burgh Reform,' pp. 528-1.



approaching Parliament.' The admiral 'got possession of the magistracy' by bringing pressgangs into the town who kept some of the electors away from the election and overawed others. The rest were bribed, but as the other party was also guilty of bribery the election was disallowed altogether and a poll election took place.<sup>1</sup>

If the burgesses found it difficult to prevent the government of their town from coming into and remaining in the hands of an individual or a clique they had still greater difficulty in protecting their interests from the office holders. The sources of income had greatly diminished in many places, owing to the alienation of property and to the grant of long leases at low rates to the members of the council and to their friends. In Rothesay, where the Earl of Bute's factor had been provost since 1746, most of the good land had been given away at very low rates, and much had come into the hands of the earl, for which he paid £4 7s. 7d. yearly feu-duty. One provost there took a field and kept it without paying rent of any kind, and the same provost gave a corner of ground to a gentleman to 'make him convenient,' and when a complaint was made he swore that 'it was in his power to give all the lands away without asking a question of any person.' From Dumbarton it was reported that all the lands granted in 1609 were alienated for a feu rent of £15, whereas the real rent was more like £1000.<sup>2</sup>

Occasionally appeal was made to the convention, which had formerly tried to insist that the accounts should be submitted to it. The affairs of Burntisland engaged the convention for a long time. The town applied in 1718 for someone to be appointed to look after their common good, as there were no magistrates in the town. Apparently the former magistrates had collected the revenue from 1715 to 1720 and had never made any account of their proceedings, so the convention appointed a committee to examine into all the financial concerns of the town for these years. They found that the accounts were most unsatisfactory and that considerable sums of money were not accounted for at all, and ordered that the town clerk should be suspended from office and that in future the accounts should be stated yearly.<sup>3</sup> The magistrates of some burghs applied to the

<sup>1</sup> Morison, *op. cit.* iii. 1882-3.

<sup>2</sup> Most of these instances are taken from the *Substance of the Reports of the Grievances*. . . .

<sup>3</sup> *Convention Records*, v. 196, 309-10.

convention for authority to alienate or to grant long leases, a permission which was almost always readily given. The commissioners of 1835 said that the assumption of such a power was unwarrantable,<sup>1</sup> but one of the writers on reform in 1787 declared that the convention only meant to give advice, but the magistrates wanted to 'procure a cover for a shameful profusion and dilapidation of the public property.'<sup>2</sup> No reference was made to the convention in two cases about the power of magistrates to deal with the common property of burghs which were brought before the court of session. One of these was brought before the court because the 'low people' of Irvine objected to the magistrates feuing and granting nineteen years' leases of parts of the common muir where they were used to pasture their cattle for a small sum. The lords decided that the magistrates could feu and set tacks for longer than three years, but remitted to the Ordinary to enquire whether such proceedings were advantageous to the burgh.<sup>3</sup> In the other case it was decided that the magistrates of Glasgow could alienate the lands of Provan. In this case the money was to be used for the payment of the town's debts.<sup>4</sup>

But it was also over the expenditure of revenue that supervision was necessary, and there was no machinery ready to supply this need. No jurisdiction over accounts existed in the burghs, and the various attempts of the burgesses during this century to find some central board of control had no success. There was also some doubt whether private burgesses could bring an action against magistrates for maladministration. In a case where some Selkirk burgesses accused their magistrates of embezzlement, the court seemed so unfavourable to their case that it was abandoned.<sup>5</sup> A few years later there was a quarrel in Renfrew, where an action was brought against the magistrates by John Anderson, complaining that they let forty-two acres of a muir of two hundred acres which had been used by the burgesses for pasturage. The convention tried to mediate, but Anderson persisted in his charges, and so the agent of the convention was ordered to concur with the magistrates in defence of the action.<sup>6</sup> The defenders

<sup>1</sup> *Report of the Commissioners on Municipal Corporations in Scotland, 1835*, Introduction, p. 25.

<sup>2</sup> *An Illustration of the Principles of the Bill. . . . For Correcting the Abuses . . . in the Internal Government of the Royal Boroughs . . .* (1787), Appendix.

<sup>3</sup> Morison, *op. cit.* iii. 2522-4 (1752).

<sup>4</sup> *Ibid.* iii. 2525-7 (1768).

<sup>5</sup> *Ibid.* iii. 2515-21 (1748).

<sup>6</sup> *Convention Records* (MS.), 1749, July 22. (City Chambers, Edinburgh.)



questioned the right of private burgesses to call magistrates to account for their administration, but the judges declared that the pursuers had a right to carry on the process.<sup>1</sup> Nevertheless in a later decision the judges said that the burgesses could not call the magistrates to account as they had no such 'patrimonial right in these funds and property' which would give them a right to do so.<sup>2</sup> But whether the burgesses could or could not call the magistrates to account, the power was of little value unless there was some court before which such an action was competent, and in 1771 it was declared in an action against the magistrates of Kinghorn that the court of session had no jurisdiction in 'an action of accounting at the instance of private Burgesses against Magistrates.'<sup>3</sup>

The result of these actions therefore was to show that the power of burgesses to call magistrates to account was doubtful, and that in the court of session no such action was competent. There remained, however, the court of exchequer, which had been the nominally responsible authority for burghal financial administration since the decay of the chamberlain's jurisdiction, and to this the burgesses turned. The appeal to the exchequer was part of the burgh reform movement. This was the most marked way in which the unrest and ferment of the late eighteenth century influenced Scotland. The reform of the manner of election of the burgh representatives to parliament was advocated in Zeno's Letters, which appeared in the Edinburgh newspapers in 1782 and 1783. A convention of delegates from the burghs was first held in 1784, and in the following year a bill was drafted dealing with the election of parliamentary representatives, and another with the abuses in the government of the burghs.<sup>4</sup> All these abuses, said Fletcher, one of the most active of the reformers, arose from the 'inherent vices of a system of self-election of Magistrates and Councils.' The bill provided for annual elections of magistrates, the electors to be resident burgesses, and for the appointment of auditors of accounts in each burgh by the guildry and the trades, with rights of appeal to the court of exchequer.<sup>5</sup> But before the bill came

<sup>1</sup> Morison, *op. cit.* iii. 2539 (1752).

<sup>2</sup> *Report*, 1835, Introduction, p. 29.

<sup>3</sup> *Decisions of the Court of Session*, 1769-1772, pp. 251-8.

<sup>4</sup> See H. Meikle, *Scotland and the French Revolution*, for an account of the whole reform movement in Scotland.

<sup>5</sup> *Heads of a Bill... For Correcting the Abuses... in the Internal Government of the Royal Boroughs...* (1787).

before parliament a test case was brought in the exchequer court, where the burgesses of Dumbarton summoned the magistrates to produce their books and accounts for twenty-five years past, 'seeming to point at an Obligation on the Boroughs to produce their Accompts and Vouchers annually to the Court of Exchequer agreeable to some ancient Acts of Parliament which had gone into Desuetude far beyond the Years of Prescription.' The convention of royal burghs, or the 'convention of town councils,' as the reformers scornfully termed it, declared that the magistrates were answerable to that court for their conduct of affairs, and took upon itself the defence of the Dumbarton magistrates. The lord advocate gave his opinion that the acts on which the pursuers founded their case, those of 1535 and 1693, did not apply, and that the convention had heard complaints in such cases.<sup>1</sup>

Therefore the defence declined the exchequer's right to jurisdiction, and asserted that of the convention.<sup>2</sup> The barons, after a long trial, found that they could not oblige magistrates to account before them for the revenues of the burghs, but the convention's claim was 'reprobated in the strongest manner.' The Lord Chief Baron said that he found no statute giving such a jurisdiction to the convention, and further, that he could not conceive any judicature which would be more improper, and with this opinion the other barons agreed.<sup>3</sup>

The reformers had meanwhile drawn up a statement of their grievances, and now endeavoured to bring the matter before parliament, strenuously opposed by the 'convention of town councils,' which spent considerable sums on its resistance. Sheridan was persuaded to bring forward the question in parliament, but no success followed his effort. Copies of charters and sets of the burghs and statements of their methods of accounting were called for by the House of Commons, and in 1793 a report was drawn up. This disclosed many of the abuses in the burghs, but Dundas had had no difficulty in getting the bill for reform thrown out when it was brought forward again in 1792.<sup>4</sup> He declared that annual elections would 'completely check the honest industry and rising enterprise of the people; it would completely destroy every thing that was great and respectable, every

<sup>1</sup> *Convention Records* (MS.), 1786, July 11, 12; Nov. 24.

<sup>2</sup> *Ibid.* 1787, March 1.

<sup>3</sup> *Illustration of the Principles of the Bill*. . . , App. 4-20.

<sup>4</sup> H. Meikle, *op. cit.* pp. 23-4, 76-7.



excitement to the love of trade and manufactures through the whole of Scotland.'<sup>1</sup> After this failure some of the enthusiasm for burgh reform was absorbed into the general reform movement, and, later, the successes of the revolutionaries in France caused the more moderate reformers to draw back, and brought discredit upon the more zealous, and for a time the whole movement fell into abeyance.

While the war lasted there was no agitation for reform, but soon after the peace the question of municipal government was again brought forward. The guildry of Montrose in 1816 petitioned the magistrates and council for leave to elect their own dean, and for provision to be made for an annual exhibition of the town's accounts. This was granted by an act of council and ratified by the convention, with the addition that the seven trades might elect their two trades councillors. But objection was made to the election under the new set, and this was sustained by the court of session, and the magistracy was declared vacant. The crown thereupon granted a poll election, and also a new constitution which was more liberal than the old.<sup>2</sup> The popular election put into office a more independent magistracy and council. Other burghs determined to try to secure similar advantages, and some attempted to get new constitutions or to find flaws in the elections in order to force the crown to grant warrants for poll elections.

In Dundee, where for several generations some individual or family had been supreme in the council, there was a universal desire for some change. The magistrates feared that they would not succeed in getting such considerable concessions as had been made to Montrose, and so they got from the convention authority to have three out of the twenty-one members of the council elected by the guildry and the trades.<sup>3</sup> The convention also authorised the guildry and trades of Brechin to elect their dean and trades councillor,<sup>4</sup> but a petition from Annan for much more sweeping changes, including yearly election of seven councillors by all the burghesses, was rejected.<sup>5</sup> The affairs of Aberdeen were in great confusion, and the inhabitants hoped that

<sup>1</sup> A. Fletcher, *op. cit.* p. 93.

<sup>2</sup> *Documents connected with the Question of Reform in the Royal Burghs of Scotland* (1819).

<sup>3</sup> *Report*, 1819, p. 31.

<sup>4</sup> *Convention Records* (Mitchell Library, Glasgow), 1820, July 12 (22).

<sup>5</sup> *Ibid.* 1818, July 14 (25).

they might get some control over the administration if they could obtain a warrant for a poll election. An election was declared void, but the government had already regretted its liberality in the case of Montrose, and was determined to go no further on the path of change and progress.<sup>1</sup> Therefore, although forty-five signed a petition demanding that the magistrates should elect their successors, and fourteen hundred asked for a poll election, the demand of the latter was set aside, and the old magistrates elected nineteen councillors and office-bearers, of whom only six would accept office. Inverness and Edinburgh also succeeded in getting their elections reduced, but again the crown refused to grant poll elections.<sup>2</sup> Then these cases were brought before the court of session, the burgesses challenging the right of the crown to grant any other than poll warrants, and the officers of state challenging its right to grant these.<sup>3</sup> The burgesses claimed that according to the original constitution of the burghs the right of election rested ultimately with them. The opposition declared that it was not a question of legal right, but that if the election was not void because of any delinquency on the part of the old magistrates, then they should elect their successors. If, on the other hand, they had been guilty of bribery and corruption, the burgesses should elect.<sup>4</sup>

While these legal proceedings were going on in Scotland, Lord Archibald Hamilton had succeeded, by the narrow majority of five, in getting a committee appointed to examine the Scottish burgh system.<sup>5</sup> The opposition to this proposal was chiefly based on the fear that the agitation for burgh reform was a way of approaching the subject of parliamentary reform. Cockburn says that the news of Lord Archibald Hamilton's victory caused great rejoicing in Scotland, and that Edinburgh 'seemed to have wakened into a new existence, when its civic functionaries were obliged to repair to London, and to open the windows of the council chamber, and let in the light.'<sup>6</sup> The affairs of Aberdeen, Dundee, and Dunfermline were investigated in detail as well as those of Edinburgh. All were in a state of great confusion, and all four burghs were found to be bankrupt. Aberdeen's liabilities were £230,000, and a large part of this had been contracted by forged minutes. In Dundee, Provost Riddoch had so much

<sup>1</sup> Meikle, *op. cit.* pp. 225-6.

<sup>2</sup> *Hansard*, 3rd Series, xxxix. 1276-85.

<sup>3</sup> Cockburn, *op. cit.* pp. 321-2.

<sup>4</sup> *Hansard*, xxxix, 1329-30.

<sup>5</sup> *Ibid.* xl. 178-97.

<sup>6</sup> Cockburn, *op. cit.* p. 323.



power that the town clerk declared that no one could have been elected to the council had it not been understood that he would support that faction, and there were many complaints of neglect of public works and of the want of a public-spirited magistracy. Dunfermline, too, was in the hands of one party, which had contracted debts, over assessed the community, and done very little for the town with all the funds thus raised.

The petitions to the committee came under two heads: complaints of the system of internal government and of the evils which resulted from such a system. There was no lack of evidence to establish the existence of grievances—want of representation of the inhabitants, want of control over expenditure, of power to call magistrates to account, and to dispute illegal elections, etc.<sup>1</sup> The first report was the most sweeping in its condemnation; the committee as reappointed in 1820 had some members who were not of the progressive party, and the third committee (1821) contained more placemen, and the opinion of the chairman, Lord Archibald Hamilton, was disregarded, and a report produced which he considered insufficient.<sup>2</sup> Nevertheless it was evident that radical changes were required. Signs of grace were not wanting in some of the offenders themselves. The magistrates of Aberdeen declared that the system of election and the management of affairs were ‘radically defective and improvident.’<sup>3</sup> Provost Riddoch of Dundee said that an enactment to enable the burghesses of Dundee to choose their own magistrates, would be ‘a very, very great benefit both to the town and country,’ and in other burghs, too, office-bearers were becoming conscious, like Provost Pawkie, that they were ‘raised into public life for a better purpose than to prey upon the leaves and flourish of the commonwealth.’ In some towns, happily, such as Glasgow and Kinghorn, the evils of the system were counteracted by the ‘virtues of individuals.’

The convention was not yet converted, however, for a motion that improvement in the sets of the burghs was desirable, and that the convention should petition parliament in favour of a change, was lost.<sup>4</sup> Still less was the government influenced; the evidence of existing abuses failed to inspire it to attempt to remove them, and the people were thus ‘forced to return to their old bondage.’ Lord Archibald Hamilton’s motion in 1822, that the reports of his committee should be considered with a view to

<sup>1</sup> *Report*, 1819, vi. 3-35.

<sup>2</sup> *Hansard*, 1822, vol. vi. 519-25.

<sup>3</sup> *Edinburgh Review*, vol. ix. 515.

<sup>4</sup> *Convention Records*, 1819, July 14 (39).

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reforming the Scottish system of municipal government, was fruitless. The opposition was based on the assertion that any change would violate the treaty of union and infringe chartered rights, but the real reason for obstruction was the fear that municipal reform would entail parliamentary reform.<sup>1</sup> The only change that was made was by an act brought in by the lord advocate enabling burgesses to make complaints about the management of the funds of the towns to the court of exchequer, and providing facilities for inspection of accounts.<sup>2</sup> The reformers objected to the bill as being very inadequate and leaving untouched the real root of evil, the self-elective principle, and most of the burghs petitioned against it, but it was agreed to.<sup>3</sup> Six suits were brought against magistrates in accordance with the provisions of this act, but only one was successful. In the case brought by the burgesses of Nairn in 1823, the exchequer court obstructed the complainers by insisting that the English rules of procedure and means of proving burgess-ship should be followed, and then gave judgment against them.<sup>4</sup>

But the people were thoroughly awakened to the need for reform, as they showed a few years later during the agitation for parliamentary reform. The Reform Bill, of course, took from the town councils the privilege of electing members of parliament, and they were deprived of their power of choosing their successors in 1833, when the Scottish Burgh Reform Bill was passed, before the report of the Commission on Municipal Corporations was published. Lord Brougham said that the bill had to be passed, because of the impatience of the Scots for reform of their 'frightfully vicious corporations,' compared with which 'the very worst of the English boroughs might be held up as a political prodigy of purity.'<sup>5</sup> This act provided for annual elections of councillors by men with the same qualifications as parliamentary electors, for the annual election of one-third of the councillors, and for the exhibition of accounts for two weeks before the election,<sup>6</sup> and, together with the Reform Bill, it brought to an end a long chapter in the history of Scottish municipal economy.

THEODORA KEITH.

<sup>1</sup> *Hansard*, 1822, vol. vi. 542-5.

<sup>3</sup> *Hansard*, 1822, vol. vii. 1126-8.

<sup>5</sup> *Hansard*, 1833, vol. xx. 563-9.

<sup>2</sup> 3 Geo. IV. c. 91.

<sup>4</sup> *Report*, 1835, p. 30.

<sup>6</sup> 3 and 4 W. IV. c. 76.



## Ancient Munitions Acts

THE Munitions Acts of 1915 and 1916 prohibit the employment of workmen, who within six weeks or other periods specified by the Minister of Munitions have been employed on munitions work, unless such workmen have been certified by their last employer to be free to accept other employment. And the Acts provide elaborate machinery for carrying out this leading provision and for protecting workmen against its abuse. Any person giving employment in contravention of the Act of 1915 is declared by it to be guilty of an offence and to be liable to a fine not exceeding £50.

The freedom of the British Working Man is thus very drastically affected by the Munitions Acts, and the justification of such interference is to be found in the right of the Commonwealth to necessary services on the part of the subject. To many—probably to most of us—this principle and its enforcement by Statute may appear novel and without precedent, and it may be of interest to shew that, in one part of the United Kingdom at all events, the principle and its evolution into Statute made their appearance three centuries ago. In the Auchtenth Parliament of King James the Sext upon the IXth. of Julie 1606, an Act anent Coalyiers and Salters was passed, in terms which bear favourable comparison with modern Statutes, so brief and simple are the terms of this old Scots Act. It is so short that it may be quoted :—

‘OUR Sovereigne Lord, and Estaites of this present Parliament, Statutes and Ordeins that na person within this Realme hereafter shall hyre or conduce any Salters, Coalyiers or Coalbearers, without ane sufficient testimonial of their Maister whom they last served, subscryved with his hand, or at least sufficient attestation of ane reasonable cause of their removing, made in presence of ane Baillie or ane Magistrat of the part where they came fra, And in case any receave, fee, hyre, supplie or entertaine any of the saids Coalyiers, Salters or Coalbearers without ane sufficient testimonie as said is. The maisters whom fra they came, challenging their servants within yeare and day, that the partie whom

fra they are challenged shall delyver them back againe within twenty foure houres, under the paine of one hundreth pounds to be paid to the persons whom fra they passed, and that for ilk person; and ilk tyme that they or any of them shall happen to be challenged, and not delyvered as said is And the said Coalyiers, Coalbearers and Salters, to be esteemed, reput and halden as theives, and punished in their bodies viz: Sa many of them as shall receive forewages and fees And the said Estaites of this present Parliament, gives power and commission to all maisters and awners of Coalheughs and Pannes to apprehend all vagabounds and sturdie beggars to be put to labour.'

This Act was extended and amplified by the Scots Act of 1641 anent Coalheuares which is interesting, as it shews the anxiety of the legislature to prevent the seducing of workmen to leave their employment for better pay elsewhere, a practice which has given a good deal of trouble since the present War began. The Act of 1641, which was re-enacted in 1661, runs as follows:—

#### ACT ANENT COALLHEUARES

'OUR Soverane Lord and estates of this present Parliament Ratifies the ellevinth Act of the eighteene parliament of King James 6 of woorthie memorie made anent Coallheuares and salteres with this addition that becaus Watermene who leads and draves water in the coallheuge head in this kingdome and gaitesmen who worke the wayes and passages in the saidis heughes are als necessar to the owneres and maisteres of the said coaleheuches as the coallheuares and beireres. It is therefore statute and ordeaned That no persone shall hyre or seduce any watermen and windsmen and gaitesmen without a testimoniell of the maister whom they serve under the paines conteyned in the former actes in all poyntes and becaus it is fund by experience that the giveing of great fees heathe beene a meane and way to seduce and bring coallheuares from their maisteres. It is therefor statute and ordeaned that it shall not be lafull to any coallemaisteres in this Kingdom to give any greater fee nor the soume of twentie merkes in fee or bounteth under any cullour or pretext and because the saidis coallheueres and salteres and otheres workemene in coallheuches within this Kingdom doe ly from ther worke at Pasch Yule Whitsonday and certane other tymes in the yeer which tymes they employ in drinking and deboishrie to the great offence of God and prejudice of ther maister. It is therefor statute and ordeaned that the saidis coallheueres and salteres and otheres workemene of coallheuches in this Kingdom worke all the sex dayes of the week under the paines followeing That is to say that every coallheuer or salter who lyes ydle shall pay twentie shillings for everie day by and attour the prejudice susteened by ther maister and other punishment of ther bodies'

Salus Reipublicae Suprema Lex was, it will be seen, a maxim approved of in the seventeenth century, and we are merely



re-opening old wells when we recognize it in the twentieth and write it at length in our Statute Book.

The Scots Acts quoted remained in force till 1775, when they were modified and they were finally abrogated in 1779, but, before this, colliers and salters were by the Common Law of Scotland *adscripti* to the collieries and saltpans at which they worked, being in the eye of the law 'necessar' servants 'whom the law obliges to work.' Their status was analogous to that of the *adscriptitii* of Rome and the agricultural serfs of England, and it attached to any children of either sex who began work in the colliery at which the father was employed. Though colliers were only bound to the colliery at which they worked and could not be transferred at the end of a lease, nor when the coal failed transferred to another coalmaster, their condition was servile, and colliers were expressly excluded from the benefits of an Act of 1701 for preventing wrongous imprisonment. But the Burgesses of Rutherglen failed in 1747 to convince the Supreme Court of Scotland that colliers were *ipso facto* disfranchised, on the ground that they were too much under the power of the coal master, who could make them work six days a week and so prevent their voting—the other parties to the case triumphantly pointed out that soldiers were under the same disability.

It is a far cry from the Act of 1606 to the Eight Hours Act and the Munitions Acts, but human nature and the blundering body politic remain much the same. 'Plus ça change plus c'est la même chose.'

ALLAN F. BAIRD.

## Reviews of Books

THE SCOTTISH FRIEND OF FREDERIC THE GREAT, THE LAST EARL MARISCHALL. By Mrs. Edith E. Cuthell. Two vols. Vol. I. x, 312, with 17 illustrations. Vol. II. x, 321, with 17 illustrations. Demy 8vo. London: Stanley Paul & Co. 1915. 24s. net.

THIS book does not 'put its best foot foremost.' The first two chapters profess to contain an epitome of the family history of the Keiths, but they are full of errors, and the different members of the race are mixed up in an appalling fashion. There is no excuse for this, as the author, with very little trouble, could have got a perfectly coherent and correct account in many books of reference, such as G. E. C.'s *Complete Peerage*, or the more recent *Scots Peerage*. The old tale of the granting of the family coat-of-arms by Malcolm II. in 1010 is given, the fact being that arms were quite unknown in Scotland at that period. The Keiths, too, had nothing to do with the Clan Chattan, but took their name, as is correctly stated on page 2, from the lands of Keith, in Midlothian. To point out all the errors in these unlucky chapters would exhaust more space than can be spared, but as an example one sentence may be quoted: 'In 1358 in the reign of David I. Sir William, or Hervens, the fourth Grand Marischall, son of Warin de Keith, was ennobled as Earl Marischall and Baron Keith. He acquired from Lord Lindsay of Byres in exchange for Fifeshire property, the rock of Dunottar.' Admitting that 1358 and Hervens may be mere typographical errors for 1458 and Herveus, Sir William, who was created Earl Marischal in the year last mentioned, was not the son of Herveus, but of a Sir Robert Keith, and it was not he, but his grandfather, another Sir William, who acquired Dunottar, not from Lord Lindsay of the Byres, as that title was not created till 1445, but from Sir William Lindsay in 1392. Herveus was not the fourth Grand Marischal, for though he no doubt held that office himself, his authentic ancestors have still to be found. There was no 'Warin de Keith'; a 'Hervi son of Warin' witnessed an Annandale charter of 1124,<sup>1</sup> but he has not been identified with that Herveus who is said to have got the lands of Keith from David I.

The book improves when once we get started on the history of the Earl himself; the date of his birth is given as 2nd April, 1686, but he did not enter Marischal College till 1708, when he would, according to this statement, have been twenty-two, much too advanced an age at which to

<sup>1</sup> *Nat. MSS. of Scotland*, i. No. xix.



begin college in those days. It is more likely that he was then about fourteen, which would make him born in 1694. It is, in fact, impossible that he could have been born in 1686, as his mother, a daughter of the Earl of Perth, was then only eleven years of age. His sister Mary, afterwards Countess of Wigtown, who was next him in the family, was born in 1695, and his grandfather, the Earl of Perth, writes in November 1694 to the effect that Lady Marischal had written to him 'that her son Lord Keith looked like a spright for smallness and littleness.' The presumption, therefore, is that he was at this time a mere baby.

Young men were launched on the world at an early age in those days, and Lord Keith saw service in Flanders with Marlborough and Ormonde, becoming a Lieut.-General before he was twenty-five. But after the accession of George I. he resigned his commission and felt bound to join Mar in his rising of 1715. He took a leading part in that ill-fated and mis-managed expedition, and when the Chevalier escaped he remained behind and had a pretty poor time of wandering in the Highlands. At last he found himself in Paris, a proscribed and attainted man. He was in the Jacobite 'attempt' of 1719, and after the battle of Glenshiel again escaped to Paris. He now appears to have spent some years in Spain, amusing himself with reading, shooting quails, and enjoying the sunshine and warmth, which always seem to have appealed to him. He was however still engaged in Jacobite plots, and it was not till 1754 that he finally broke his connection with the exiled prince. Meanwhile, attracted largely by the fact that his brother James was a Field Marshal in the service of Frederic the Great, Marischal went to Berlin and commenced that friendship with Frederic which is reflected so illuminatingly in the letters quoted in these volumes. The King respected and liked both the brothers, and their affection and loyalty to him lasted to the end of their lives.

The brothers themselves were devoted to each other, though they did not live together at Berlin: on the one side the Field Marshal's handsome Finnish mistress, Eva Marthens, was rather jealous of the affection of the Earl for his brother, and on the other, Marischal himself had a curious establishment, consisting of some faithful Oriental servants he had picked up on his travels and military expeditions, and a little Turkish girl who had clung to his stirrup at the sack of Oczakow, and who remained a faithful friend to him all his life. She refused his offer of making her his mistress or wife, it is not clear which, and was, as a middle-aged woman, married to a M. de Froment, whom she ultimately divorced and came back to her old guardian, dying in 1820, when nearly a hundred years old. In 1754 the Earl was appointed Governor of Neuchatel, hardly perhaps an ideal position for a man of his culture and abilities. But it was something to live for and on, and he did duty there till 1763, when he resigned and made his home at Potsdam for the rest of his life.

He was a charming letter writer, and among his correspondents were many of the most brilliant persons of his time. He was intimate with such different people as Rousseau, Voltaire, and David Hume, and there are many letters to distinguished women like Elizabeth, Empress of Russia, and Elizabeth of Parma, Queen of Spain. They all evidence a cultured,

calm and kindly mind ; he was interested in philosophy, literature and art, and discusses wine with the knowledge of a connoisseur.

We get interesting glimpses of his celebrated brother, the Field Marshal. It is a pity that Mrs. Cuthell did not apparently get access to the Keith MSS. in the Hanover Archives, or failing this, that she did not consult the report on these papers made in 1898 to the New Spalding Club by Professor Rait. She would have found there much curious matter, including a letter from Keith giving an account of his relations with the Empress of Russia, in which he says that she had determined 'to raise me to a height which would have been both my destruction and her ruin, of which she was soon convinced—even the day after my departure, when she but barely intimidated her design.' If this means that Elizabeth would have married Keith, one cannot but commend his good sense in leaving Russia and refusing a position which would have been quite impossible. But there is no doubt from the evidence of the Queen's own letters that she was very fond of Keith.

Mrs. Cuthell may be congratulated, notwithstanding the animadversions made above, on having produced an interesting book, and one of real value to the student of history. She duly acknowledges, in her last page, the help she has got from the owners of the different letters and other persons, though Mr. W. Dickeson, the editor of the Scottish History Society's volume on the 'Jacobite Attempt of 1719,' will hardly be recognized as Mr. W. K. Dickson, the genial keeper of the Advocates' Library. It would have been better too, we think, had the *provenance* of the various letters been indicated in footnotes, and also the authority for the quotations given.

The title is spelt 'Marischall' throughout the book. No doubt spelling was a very arbitrary matter in old days, but 'Marischal' is the more usual, and certainly the official spelling, as may be seen in the Register of the Privy Council and in the Acts of Parliament. The numerous illustrations are of varying degrees of merit : the portrait of the tenth Earl Marischal, excellently reproduced as a frontispiece, is said to be the work of J. B. St. Loo ; it has, however, been elsewhere attributed to Pierre Parrocel.

J. BALFOUR PAUL.

THE BALKANS: A HISTORY OF BULGARIA, SERBIA, GREECE, RUMANIA, TURKEY. By Nevill Forbes, Arnold J. Toynbee, D. Mitrany, D. G. Hogarth. Pp. 407. With three Maps. Crown 8vo. Oxford: Clarendon Press. 1915. 5s. net.

THIS is a concise history of these nations from the earliest times down to the eve of the Great War. Up to within a very recent date the Balkan States excited very little interest in this country. We occasionally shuddered over a more than ordinary massacre, and were inclined in a vague way to attribute their evil condition to the Turks. Then came the Balkan wars, followed by what appeared to be a settlement of their disputes at a meeting of the Great Powers in London. And now matters are worse than ever, with these very Powers using the states as pawns in a contest compared with which all previous wars seem trifling. Bulgaria, Serbia, and Rumania are more than mere names to us now.



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In their preface the authors say, 'If our sympathies are not all the same, nor given equally to friends and foes, none of us would find it possible to indite a hymn of hate about any Balkan people. Every one of these peoples, on whatever side he is fighting to-day, has a past worthy of more than our respect, and interwoven in some intimate way with our history.' If this story is largely one of wars and insurrections, and if the civilization of these races has been kept back, it is not altogether their own fault. The Turk 'literally overlaid the European nationalities of the Balkan peninsula for five hundred years. To their rule these subject states were expected to submit, but as they never to any extent embraced the Faith of their conquerors, anything like a harmony was impossible.' 'To the races they conquered,' say our authors, 'the Turks offered two alternatives, serfdom or Turkdom, those who could not bring themselves to embrace either of these had either to emigrate or take to brigandage and outlawry in the mountains.' Both courses have been followed largely, but it can hardly be said that Christianity in the Balkans has been presented in a favourable light, and the Turk had some excuse for pointing with contempt to the petty quarrels between Orthodox and Catholic, which were doubtless fomented from outside.

There are facts in these records of the past which throw light upon the present position of affairs, upon, for example, the dislike of Greece for Bulgaria, the rival interests of the latter and Serbia, and the influence of Russia upon Rumania and Montenegro. It is curious to note that at one time Austria made use of Serbia in an attack upon their common enemy the Turk. Nevertheless the Serbs have no reason to love the Austrians.

We would call special attention to the chapters upon Rumania and the present war, and upon Turkey. In the latter the origin of the Osmanlis, the expansion of their Byzantine empire, its subsequent shrinkage and still later revival, are dealt with; as also the problems which the future alone can solve. One good reason for the position which Turkey has now taken up lies in the fact, here pointed out, that she is fighting two of her principal creditors, who will be free to foreclose should the Central Powers fail. The maps will be found useful.

W. G. SCOTT MONCRIEFF.

LETTERS RELATING TO SCOTLAND IN THE REIGN OF QUEEN ANNE. By James Ogilvy, first Earl of Seafield, and others. Edited by P. Hume Brown, M.A., LL.D., Fraser Professor of Ancient (Scottish) History and Palaeography, Historiographer-Royal for Scotland. Scottish History Society, Second Series, Vol. XI. Pp. xxvi, 211. Demy 8vo. Edinburgh: Printed by T. & A. Constable. 1915.

To those familiar with the North of Scotland the name of Lord Seafield suggests the leadership of the great Clan Grant, whose castle in the pine forests of Strathspey overlooks a wide territory of moor and mountain, not to speak of the richer lowlands that own its sway; but the name, in Scottish history, has other associations, for it was only in 1811 that the Grants became possessed of this title which had hitherto been in the family of Ogilvy of Deskford, the Lords Findlater, who, in the person of the author

of these letters, became Earls of Seafield. The person who was thus distinguished was a very remarkable man—not of a formidable or obtrusive character—but a man of infinite patience, tireless tact, and consummate devotion to the great duties which it fell to him to perform as Chancellor of Scotland under Queen Anne. His portrait, which we can see in a former volume of the Scottish History Society, is what we should expect, that of a man intellectual and good natured, with a good deal of dignity, and not wanting in strength.

This Lord Seafield has been of late done justice to, so far as the publication of his letters is concerned. The third volume of the second series of the Scottish History Society contains a great mass of letters written by him, and to him, by a great variety of persons—a further volume is promised—and meantime we have this collection made by the skilled and careful hands of Professor Hume Brown. The period is that of the Union, 1702 to 1707, and it throws a good deal of light on the confused and somewhat puzzling politics of that interesting crisis. It shows us from within—for most of the letters are of a confidential character, written to Godolphin—the way in which the various parties in Edinburgh were played against each other, or in support of the Government, and through them runs the haunting chorus, repeated in almost all of them, of Seafield's devotion to his great task and to his Sovereign's service. There is something almost pathetic in the way he repeats the assurance of his constancy. It had its reward. The Union was carried, and what is of even greater moment, a conflict was avoided between two nations which would have been a fratricidal calamity of the most terrible kind, the effects of which we might, even now, have been mourning. In the year 1704 the relations between the two parts of the kingdom were very strained, but the Act of Lord Somers, proposing to treat the Scots as aliens, had, fortunately, a very brief existence on the Statute Book. Its obnoxious clauses were repealed in the following year. The credit of the success of the Union, not only at the time, but in after years, lies largely with those who were wise enough to avoid religious difficulties by securing to each kingdom its own form of Church government. One may, or may not, agree with Lord Macaulay's phrase, 'The nations are one because the churches are two'; but there is little doubt that it was a wise and politic thing to avoid, at the beginning of the eighteenth century, any attempt to force the church polity of one country on the people of the other.

The letters of Seafield cannot be said to present much in the way of literary style or interest. They are too much concerned with the necessities of the moment and the perplexities of the political situation for that. Along with them there might be read with advantage such a record as is contained in another of the Scottish History Society's publications, *Clerk of Pennycuik's Memoirs*, a book which covers the same period and contains many personal and picturesque notes of persons and incidents concerned in the Union debates. Clerk himself was one of the Commissioners for Scotland in 1706, and he describes their deliberations, and particularly, contrasts the final speech of Lord Seafield, in presenting the subscribed Articles to Queen Anne, with that of the Lord Keeper, who seems to have



made rather a poor appearance. Another document which throws light on the times is the recent article in the *Juridical Review*, for last October, on *The Toll of the 'Speedy Return'* by Mr. Roughead. That incident is of picturesque interest, but does not tend much to the credit of the Scottish administration of the time. The other letters and papers in this volume are very interesting, perhaps the most attractive being that by Lord Tarbat on 'the present state of the Scots divisions.'

It is impossible in a few sentences to enter on the particulars of the great struggle, but we commend this volume to those whose studies lie in that direction as a most ably edited document of national importance.

DAVID J. MACKENZIE.

ANNUAL REPORT OF THE AMERICAN HISTORICAL ASSOCIATION FOR THE YEAR 1913. 2 vols. Vol. I. pp. 434. Vol. II. pp. 539. With two illustrations. 8vo. Washington. 1915.

THE quality of any historical Annual varies from year to year in America as here. But the size and comprehensive character of the contents give additional chances of value in at least certain of the contributions. The issue for 1913 exhibits the curve of general interest as less in the ascendant than in recent previous volumes. Certainly the themes are diverse enough. Historical archives, frauds in portraiture, and English reaction against *laissez-faire* make good subjects of limited scope. Purely American matters, like 'Charleston during the Civil War' and the 'Bombardment of Fort Sumter, 1861,' appeal to the student always ready to sniff the battle from afar. The last-named paper, by Mr. O. L. Spaulding, Jr., gives a detailed narrative with much official and technical fact regarding the armament both of the fort and the Confederate batteries which reduced it.

As becomes the Association, its Annual gives prominence to pedagogic aspects of history. 'Pessimism,' says Mr. C. W. Alvord, 'is almost inevitable to one who examines the publications of our historical bodies.' This is a confession which gives room for reflection, perhaps for second thoughts, as one turns from the first multifarious volume of this Annual to the specialized and solid second volume, which is a careful edition of a mass of letters by and to James A. Bayard, born in 1767, admitted to the Philadelphia bar in 1787, elected to the House of Representatives in 1797, and a peace commissioner to Europe in 1813, returning from England only to die in 1815. A large appendix to these letters, mainly on public affairs, is Mr. Bayard's European Diary from May, 1813, until November, 1814. British readers will turn with interest to the projected conquest of Canada in 1812, to the account of the diplomatic negotiations of 1813 about 'Impressment,' the employment of British seamen on American ships, to the Napoleonic wars in general, and especially to the full diary of Bayard's journey to St. Petersburg and his experiences in Russia in 1813-14. Personal matter concerning Napoleon is scarce, but the following passage regarding an exhibition in the Russian capital will arrest attention:

'There were many views of scenes which had occurred at Moscow after it had been taken by the French. These were designed and calculated to excite national feeling. You saw the Peasants falling and expiring who

had been shot in the streets by order of Bonaparte. The Priests on their knees and the French soldiers tearing their crucifixes from their bosom. Infants trampled under foot. One piece of great size represents Bonaparte flying from Moscow in the form of the Devil. The Painter has dressed him like a little Frenchman with talons to his feet but no tail . . . In the background is the Town in flames. In the front Moscow is represented as a female figure leaning on an altar surrounded with flames and plunging with her own hand a dagger into her bosom. The head of Bonaparte is turned round towards the scene in his flight with a most diabolical scowling visage . . . I saw many Russians gazing at the picture with great apparent satisfaction.'

Bayard visited London in 1814, but his diary of the reception of Louis XVIII. is featureless even when he dines with Brougham or attends 'a route at Madame de Stael's.' An excursion he made to Ireland the same year gave him chiefly an impression of the 'state of starving misery' and 'filthy modes of existence' there.

The prelude to the St. Petersburg journey was an adventurous voyage from the States across the ocean round the Orkneys into the Baltic as far as Revel, whence the journey was completed by land. On his return Bayard left St. Petersburg on January 25, 1814, arriving over-land at Berlin on February 21 and Amsterdam on March 5. Unfortunately mere jottings appear to have been made of the way through the Prussian, Hanoverian and Dutch territories or the record might have presented more numerous points of comparison with William Anderson's 'Narrative' of his journey to Dresden in early summer of the same year.<sup>1</sup> Although the American traveller, already in ill-health, could not record his observations with the zest exhibited by Anderson, his diary furnishes, as such writings seldom fail to do, its quota of historical and personal interest. Bayard's papers have been excellently edited by Elizabeth Donnan, who has added a large body of footnote information and has prefixed a capable but brief biography. These editorial aids are well done, and a full index completes the equipment of what can hardly fail to prove to be a standard, if secondary, source of European as well as American history.

GEO. NEILSON.

THE REGISTER OF ST. AUGUSTINE'S ABBEY, CANTERBURY, COMMONLY CALLED THE BLACK BOOK. Edited by G. J. Turner and Rev. H. E. Salter. Part I. Pp. xlv, 377. 8vo. London: Published for the British Academy by Humphrey Milford, Oxford University Press. 1915. 16s. each.

In the Rolls Series there were issued several cartularies and registers of the utmost importance as documents for the social and economic history of England; but, valuable as the publications were, they represented only a fraction of a great store. The discontinuance of the Rolls Series, owing to the demands of the various calendars undertaken by the English Record authorities, and the non-existence of any private society or club capable of multiplying such publications in a systematic way, have prompted the British

<sup>1</sup>S.H.R. xi. 376; xii. 388.



Academy to adopt the enterprise as 'a great national undertaking, which at the same time would be highly appreciated by scholars abroad.' An excellent committee, with Professor Vinogradoff as director of publications, is a sufficient guarantee that the Parliamentary grant in aid will be wisely spent and the materials chosen with the best judgment.

It may be permissible in the *Scottish Historical Review* to remark that the Rolls Series was intended to comprehend Great Britain and Ireland within the scope of its contents. Scotland, partly owing to the activities of her historical clubs or the comparative dearth of matter, and partly because those in charge of the Series could not be expected to contemplate Scottish history from any but the English point of view, did not cut much of a figure. We became, in fact, the proud possessors of a metrical version of the history of Hector Boece! Now we have the *British Academy* undertaking with Government subsidy 'Records of the Social and Economic History of England and Wales.' There can, of course, be no question of the preponderant importance of the early English records from the point of view of the European scholar; and the purely Scottish historian will no doubt benefit, if indirectly. But there is publication work still to be done in Scotland which cannot be performed under the direction of the Deputy Clerk Register and with the means at his disposal, or by such a body as the *Scottish History Society*, which has to consider the tastes of the average member as well as the interests of the historical expert. Any reasonable Scot will grant at once that in this matter England is the predominant partner; yet he would humbly submit at least the fact of his own existence. This is to put the case politely; irony is out of place.

Of the six volumes in the advertised programme of the British Academy the present is the second: the remainder of the Register of St. Augustine's is reserved for Vol. III. The editors explain that 'the damaged state of some portions of the text has been a source of trouble,' and that, 'owing to the nature of the writing, the correct reading of many of the proper names is doubtful.' They have therefore been wise in postponing reconsideration of these difficulties till the compiling of an index to the whole gives full opportunity for comparative examination. On the same principle, sections of the Introduction which are essential to the understanding of the contents will appear in the second part, as well as a glossary of the obscure words and technical terms. The absence of these explanatory aids from the present instalment, while it will enable the editors to give a fully considered view of the whole Register, makes a reviewer hesitate to deal with any matters of detail, especially if he has no first-hand acquaintance with the peculiarities of the terminology.

The first section of the Introduction—the only section incorporated in this volume—concerns the estates of the Abbey. Mr. Turner, who is the writer, explains that the Register, commonly known as the Black Book and preserved in the Cottonian collection, was for the most part compiled towards the close of the thirteenth century, with entries subsequently interspersed or added. The second and smaller portion of the MS., to the printing of which we look forward, contains the legal title deeds of small properties acquired after the Norman conquest. The present portion is of

the nature of a rental-book, in which are included a few charters and ecclesiastical writs.

Though the Register contains no copies of the earlier charters and the primary object of the publication is 'the elucidation of the legal and agrarian institutions of Kent,' Mr. Turner rightly contends that the history of the acquisition of the estates is indispensable to the understanding of certain institutions in the county. With one exception the most important lands 'had been in possession of the abbey for more than two hundred years before the customaries in the Black Book were written. It is for this reason that the long series of Kentish charters . . . requires consideration. It claims a place in any investigation of the peculiarly Kentish measures of land known as the *sulung* and the *yoke*, or in such rights in the woods as *danger* and *drovedene*, which are not found in other counties: but they cannot be used for such a purpose unless it be clear that they are untainted by forgery and in the main authentic documents, though disfigured here and there by careless copying and well intentioned but unscholarly emendation.'

In discussing questions of authenticity—there was a destructive fire in 1168—Mr. Turner is more conservative than Kemble, who in the *Codex Diplomaticus Aevi Saxonici* accepted only a dozen of the charters as above suspicion, and he points out the absence of any ascertained motive for forgery. 'The production of an early Saxon charter would be of little avail in an action for the recovery of land or franchises after the Norman conquest.' Gervase of Canterbury suspected a charter by Ethelbert I. of Kent partly because it was unsealed. Though we may know better, it is possible that we have not divested ourselves of all prepossessions; and the lack, at the time, of any certain device to establish the authenticity of early charters suggests Mr. Turner's doubt 'whether the Saxon lawyers specially insisted upon the careful preservation of the earliest charters, or whether their grantors seriously contemplated their future production in the course of litigation.' The very defects of the extant copies, and the difficulties and obscurities which they present, lead Mr. Turner to conclude that they are based upon genuine originals. Rejection of them as forgeries 'would raise a host of new and not easily explained difficulties.' A curate once maintained that inconsistencies in Scripture should serve as 'a stimulus to our Christian ingenuity.' Mr. Turner's attitude is similarly conservative, but conservative after criticism.

The reviewer is not in a position to say whether a map or diagram of the estates is feasible, or whether some such aid will accompany Part II. At all events any reader who does not know the localities would find diagrammatic help invaluable. Every student of such economic documents is at once concerned with the matter of distance as it affects administration; and an editor who has necessarily studied the topography is best able to furnish the requisite data. In the meantime the remainder of the text and Introduction will be awaited with interest.

R. K. HANNAY.



## Music and Musical Instruments of the Arabs 291

THE MUSIC AND MUSICAL INSTRUMENTS OF THE ARABS. With Introduction on How to Appreciate Arab Music. By Francesco Salvador-Daniel. Edited with Notes, Memoir, Bibliography and thirty Examples and Illustrations by Henry George Farmer. Pp. x, 272. Crown 8vo. London: William Reeves. 1915. 5s. net.

THE author of the original work came of a Spanish family whose chief characteristic appears to have been a passion for music and revolution. His father, having taken the side of Don Carlos, lost his estates, and, having, like his master, retired to France and settled at Bourges, he became organist of the cathedral and professor of music there. His eldest son Francesco had been born in Paris in 1831. In 1843, when the family left Bourges, he found his way to Paris, where he managed to make a subsistence by his musical talents. Eventually he came under the influence of Felicien David and determined to follow up his example by making a study of the native music of North Africa. He was about twenty-two years of age when he removed to Algiers, and after some years spent in travelling and studying in Algeria and the neighbouring countries, he published the results of his investigation in book form at Algiers in 1863 under the title, *La Musique arabe ses rapports avec la Musique grecque et le chant grégorien; et Essai sur l'origine et les transformations de quelques instruments*. This is Salvador-Daniel's contribution to the history of music, and it is acknowledged, by those who have a right to pronounce an opinion, that it is authoritative in its own particular department. Of this essay an English translation is given in the present volume. The conclusion arrived at by the author is that the statement so often made, that the peculiarity of Arab music is the division of tones into thirds, does not hold good of the Arabs of North Africa. It must be confessed that to the average European their music is anything but musical, as is proved by the disparaging remarks of many travellers about it; but this is largely due to the fact that the European has been trained to regard a limited number of notes only as musical, whereas the Oriental singer employs an endless number of sounds. On the other hand the Moor or Syrian or Egyptian cannot appreciate Western music, because he has no idea of harmony, all his music, even instrumental, being sung or played in unison. The author believes that in music as in the other arts and sciences the Arabs took from the Greeks what they handed on to Western Europe.

The editor's contribution to this volume comprises a memoir of the author, the translation of *La Musique arabe*, a series of valuable notes upon the subject of the essay, a short bibliography and an index. The work claims to be the first book on Arab music published in the English language. It will doubtless be welcomed by many readers.

T. H. WEIR.

SANDFORD FLEMING: EMPIRE-BUILDER. By Lawrence J. Burpee. Pp. 288. With 17 Illustrations. Demy 8vo. London: Humphrey Milford, Oxford University Press. 1915. 10s. 6d. net.

ALL the latter day empire-builders are famous for their conception of great arterial railways as a means of progress and development. Not the least famous of these is Sandford Fleming, the Canadian. This book tells the

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story of the work and life of a Fife lad who at the age of eighteen sailed from Glasgow in 1845 to push his fortunes in Canada, and there rapidly made a name for himself as a civil engineer on the Intercolonial and Canadian Pacific railways.

Fleming was a man of extraordinary physique and mental vigour. For five years he acted as chief engineer of both railways, and went through many hardships in finding and surveying practicable routes through the Rockies. But his work and interests were not confined to railway building. To him belongs the credit of founding the Royal Canadian Institute. His work on the Pacific cable and an All-Red British-owned cable system is well known. He was tireless in promoting the movement for a standard time, and his later years were filled with the project of an imperial intelligence service, which the war may now stimulate. From 1880 till his death last year at the ripe age of eighty-eight he was the constant benefactor and Chancellor of Queen's University at Kingston.

An amusing incident, illustrative of Fleming's resource and indomitable character, was his attempt to hoist the British Flag on an unclaimed Pacific island as a halfway station for the Pacific cable, which is told in the romantic chapter entitled 'A Diplomatic Mission to Honolulu.' It was not his fault that Fanning Island had ultimately to be adopted. Some interesting accounts of his rare visits to Europe are given from his diaries. When in Glasgow in 1863, a little boot-black attached himself to him and showed him all the sights of the city, and they breakfasted together in a 'Corbett's eatin' hoose,' one of the coffee shops for the benefit of working men, then lately established by the philanthropic father of Lord Rowallan.

Mr. Burpee has written a pleasant and most interesting account of the work and varied interests of a remarkable man. Each chapter, as we learn from the preface, was read by Fleming as it was completed; large extracts are made from his diaries and published papers, of which a list is given occupying four pages of print. The book is illustrated with portraits and some reproductions of Fleming's drawings, and excellent photographs of Canadian scenery. There is a sufficient index.

ROBERT LAMOND.

PAPERS RELATING TO THE SCOTS IN POLAND, 1576-1793. Edited, with an Introduction, by A. Francis Steuart, Advocate. Publications of the Scottish History Society. Volume LIX. Pp. xxxix, 1915. Demy 8vo. Edinburgh: Printed at the University Press by T. & A. Constable for the Scottish History Society. 1915.

THE original documents published in this volume have been collected and in part edited by Miss Beatrice Baskerville. They consist of Royal grants, chiefly to members of a company of eight Scots merchants attached to the Polish Court; a list of Scots admitted to the Citizenship of Cracow, with evidence regarding their parentage; miscellaneous extracts and letters relating to Scots in Poland; the original records of the Scottish Brotherhood in Lublin, to which Miss Baskerville's Introduction is prefixed; and papers relating to funds and bequests founded by Scots in Poland.



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Miss Baskerville, who has ransacked hundreds of registers and records, but whose attention the war has, for the time, turned to another Slavonic field, suggests that records of our countrymen may yet be found hidden in the manors and presbyteries of Poland and Lithuania, and in 'the wonderful library of the Zaluskis,' carried off by Cossacks from Warsaw, and still lying in Petrograd unexplored.

She speaks of 'the handful of Scots... who once sought shelter and livelihood, sometimes a competence, in the Polish Republic.' Mr. Steuart, in his learned general introduction, quotes evidence for very great numbers, including the chief bankers and foreign merchants and ubiquitous pedlars. Sir John Skene saw 'ane great multitude' of Scottish bearers of the pack or crame in the town of Cracovia in 1569. Fynes Moryson writes in 1598 that the Scots lived at this time in these kingdoms in great multitudes. William Lithgow, who travelled on foot through Poland in 1616, says he found there, besides the great yearly influx of young Scottish adventurers into the country, 'thirty thousand Scots families that live incorporate in her bowels.' The 'multiplicities' of Scots in Poland at the beginning of the seventeenth century seem to have been notorious. Already, in the middle of the sixteenth, they were so numerous as to provoke hostile legislation.

The majority were poor. Lithgow speaks of Poland 'cloathing, feeding and enriching them.' Fynes Moryson, while he bears testimony to the fact that the Poles surpass all men but the Saxons in their drinking powers, says that 'no country in Europe affoordes victuals at a lower rate' than theirs. He cites 'the poverty of their owne kingdome' as a motive which made the Scots 'flocke in greate numbers into Poland.'

'The fair land of Poland' extended from Silesia to Smolensk, and from the Baltic nearly to the Euxine. Scotland, like other poor countries, was prolific. Poland offered a career, warlike or mercantile. Scotland furnished both fighters and traders. Young Gordons, Murrays and Stuarts found employment for their swords among a class congenial in tastes and ambitions, and often in their Catholic religion, who disdained trade. But others of a different temper flocked also to a country whose people consisted of military and ecclesiastical nobles and 'ruvidous' agricultural serfs. Commerce did not suit the Slav. It was left to enterprising Jews, Germans and Scots. Among these for a long time the Scots were predominant.

Mr. Steuart and Miss Baskerville give much information about the Scottish soldiers of fortune who fought for or against Poland, and sometimes, with gay impartiality, did both alternately. General Patrick Gordon of Auchleuchries, in Aberdeen, served in turn with the Swedes against the Poles, with the Poles against the Russians, and with the Poles against the Swedes, and died, full of honours, in the Russian service. Miss Baskerville contrasts the plodding Chalmerses, Davidsons and Tamsons with the Gordons, Stuarts and Murrays, whom she sees of 'very different mettle from those who have left their records in the Green Book of the Lublin Brotherhood,' and 'looking down on the traders of Lublin, Cracow and Warsaw, as did the Polish nobility.'

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But it is with the trading Scots that the records here published have almost entirely to do. And there are Gordons too, and Ogilvies, Lindsays, Dundases, Keiths, Auchenlecks and Spenses among the Tamsons, Skots, Ritchies, Hewiesons, Andrew the lacemaker, John the gilder and Martin the barber of the Lublin Brotherhood. Its accounts are kept in some detail. It gave many donations to needy countrymen, and it paid its pastor 300 florins a year, and sometimes even more, with fair punctuality. The cost of building the Brethren's House at Zmigrod was 2542 florins, of which about a third was subscribed by various brethren 'of their piety.' 'The Honest Mr. George Ross' and 'The Honest Mr. Daniel Gregory' advanced 800 florins each, at ten per cent. interest, receiving respectively the stable with the coach-house and the wooden granary, and the large stable with the brick granary, at a rent equivalent to the interest. The Honest (and cannie) Mr. Daniel Gregory, 'with God's Help,' took charge of the work, and in his accounts we have the prices of planks, beams, rafters, nails, hinges, sand, bricks, iron, tin and other material, besides the weekly wages paid to master masons and carpenters and their apprentices and helpers, and the exact cost of the brandy and beer supplied to every one of them every day. The record is at first in English, but afterwards falls into Polish, and sometimes even German. Chalmers becomes Czamer, Lindsay turns into Leneze and sometimes Lintza, and so on. Scots marry Polish women, and their children receive Polish Christian names. Many Poles and Germans, and, if such surnames as Nathan and Schaubrodt may indicate Hebrew blood, Jews also are admitted to the Brotherhood. But they all subscribe to the salary of the Protestant pastor.

The Royal grants show that, of the eight Scots merchants attached to the Court, several were ennobled and promoted to high office in the King's service, in some cases still retaining their membership in the Company of Eight, in others resigning it in favour of a son, or another 'honourable' Scot, but always under the Royal warrant.

The whole collection of documents is of varied but always genuine interest, and justifies the expressed design of the Scottish History Society that the historian may 'draw on and excavate from it as from a wealthy mine.' The recensions and translations of the difficult Polish-Latin have been done with conspicuous success by Mr. J. Mackay Thomson. The publication of the volume has been unavoidably delayed, but it will be found just now opportune.

ANDREW MARSHALL.

EIRSPENNILL—NÓREGS KONUNGA SÖGUR. Kristiania. 1915.

THIS is the third part of the series of *Sagas* of the Kings of Norway, in the original Icelandic, or Old Northern, tongue, now being issued by the Norwegian Historical Manuscripts Commission, under the editorship of Herr Finnur Jónsson, of which previous issues have from time to time been noticed in this *Review*. The present is a continuation of the *Saga* of the wily and valiant King Sverri Sigurdsson, who was born in the Faroe Islands, and whose turbulent reign extended over the closing years of the



twelfth century. The Eirspennill Codex (No. 47 of the Arna-Magnæan Collection at Copenhagen) is one of the four ancient MSS. containing this Saga, and has been regarded by Dr. Vigfusson and other scholars as having been written near the close of the thirteenth or in the beginning of the fourteenth century. The text, collated with the other MSS., and with contractions rendered in full, agrees closely with the Fornmanna text, upon which the Sephton translation is based, with minor additions, omissions and variations.

In the year 1194 occurred the rebel expedition to Norway of the 'Eyskeggs,' or Islesmen (literally the bearded islanders), who were raised in the then Norwegian Islands of Orkney and Shetland by Hallkel Jonsson, a brother-in-law of the then deceased King Magnus Erlingsson, and Olaf, a brother-in-law of Earl Harald of Orkney. With them was Sigurd, a son of King Magnus, whom they proclaimed king in opposition to Sverri; and after their arrival at Norway a great fight ensued between them and the reigning party in Florugio, near Bergen. The islesmen had fourteen ships, larger and higher in the bulwarks than those of King Sverri, which were twenty in number, no one of them with more than twenty benches of rowers; and though the invaders were at one time almost assured of victory, they were eventually overpowered by Sverri and his Birkbein followers. This was mainly through the islanders having lashed their ships together for the fight, in the process of which most of their oars were broken, leaving the ships, when the fastenings were unloosed, helplessly at the mercy of the king's smaller and swifter ships, which had their rowing appliances intact. Besides this, the king's party were latterly aided by a long ship manned by ninety men from the Castle of Bergen, and in the course of the fight nearly all the islesmen were slain. Some surrendered and were spared, while several leaped overboard and were killed in the water, including Sigurd their king, and Olaf, whose bodies were recovered and were honourably interred. A few escaped to Denmark, and of the large body who composed the expedition, Eystein Korp is the only one named who managed to sail west to Orkney.

This strange adventure of Orcadians and Shetlanders under Norwegian chiefs, though it very nearly upset the then regime of government in Norway by their attempt to place a new king upon the throne, has been little noticed by Scottish historians, and has passed out of memory in the islands. Here related with picturesque fulness, it is also briefly told in the *Orkneyinga Saga*, and with such entire agreement in both narratives as to evince the historical accuracy of much of Saga literature, assuming, of course, that the one is not a direct adaptation from the other. As the outcome of the invasion, King Sverri was naturally incensed against Earl Harald of Orkney, who, accompanied by Bjarni, the bishop, hastened to Norway to endeavour to make peace. At a great gathering (*Thing*) at Bergen he prostrated himself before the king, pleading that though he did not stop the expedition, which was indeed beyond his power, he yet took no part in it. The king relented and said: 'Stand up, Lord Earl, and receive God's grace and mine'; but the estates of the rebels who joined the expedition were confiscated, though subject to possible redemption, and the whole revenues

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of Shetland were dissociated from the Earl's control, and taken possession of directly by the crown of Norway.

The volume, after the account of the death of King Sverri, concludes with the history of his immediate successors, as given in the *Böglunga* and *Hakon Sagas*.

GILBERT GOUDIE.

**THE MAKING OF BRITISH INDIA, 1756-1858.** Described in a Series of Dispatches, Treaties, Statutes and other Documents. Selected and Edited, with Introduction and Notes, by Ramsay Muir. Pp. xiv, 398. Crown 8vo. London: Longmans, Green & Co. 1915. 6s. net.

In this volume we are presented with an admirable selection of dispatches, treaties and other documents illustrating the somewhat haphazard method by which the British domination has spread over all India. These are excellently edited, and the reason for each document and its historical setting clearly put before the reader. The editor points out two main themes he illustrates—the necessity for each extension of British territory, and the stages in the development of our system of government and the introduction of Western ideas, omitting therefore events of a purely military nature. In his able introduction he shows us that during the period he deals with, the military power of India, like the month of March, came in like a lion and went out like a lamb.

At the beginning of the British settlement in Bengal, native states rose and fell like packs of cards, whereas by 1858 war had ceased, and judges administered 'one fixed and unvarying law, without bribes and without favour.' All this arose through the spread of the power of the British, wielded by a trading company who feared extended dominion, hated war, and yet were forced into it by circumstances until their rule swallowed up all India, and their troops guarded its frontiers only. It was Hastings who first saw that power and the responsibility in governing provinces once acquired could not be separated. He saw that good government was necessary, and that Britain could supply it, that Indian customs should be interpreted as the legal system of the country, that the ryots must be fully protected, and finally that the company must *volens volens* take its place definitely among the other Indian powers. These five principles the editor shows have, when observed, made British rule in India successful, and when departed from (which but too often happened, as he illustrates by many of his illuminative extracts) have frequently threatened its continuity and utility.

A. FRANCIS STEUART.

**THE MELLARDS AND THEIR DESCENDANTS, INCLUDING THE BIBBYS OF LIVERPOOL, WITH MEMOIRS OF DINAH MARIA MULOCK AND THOMAS MELLARD READE.** By Aleya Lyell Reade. Pp. xii, 227, with 25 Plates. 4to. London: Privately printed for the Author at the Arden Press. 1915.

THIS sumptuously printed family history is very well written and beautifully got up, though it cannot be said that the Mellards themselves were either an old or particularly interesting family. They appear first as



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tanners in the town of Newcastle-under-Lyme in the year 1743, and from that time to the present have occupied a prominent position in that town. The history of the family itself, however, only occupies twenty-four pages of the book. Its members appear to have had a distinct individuality of character, and to have occupied themselves in various spheres of life: one of them distinguished himself as a skilled acrobat, that part of his career being unfortunately terminated by an accident which occurred during a trapeze performance at the old Surrey Theatre, Blackfriars.

It is only, as the author says, through the female members of the family that the pedigree gains any distinction. It is rather remarkable that in a small family group where the men displayed no qualities beyond those which gain a middle-class competence, three of the daughters in the same generation should have mothered respectively a distinguished novelist, an original man of science, and a merchant millionaire.

The distinguished novelist was Dinah Mulock, the author of *John Halifax, Gentleman*, and of her Mr. Reade has given a wholly admirable and copious memoir. The man of science was the author's father, Thomas Mellard Reade, who won a deserved reputation for himself by his writings on geology. The merchant millionaire was John Bibby, one of the great Liverpool shipowners of that name. An interesting account of the family is given, together with a very full tabulated pedigree, which, like the other pedigree charts appended to the volume, leaves nothing to be desired in the way of clearness and detail.

We have said the memoir of Miss Mulock is admirable, and supplements and to some extent corrects the appreciative notices which have previously appeared of her, especially those by Mrs. Oliphant and Henrietta Keddie. After a somewhat depressing and unfortunate youth, hampered as she was by an impossible father, Miss Mulock at last won her way to the front as a noted novelist, and ended her days as the devoted wife of George Lillie Craik. The account of Mr. Reade is naturally of less interest to the general reader, who is not attracted by a record of scientific research, but it shows him to have been a man of much mental ability, and who enjoyed the esteem and friendship of the leading scientists of his day.

There are twenty-five illustrations, most of them portraits of various members of the family, all excellently reproduced. Would that all families might have the good fortune to be commemorated in such a pleasing fashion.

J. BALFOUR PAUL.

ALMANACKS FOR STUDENTS OF ENGLISH HISTORY. By Edward Alexander Fry. Pp. vii, 138. 4to. London: Phillimore & Co., Ltd. 1915.

MOST practical is this immediate method of finding dates by direct reference to the almanack of the year, whether old style or new. It gives on a double page the almanack appropriate to the particular year that is sought, while a very wise inset brings the leap-year variation visibly into the alternative calculation. This is a great convenience and saves much trouble in computing differences made by the bissextile. In principle the

tables are arranged similarly to those in Augustus De Morgan's 'Book of Almanacs' reissued nine years ago (see *S.H.R.* iv. 473), and the leap-year arrangement is perhaps the most conspicuous advance upon De Morgan's almanacks. Besides the various tables of Easter Days, Feasts and Saints' Days there are a Roman and Church Calendar, a sheet of the Law Terms in English Courts and a table of the regnal years of English and British kings, as well as a list of Popes.

A curiously narrow circumscription in Mr. Fry's plan has interfered with the usefulness of his excellent book. A very few words of annotation would have supplied particulars of the calendar differences in Scotland, where the new style of commencing the year on January 1 was adopted a hundred and fifty years before that change was made in England. Does Mr. Fry consider that 'students of English history' do not require to know the Scottish computation of the year? A very little trouble too might have added the regnal years of Scottish kings and given these English almanacks a British equipment. In his list of Popes Mr. Fry also is so loyal to the pontiffs acknowledged by England that he ignores the schism and the rival popes whom the Scots accepted. Several citations unexplained are made to 'Selby,' presumably W. D. Selby, but the special work referred to is not indicated. These citations concern several important modifications of Nicolas's tables in his still very serviceable *Chronology of History*, and in particular a direct correction of Nicolas regarding the regnal years of William III., in which Mr. Fry is in agreement, as was to be expected, with Mr. J. J. Bond's tables, fourth edition.

Some of the foregoing points may induce Mr. Fry, when he comes to a second edition, to make good better, and extend his domain a very little so as the more to assist not only students of English history who require to investigate international facts, but Scottish students also. His tables, but especially his almanacks, serve admirably a great purpose in the facilitation of research by rapid verification of dates, and students on both sides of the Border will profit by his elaborate and exact work.

GEO. NEILSON.

THE EVOLUTION OF PRUSSIA: THE MAKING OF AN EMPIRE. By J. A. R. Marriott, M.A., and C. Grant Robertson, M.A., C.V.O. Pp. 457. With eight Maps. Crown 8vo. Oxford: Clarendon Press. 1915. 5s. net.

THIS little work, into which much information is compressed, is worthy of the position held by its authors in the University of Oxford. If ever the term evolution is to be applied in a non-scientific connection, its application upon the present occasion is justified. The story of Prussia is the story of an evolution, the triumph of an organism fashioned and shaped by the events of history, and containing in itself the elements of at least material success. Whether the processes which it has gone through and the influences which have been at work are calculated to produce those loftier and more spiritual characteristics to which some old-fashioned people still attach importance is of course another question. One thing is certain, Prussia is Germany to all intents and purposes. What it does not actually possess of the Empire,



it controls. It has every right to do so, embracing as it does much the larger share of the territory, of the population, and of the great towns, and contributing some two-thirds of the revenue. It had its small beginnings, its times of reverses and misfortunes, times when even Austria seemed to be surpassing it, but there has ever been an onward movement to which its very trials contributed. No wonder that a German, as he recalls his country's past, has great expectations in looking to its future. What he thinks has been effected in a small scale by the unification of the Empire will ultimately be repeated upon a large one—when Europe submits to the wise and cultured rule of the Kaiser.

It is, then, with this formidable nation that we are now at war. A study of its history presented to us in this volume will not encourage any optimism in us, or make us put much faith in the chances of Germany breaking up through internal revolt or readily giving way through any experience of poverty or famine.

No nation has owed more than has this to the influence of great leaders. The peculiarity in its case has been the readiness with which the people has recognized the greatness of such men, and the good sense exhibited in submitting to their rule. Why so intelligent a race should be so childlike and docile may puzzle some, but it will be observed that it has never in the past followed foolish leaders. Whether in the present case this can be said of the Germans, time will show.

The three outstanding figures in Prussian history are the Elector Frederic William, Frederic the Great, and Bismarck. The latter has done more than anyone else to shape the policy of modern Germany. The aims of all three were the same, to secure the establishment upon a firm basis of a great state. The progress of Prussia was not always a steady one. One chapter in this book is devoted to the remaking of the kingdom between 1807 and 1815, a period during which again it owed much to the enlightened statesmen who worked for its regeneration. There are nine maps, which serve to show the position of the country, with its changing boundaries, during a period of four hundred years.

W. G. SCOTT MONCRIEFF.

SHIVÁJÍ THE MARÁTHÁ. By H. G. Rawlinson. Pp. 125. With two Illustrations and one Map. Post 8vo. Oxford: Clarendon Press. 1915. 2s. 6d. net.

ONE is glad to read this scholarly history of the great Maráthá Shivájí, who created a kingdom (he was crowned Maharaj at Raigad in 1674) from the realms of the decaying Mohammedan princes in the Dekhan and incorporated in it a part of the Moghul Empire. He deserved to succeed, as he was brave, enlightened, humane for his time and (though he murdered Afzál Khan in curious circumstances) not nearly as treacherous as many Oriental rulers. The writer has made the subject his own, and gives valuable appendices on the ballad of Sinhagad, and on the connection between Shivájí and the poets of the Maráthá revival, of which he was the chief mainspring and origin.

NORTH COUNTRY DIARIES (Second Series). Edited by John Crawford Hodgson. Pp. ix, 328, 23. 8vo. Published for the Surtees Society. 1915.

THE enterprise and success of the Surtees Society have long been such as to earn for it a foremost place among the greater auxiliaries of historical and literary study. A school of antiquaries has never failed it, and the tradition goes bravely on. Mr. Hodgson, in this his second call upon the travellers and diarists to furnish material for a Surtees volume, has had an opportunity of which he has taken every advantage to make an attractive miscellany out of the experiences his journalists, autobiographers, chroniclers, and diarists record. The writers were these: Sir William Brereton, 1604-1661; Sir John Gibson, 1606-1665; Jacob Bee, 1636-1712; Mark Browell, ? 1666-1729; Mark Akenside, father of the poet, ? 1690-1741; Bishop William Warburton, 1698-1779; Bishop Richard Pococke, 1704-1765; and John Dawson, 1727-1769. The journal of Brereton was printed, with omissions, by Prof. Hume Brown; those of Browell, Akenside, Warburton, and Dawson have been printed also; the other items now appear in print for the first time. Gibson's brief and formal autobiography is in rather spiritless rime. Bee's 'Chronicle of births marriages and mortality' in and about Durham extends from 1681 until 1710. Warburton's two letters are dated 1755 and 1756, and were privately printed in 1913. Bishop Pococke's letters relative to his journeyings in North England in 1760 will for the general reader rival in interest and value the diary of Brereton, both being excellent examples of how much good matter an observant correspondent or keeper of a journal can set down. The letters deal with a large body of local antiquities, and specially include rough, but moderately faithful transcripts of Roman inscriptions, the originals of some of which are no longer known to exist.

It is true that the eighteenth century antiquaries followed one another in very much the same grooves, yet their discursive accounts make pleasant reading, and their discrepancies are often critical aids towards the facts. Pococke appears to have overlooked the fact that Homildon was a historic battle of 1402, not at all dependent on the ballad of Chevy Chase for its authenticity. John Dawson's diary, though rather narrowly confined to events of 1761 in the Hexham locality, in which he lived, has many stirring entries, especially those relating to the riot at Hexham. 'Severall thousands being assembled to prevent the justices from putting the Militia Laws in execution; six companys of the Yorkshire militia . . . were formed into a hollow square when the mob broke in upon them in which they fired some platoons. Mr. Ridley says that 17 men were killed upon the spot . . . Another mob was expected to rise last Monday near Newcastle.' The Militia Act, passed a year or two previously, stiffening anterior regulations, was the cause of these protests against compulsory service determined by ballot. Total deaths reported at Hexham ultimately are stated to have been 120. False alarms were raised about similar rioting, attended with bloodshed, at Carlisle. Great as is the service of such a collection on north country occurrences, the liberal annotations of the



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editor were very necessary to a complete appreciation. They bring to the elucidations on almost every page a mass of local genealogical and biographical information such as probably Mr. Hodgson almost alone commands. The diaries are in themselves a minor chronicle of Northumberland, and the footnotes a treasury of pedigree and topography. The second series of them inspires the hope that the editor has material for a third.

TRANSACTIONS OF THE INVERNESS SCIENTIFIC SOCIETY AND FIELD CLUB.  
Volume VII. 1906-1912. Pp. xii, 406. 8vo. Inverness: Printed at the *Courier* Office.

THE Inverness Field Club derived its origin forty years ago from a series of lectures then delivered by Professor John Young, M.D., of Glasgow University, whose versatile personality remains a far from colourless memory with many friends and a few critics. The institution he was instrumental in founding (with the late William Jolly as its first president) does honour to the force of his influence upon associated study, and this seventh volume of its *Transactions*, covering seven years of contributions, is a well-balanced combination of field science with archæology and history. Contributors besides the editor, Mr. James Barron, include Mr. Evan M. Barron, Mr. James Grant, Mr. Herbert C. Boyd, and the Rev. Odo Blundell. Subjects dealt with embrace crannogs, shell middens, stone circles, 'the ancient marches of Inverness,' and the Black friars of the same place. A comparative note concerning 'The Curach and other primitive means of navigation' assembles various scattered data. These *Transactions* as a whole evince, and are well calculated to encourage, the spirit of research in the northern shires.

THE PROVISION FOR HISTORICAL STUDIES AT OXFORD. By John L. Myres. Pp. 27. 8vo. Humphry Milford: Oxford University Press. 1s. net.

IN the form of a letter to the President of the American Historical Association for its meeting in California this year Professor Myres synthetically shows what professors and lecturers and what lecture courses cover the field of historical studies in Oxford. This is done by way of telling American workers in history how the subject is organized in the hands of little short of a hundred teachers in the University. Such a list of scholars and prelections carries its own proof of the systematized learning available to the modern student, and its own promise of great results. Scotland is far behind in technical equipment of all kinds for real history.

A BIBLIOGRAPHY OF MEDIEVAL FRENCH LITERATURE FOR COLLEGE LIBRARIES. By Lucien Foulet. Edited by Albert Schinz and George A. Underwood. Pp. vii, 30. Demy 8vo. New Haven: Yale University Press. London: Humphrey Milford. 1915. 2s. net.

THIS much needed short catalogue aims at meeting the requirements of preliminary study of medieval French as conceived in Smith College. Every allowance must be made for its provisional character, but its

limitations are a little disappointing. The American editors ought to have recognized that as a hand-list drawn up by a French student it did not ideally cover the needs of English study of Old French. The many important texts of romances and *chansons de geste* either produced in the British Islands or under the influence of Anglo-Norman solidarity might have been, however roughly, distinguished and classified with reference at least to leading examples of that literature. For most purposes of linguistic material that literature is quite on the same plane as the continental French poems. It is true that Wace's *Brut* is here, why not his *Roman de Rou*? Guillaume le Maréchal is here, why not Gaimar's *Estorie*, the *Song of Dermot*, the *Roman de Fregus*, the rimed chronicles of Jordan Fantosme and Pierre Langtoft, or the *Scalacronica*, or *Le Prince Noir*? Froissart is here, why not Jehan le Bel and Jaique Dex? Should Etienne de Bourbon not have had Nicole Bozon to keep him company? And the editors should have added an index. As a first outline the bibliography will be a useful guide to equipment both for college libraries and for private study. Its extension in a second edition on the lines suggested above would achieve the same end with improved results from the added interest of British and American readers in the old French literature connected with England, Scotland and Ireland.

G. N.

EAST LOTHIAN. By T. S. Muir. Pp. viii, 117. With Maps, Diagrams and Illustrations. Fcp. 8vo. Cambridge: University Press. 1915. 1s. 6d. net.

HADDINGTONSHIRE abounds in places and memories of interest. Traprain Law may yet justify a fresh theory of early history with surprising returns to hagiological tradition. Institutional evolution may be illuminated by the 'Constabulary' of Haddington which for Mr. Muir appears to have had no attraction. The roads of the county rightly worked out would lead further than Mr. Muir's inferences. 'Bleau's map' is a new rendering of the great Dutch geographer's name, and 'a fine *sedilia*' is an indefensible combination of singular and plural. On page 87 is a phenomenal statement about Seton church, viz. that 'the nave was never built' but that 'it existed in the fourteenth century.' On page 92, what is due to Walter Bower is assigned to Fordun. On page 88 a reference to 'the dastardly outrage' at Whitekirk in February, 1914, assumes in the reader a knowledge or recollection of suffragist 'frightfulness' which every year makes less likely to be known or remembered. This little bunch of critical censures ends by setting on the pillory the phrase 'the mausoleum of the Lauderdale family of Renaissance work.' Schoolmasters should not be slipshod in their English composition. Apart from such flaws as these, Mr. Muir has with moderate success caught the points of broad interest in the geology, landscape and general place in history of the shire. There was much more to be made, however, of Haddington burgh than he has made of it, and Dunbar would justify a book all to itself. Maps, plans and illustrations, numerous and good, register the shire pictorially on the ample scale standardized by this Cambridge series of historical geographies.



## Breasted: A Short Ancient History 303

MARCO SANUDO. By J. K. Fotheringham, assisted by L. F. R. Williams. Pp. viii, 150. 8vo. Oxford: Clarendon Press. 1915. 10s. 6d. net.

IN the Fourth Crusade Marco Sanudo of Venice found his opportunity after the capture of Constantinople in 1204. He negotiated the treaty of Adrianople in that year. He conquered Naxos and many other islands of the Cyclades, after which he had a double-edged adventure in Crete in which his private ambitions as Duke of Naxos were hardly compatible with loyalty to Venice, and he passed out of Cretan history under a storm of Venetian obloquy. He died probably about 1230. The records about him are involved and obscure and his biographers have not been able to educe too clear a story from them. They have, however, skilfully and critically assembled the evidences for a career uniting the characteristics of a pirate, a condottiere, a diplomatist and a conqueror as the by-product of a Crusade. It is a biographical essay, the fruit of much research in foreign libraries and archives, and it is packed solid with closely vouched material, and supported by a considerable appendix of extracts from chronicles, etc., a table of the many authorities in MS. and print, an excellent index, and adequate sketch maps of Ravenna, Naxos and Crete.

A SHORT ANCIENT HISTORY. By James Henry Breasted. Pp. viii, 334. With five Plates and eight Maps. Crown 8vo. Boston and London: Ginn and Company. 1916. 4s. 6d.

THE MIDDLE PERIOD OF EUROPEAN HISTORY. From the break-up of the Roman Empire to the opening of the eighteenth century. By James Harvey Robinson. Pp. ix, 421. With eleven Plates and twenty-one Maps. Crown 8vo. Boston and London: Ginn and Company. 5s.

THE American schoolboy has privileges. It is hard to conceive how history could (except by deleting the 'Questions') be made more attractive than by such volumes as these, lavishly illustrated with sixteen coloured plates, twenty-nine maps, and pictures in the text of nearly every other leaf. The two books together form Part One of 'Outlines of European History,' and deserve commendation as constituting a summary equally competent and attractive of the historical movements of the Old World from the dawn of record to the days of Queen Anne and the Grand Monarque. Written not merely for the upper school, but evidently designed to escort the student considerably beyond the school bounds, each volume has a final bibliographic chapter which introduces to more advanced works. The illustrations are well chosen, and the style, while studious above all of clearness, has animation and colour. There are positions at which the American perspective breaks away from the European, but in the main the New World lines of judgment are continuations from the Old.

DUMBARTON CASTLE CONSIDERED AS A FORTRESS. By John Irving. Pp. 58, with seven Illustrations. Demy 8vo. Dumbarton: Bennett & Thomson. 1915.

THE fact that the author of this brochure is a son of the late Mr. Joseph Irving, historian half a century ago of Dumbartonshire, secures him in

advance the guarantee of a sympathetic reception. The leading episodes of the castle's share in history are sketched moderately well, although hardly with the adequate additions and modifications rendered necessary by advances in historical science since 1860. The vital relationships of the castle on the one hand with the Crown, and on the other with the Burgh and the Port, are barely suggested. Neither Joseph Bain's *Calendars* nor the *Exchequer Rolls* are cited. There are other omissions too. But the author is quite up to date in rejecting absolutely the two-hand sword which his father was quite willing to retain as a genuine heirloom from William Wallace. There is the more satisfaction in this that it furnishes a sly cut or two at the Abbey Craig monument and its objectionable acquisition of the relic. The essay closes with the note that since November, 1914, the castle has once more been used as quarters for troops.

LIFE OF VISCOUNT BOLINGBROKE. By Arthur Hassall, M.A. Pp. xiv, 224. Crown 8vo. Oxford: B. H. Blackwell. 1915. 3s. 6d. net.

WE are glad to see a new life of Bolingbroke, and to read this very adequate one. The author understands the *tourbillon* of the time Harry St. John lived in well—a time when each statesman was uncertain what King would succeed Queen Anne—when most statesmen paid court to three Courts, the Queen's, that of the Chevalier, and that of Hanover, with no certainty of the future, and when perfect loyalty either to an idea or a political party was almost impossible. He renders to St. John all the credit he can in showing the benefits he brought about by the much assailed Peace of Utrecht, and he has done us service by giving a complete and a good biography of one who, though an unsuccessful politician in the main, had in view that 'the good of the people is the ultimate and true end of government,' and that 'the greatest good of a people is their liberty'; one who purged, in the words of Disraeli, the Tories from 'all their absurd and odious doctrines which Toryism had adventitiously adopted,' and of one who had a very great influence in literature in England through Pope and himself, and in France through Voltaire.

A HISTORY OF SOUTH AFRICA FROM THE EARLIEST DAYS TO THE UNION. By William Charles Scully. Pp. xv, 327, with 45 Maps and Illustrations. Crown 8vo. London: Longmans, Green & Co. 1915. 3s. 6d.

THIS little book takes us easily, instructively, and pleasantly through the history of what once was called 'the Cape,' which has now expanded into 'South Africa,' from its discovery by the Portuguese to the present day. Much the most stress is laid on the early history, however, and the author has done his part well in the details of the Dutch rule, with all its savage punishments, from 1679-1795, when the Cape became British for the first time. It was again British from 1806, and we are told much of native wars and the abolition of slave-making. The Great Trek which had such surprising results took place from 1836 to 1840. The growth of the colour question—a great one in the future—may be specially noted. *Circa* 1685 'marriage between Europeans and slaves of full colour was



forbidden, but no restrictions were imposed in respect between Europeans and half-breeds.' The Governor of Cape Colony from 1699 to 1707, when he was disgraced, Wilhem Adriaan van der Stel, was himself 'coloured,' yet the last entry in the book is, 'no one may belong to either the Senate or House of Assembly unless he be a British subject of European descent. No analogous racial or colour line has been drawn in any other of Great Britain's self-governing colonies.'

A SHORT HISTORY OF EUROPE. FROM THE DISSOLUTION OF THE HOLY ROMAN EMPIRE TO THE OUTBREAK OF THE GERMAN WAR, 1806-1914. By Charles Sanford Terry, Burnett-Fletcher Professor of History in the University of Aberdeen. Pp. lxiii, 601. Crown 8vo. London: George Routledge & Sons. 1915. 6s. net.

ALL the qualities of thoroughness and exact scholarship that distinguish Professor Sanford Terry's work are to be found in full measure in his latest book, which, though complete in itself, is also the concluding portion of a three-volume history of Europe from 476 to 1914. This final instalment marshals with admirable clearness and brevity the great armies of facts of the century that lies between the dissolution of the Holy Roman Empire and the outbreak of the German War. It is well fitted to supply in a handy form the detailed information without which it is impossible to understand the causes of the present war.

*The Danger of Peace* (by J. W. Allen. Pp. 37. Crown 8vo. London: G. Bell & Sons, Ltd. 1915. 1s. net) is a vehement statement of the necessity, if civilisation is to endure, of continuing the war 'until Germany is in a military sense completely powerless.' But when that happy consummation comes the peacemakers will not find much direct help in Mr. Allen's unexplained formula that we 'must impose our terms.'

*John Tyler, Tenth President of the United States* (pp. 44, 1915), is a sonorous address by Armistead C. Gordon dedicating a monument erected by Congress in memory of Tyler, who was President from 1841 until 1845.

The Philological Society has issued to its members a volume of specially Scottish note and value by Sir James Wilson, and entitled *Lowland Scotch as spoken in the Lower Strathearn District of Perthshire*, to which we have already called attention. It is a systematic treatise, with phonetic spellings to interpret pronunciation, a fully set out dialect grammar, long lists of characteristic words, proverbs, and idiomatic expressions, some riddles and popular rimes, and, as a very welcome final to a scientific analysis of Strathearn speech, a glossary. A foreword by Dr. W. A. Craigie expresses satisfaction that this, one of the first studies of a single Scottish dialect, should be so thorough and complete. As a treasury of native idiom carrying within itself a mass of traditional wisdom or prejudice, and recording at the same time for every non-Perthshire reader the contrasts of Perthshire pronunciation with that known to each reader, this book possesses endless interest and entertainment for any true Scot in

whose ear his own brand of Doric lives. Not since Dr. Jamieson has Scotland incurred greater debt to any scholar of the vernacular than it owes to Sir James Wilson.

Another issue to the same society is *A Fifteenth Century Courtesy Book*, edited by Dr. R. W. Chambers, along with *Two Fifteenth Century Franciscan Rules*, edited by Mr. Walter W. Seton, in one volume. (Pp. 127. 8vo. Oxford University Press. 1914.) The former sets forth the rules of deportment of marshal and 'sewer' serving at a lord's table; the latter consists of (1) the 'third order' of St. Francis, or order for penitents, and (2) 'the Rewle of Sustris Menouresses enclosid,' or order of St. Clare. There are three facsimiles of the MSS., and the introductions, notes, and glossaries furnish a complete equipment.

The Viking Club's *Old Lore Miscellany* for July notes the occurrence of the designations 'of that ilk' in 1532 in Shetland, believed to be an early adoption of the mainland Scottish usage of style; and of 'kyndlie tenant' in 1626 in Orkney, whereof only one other instance so late as 1751 is known to Mr. A. W. Johnston. Mr. Gilbert Goudie prints in this number the Rev. George Low's diary of a *Tour through the North Isles and part of the Mainland of Orkney in the year 1778*, containing many natural history observations and references to antiquities, such as brochs, tumuli, standing stones, and whorls.

Professor Tout has reprinted from the 'Bulletin of the John Rylands Library' for October *A Mediaeval Burglary* (pp. 24), being a lecture delivered in the Library last winter. It re-tells with freshness and fuller light than heretofore the story of the robbery of the treasury of the wardrobe of Edward I. at Westminster in 1303, when a mass of plate, jewels, relics, etc., was stolen, almost certainly with the connivance of the monks of Westminster. Besides a plan of the place of the burglary there are two facsimile extracts from a text of the *Flores Historiarum*, decorated with early drawings, one of the Westminster thief at work, and the other of the spoliation of the treasure of Boniface VIII. at Anagni in the same year.

*The Proceedings of the Berwickshire Naturalists' Club* for 1914, vol. xxii. part iii, open with the presidential address of Mr. Howard Pease, a dashing survey of the Northumbrian countryside in border history, written as if from the saddle by a sound marchman. Northumberland is strongly represented by Mr. J. C. Hodgson's topographical and genealogical papers on Holborn, Elsdon, the Tankerville Estates, Coldmartin Tower, and Fowberry, into which he has transfused much charter evidence, pedigree matter and biographic lore of a type hard to come by, but invaluable when secured. Epitaphs at Mindrum are edited by Rev. M. Culley. Scottish papers include the Rev. J. F. Leishman's note on the ancient inscription of Ayton church bell, bearing the words (which require some deciphering) 'Campana—Cuthberte,' indicative of dedication to the saint of the Lammermoors. Mr. Leishman writes also upon the brass in memory of James Melvill, the Scottish reformer, set up in the church of the Holy



Trinity at Berwick in 1914, the tercentenary year of Melvill's death. Incidentally Mr. Leishman's statement that King Robert the Bruce was absent from his son David's marriage in 1328 'on the Sunday after St. Mary Magdalene's Day' must be corrected. The nuptial date was the Sunday before, not after, St. Magdalene's day: it was Sunday, 17th July, 1328. The king's presence at the wedding (despite the rarely erring Barbour's statement to the contrary) must be presumed from the fact that at any rate a charter by King Robert was granted at Berwick the day before the marriage.<sup>1</sup> It is dated *apud Berwicum super Twedam sexto decimo die Julij Anno Regni nostri vicesimo tercio*. As a whole these Berwickshire transactions manifest an unusual standard of antiquarian learning.

Professor A. S. Cook has reprinted from the *Journal of English and Germanic Philology* his review—a studied disagreement with the conclusions—of Dr. Hewison's *Runic Roods*. He sends us an offprint of his note in the *Modern Language Review* on the date of the inscription on the Brussels Cross. The 'Runic Roods' already require a bibliographer to keep the student abreast of the debate.

Queen's University (Kingston, Ontario) Bulletins of History now include, No. 16 for July last, O. D. Skelton's *Federal Finance*, comparing taxation in the United Kingdom, United States and Canada, and No. 17 for October, F. B. Millet's *Craft-Gilds of the Thirteenth Century in Paris*. The latter is an exposition of the *Livre des Métiers*, drawn up circa 1260-1270. The essayist favourably interprets the trade-guild régime as defensive against feudalism on the one hand and competition on the other. A useful glossarial list of 98 crafts is annexed, along with a brief bibliography. No. 18 of these Bulletins, *The Co-operative Store in Canada*, by H. Mitchell, sketches the history of co-operation in Canada, where it seems the system has not been a great success. A tendency is visible however towards co-operative methods in agriculture, and from this there are expectations. Another paper from Queen's is Professor James Cappon's offprint on *International Law and Neutral Commerce*. Later phases of blockade have somewhat shifted the base of discussion.

In the *English Historical Review* for January the editor, Mr. R. L. Poole, devotes a profound study to the early history of the connexion between the see of Maurienne and the valley of Susa at the opposite ends of the pass of Mont Cenis—with the Alps between. Mr. W. A. Morris attempts, by a sort of collation of the functions of each, to track the office of Sheriff in the Anglo-Saxon period, from its prototype, that of the king's reeve, and he draws up a valuable cumulative compilation of the various judicial, military, fiscal and administrative duties of the sheriff both towards the king and the earl. Miss Helen M. Cam essays the more picturesque evolution of the 'Legend of the Incendiary Birds.' The present critic has some reason for remembering a contribution to *Notes and Queries* on 5th November, 1898, in which several passages in Scottish chronicle were

<sup>1</sup> Raine's *North Durham*, App. No. 82.

cited. Miss Cam shows some grounds for a belief that the affinities of the tale are Scandinavian. Mr. C. L. Kingsford tries (continuing earlier efforts) to penetrate and lighten the obscurity of Robert Bale, a London chronicler (see *S.H.R.* ix. 196, xii. 89), and finds a clue to identify him with a scrivener in the city who flourished circa 1457-1473.

Volume XIV. of *Notes and Queries for Somerset and Dorset* is completed by the December number. The editors, Rev. F. W. Weaver and Rev. C. H. Mayo, are appealing for special support of the magazine by their subscribers during these crucial times. The little journal never fails to show learned and attractive extracts from the past of the two historic counties it serves so faithfully. This last number concludes a long and specially valuable body of transcripts of Sherborne deeds A.D. 1377 from the 'Liber Niger' at Salisbury. One document of A.D. 1307 extracted has a number of interesting words. 'Wyndefellyng' is glossed in the deed itself as trees blown down; but what is the meaning of this—'cum croppis et corticibus et Cospellis que dicuntur *vellyngsponoun*, de omnibus quercubus'? And what is the hay custom—'consuetudo feni que dicitur *Stachel Rek vel Rekstachel*'?

In the *Modern Language Review* (Jan.) Mr. Toynbee edits Dante's indignant letter of 1315 declining terms offered for his return to Florence. Prof. A. S. Cook demonstrates an unnoticed debt of the poet Skelton to Chaucer.

*Old Lore Miscellany* (October) edits from a Dutch original with notes by R. S. Bruce the very curious account of a 'capture' of or raid made upon Shetland by a Dutch squadron at the end of June and beginning of July, 1667. The Sheerness, Chatham and Gravesend raid had lasted from June 8 to July 24. On June 24 the squadron of Admiral Baron van Ghent, under orders for Bressay Sound and the enterprise of capturing or 'incorporating' Shetland, set sail from Holland and sighted the Noup of Noss near Bressay on the 29th. They were on the watch for the English admiral Sir Jeremy Smith (whose squadron was according to Pepys at Newcastle about June 13) but had not fallen in with him. Beyond requisitioning the inhabitants for fish and mutton, to be duly paid for, Van Ghent did not molest the islanders. The expedition failed to achieve anything, and after cruising off Shetland for some weeks the ships returned to Holland late in August. Information gathered from natives was to the effect that on the island in Herringbuss Bay, now Lerwick harbour, there was a fort with 80 cannon, of which five were 'heavy pieces of metal,' under command of the Governor 'Willem Sencklaer,' with 350 soldiers besides about 500 armed inhabitants. The episode does not seem to be much in evidence on record beyond the report that in the Dutch war 'Lerwick was garrisoned for three years by 300 men commanded by Colonel William Sinclair.' To Mr. Bruce's note it may be added that after peace was made with Holland in August, 1667, orders were given by the Scottish Privy Council on November 26 requiring Colonel Sinclair, governor of the garrison of Zetland 'to disband the whole garison officers and souldiers under his



command.' Probably some local record has preserved a Shetland memory of the affair.

In the *Juridical Review* (December) Mr. W. Roughead deals anew and in lively manner with the Auchindrayne tragedy (1597-1611), perhaps the most brutal series of plots, reprisals, and murders for base causes for which Scotsman had ever to thole assize. Mr. E. Manson on *Metrical Law* sparkles with quotations from the comic-rime reports of cases. The plum of them all is Sir F. Pollock's *The Hound's Tail Case*, a report of *Dickson v. Great Northern Railway Company*, not nearly so well rendered in 18 Q.B.D. Ignoring Scots law, as barristers are apt to do, Mr. Manson appears never to have heard of Mr. Bird's *Law Lyrics*. It is a pleasure to introduce them to his notice.

The *American Historical Review* for January opens with Professor H. Morse Stephens' presidential address to the American Historical Association on 'Nationality and History.' It traces to the intensification of nationalism, finding expression in popular histories, much mischievous patriotic vainglory and antagonism. 'Americans are taught from childhood to hate Britishers by the study of American history,' he says, and 'Germans were taught to hate Frenchmen by the study of German history.' A first instalment of a closely reasoned and documented paper by Mr. Lynn Thorndike on 'The True Roger Bacon' is a rather destructive criticism of some exaggerated estimates of the famous friar's place in medieval science. Commonplaces sometimes, under the influence of a narrow enthusiasm, are interpreted as original and revolutionary contributions by an author who in truth was only a transmitter. Mr. Thorndike has undermined a good many claims asserted for Bacon as a discoverer and leader of thought, but we must wait for the continuation for the full results of the re-estimate. In these days not even the invention of gunpowder may be immune from taint.

Rev. Jonathan Boucher's letters still in course of being edited in the *Maryland Historical Magazine* included (in the June number last year) correspondence in 1798 with Bishop Skinner of Aberdeen, important for the foundations of American episcopacy deriving as is well known from a consecration ceremony in Bishop Skinner's chapel at Aberdeen in 1784. Of wider interest is a gracious acknowledgment by George Washington in 1798 of Boucher's dedication to him of a work on the American Revolution. Boucher styled the acknowledgment 'a very handsome letter,' and was gratified by the cordial approbation, although written by Washington 'not having read the Book.'

*Maryland Historical Magazine* for September gives an account of the 'Discovery of Maryland,' being an article on Giovanni da Verrazzano's letter to King Francis I. in 1524, from the recently discovered new copy first published in 1909, and considerably differing from Hakluyt's version. The explorers baptized the territory 'Arcadia on account of the beauty of the trees.' A diary of a journey in 1816 from Baltimore to the Alleghany Mountain, though it must be confessed prodigiously dull, is an instructive

record of Uria Brown's observations on the agriculture, roads, water and landscape. He rails at 'the Traitorous Indians' in the general direction of 'Braddock road,' and denounces 'the rascally practice of setting fire' to the forests of the Alleghany slopes. His anathema of the latter is odd enough: 'the persons that do it ought to be confined in the Mountains within the walls of a penitentiary built of the Materials they produce, and fed on the beef of Rattle snakes and bears foot soop until the Great Masterly forests should Assume their natural and official Magnificence again.'

*The Iowa Journal* (Jan.) contains a study by Ruth A. Gallaher of the 'Indian Agent,' the office of colonial or State representative sent to the Indian territory, half justice of peace and half ambassador, often frontiersman or soldier, and always requiring nerve and energy for a dangerous position. This useful and interesting historical summary of a special frontier function is brought down to 1849. Another Indian paper is the translation of Pierre Boucher's account of his adventures as a prisoner of the Fox Indians in 1728-1729.

*The Smith College Studies in History*, a new quarterly from the Department of History in that College, must be welcomed for its promise of solid work if the series maintains the standard of the inaugural essay by Grace P. Fuller, *An Introduction to the History of Connecticut as a Manufacturing State* (8vo. Pp. 64. Northampton, Massachusetts). A century ago the State had no manufacturing towns and agriculture was its staple occupation. In 1905 it was producing 80 per cent. of the rolled brass and copper, 72 per cent. of the ammunition, and 69 per cent. of the clocks in the United States. Stages and assisting causes of this great change are intelligently shown, and the data establish the conclusion that the decade 1870-1880 made Connecticut predominantly a manufacturing State. We note the ammunition works as in 1880 employing 871 hands, and wonder what may be the comparative results of the decade 1914-1924.

*The Revue Historique* (July-August) opens with a study by Louis Bréhier of the objects of the foundation of Constantinople, shewing that, duplicating institutions of Rome, the emperor had not thrown aside his pagan attributes, and that he did not contemplate a new Rome exclusively Christian. Asia Minor was the richest and most prosperous part of the empire, and military, political, and religious considerations coalesced in the choice of the transferred capital. Ch. Mortet traces on maps of the fourteenth and thirteenth centuries the name 'Dardanelo,' which later gave title to the two forts on opposite sides of the strait, in the Italian plural 'Dardanelli' and the French plural 'Dardanelles.' G. N. Tricoche examines the story of the siege of the Mormon city of Nauvoo in 1846. A first instalment is given of an article by the late Émile Amélineau, critically describing the Arab conquest of Egypt. Of this the concluding half is presented in the September-October number. The article makes large use of Arabic sources, and narrates, with extensive particulars, the march of 'Amr to Memphis, thence to the siege and capture, first of Babylon, *i.e.* Cairo, and afterwards of Alexandria. This conquest, accom-



plished A.D. 639, the author considers to have been rendered possible only through the antipathy of the Egyptians to their Byzantine masters. Egypt submitting to the Arabs surrendered all her proud history, it was her '*acte de décès*.'

M. Rod. Reuss begins a large memoir on the sack of the town hall of Strasbourg in July, 1789, a revolution episode condensed into a flashing sentence of Carlyle. M. W.-M. Kozlowski completes his detailed and documented study on 'Kosciuszko and the Polish legions in France, 1798-1801.' A Greek 'Bulletin Historique' by M. Gustave Glotz and an Italian one by M. Poupardin, give collective surveys of recent diggings and researches in ancient Greece, and of recent medieval studies of Italy.

The number for Nov.-Dec. begins with an important constructive criticism of M. Bédier's theory of the origins of the *chansons de geste* as developments from the shrines on the pilgrim routes. The critic is M. Maurice Wilmotte, who insists specially on two things, the duality of theme but unity of handling of the lives of saints and the *gestes* of chevaliers, and the persistence to a far greater degree than has been recognised of early Latin pieces which evince all the characteristics of the slightly less early vernacular chansons. These propositions are the foundation for the new critic's contention that these poems, whether about soldiers or saints, derive from a literary tradition reaching back to the literature of Rome. A short chapter of telling comparison and analysis shows how the traits of the French chansons are forestalled in earlier Latin poems, notably in *Waltharius*. While the criticism accepts much of M. Bédier's brilliant inferences of radiation from pilgrimage centres, it furnishes far deeper and apparently surer explanations of the literary type which the chansons represent, not as vernacular originations, but as transmissions from Latin models. M. Paul Robriquet has put together several unpublished MS. notes by General de Galbois (1778-1850), who saw considerable service under Napoleon. In 1809 he accompanied the Emperor when he revisited the field of Austerlitz: the episode forms the subject of the best of all the notes. Three years later he went through the Russian campaign, and has left particulars of his share in the passage of the Bérézina.

The *Revue Historique* (Jan.-Feb.) starts the year with a large study in economic politics by M. Marion, a close discussion of 'the recovery of the imposts in 1790.' Made in implement of Necker's recommendations the exaction of those sources of revenue at once provoked popular outbreaks, conflicts of local and central authority, tricks and agitations to evade payment, and discontents alike of the privileged exempt and of the opponents of privilege. Grave deficits in the returns from the new direct taxes necessitated fresh pressure of the indirect, with the result of bitter opposition to the many-sided 'aids,' ending in general insurrection and paralysis of financial administration. It was an '*immense débâcle*,' a desolating jumble of 'imposts direct and indirect, ancient and novel, forced and voluntary,' a whirl of contradictory and abortive expedients successful only in adding impetus to the Revolution. The fall of Necker, once *Ministre adoré*, was an omen of graver overthrows. One odd effect of the crisis was a marked increase of alcoholism. The community of Pas-de-Calais, for instance,

'drank infinitely more than before the Revolution.' The same was true of Brittany, and what was true of Brittany was true of Paris—'they drank more and more alcohol.'

Madam Inna Lubimenko in a long paper reconstitutes the diplomatic relations of England and Russia in the sixteenth century. An episode of 1573 was the grievance that in the Swedish army serving against the Czar there were Englishmen. Queen Elizabeth explained that they were Scots, over whom she had no authority. The Russian court had many reasons to seek political friendship with England, but Elizabeth, keeping in view Sweden and Poland, deemed it imprudent to consent to an alliance with the Russian monarch, 'rich but primitive and capricious, who had no fleet and could render no serious service.' M. Antoine Guillard offers an extended appreciation of the historian Karl Lamprecht (born 1856, died 1914), whose encyclopedic knowledge he duly admits while dealing very faithfully with his excessive Teutonism, his overestimate of himself, and his failure to win a classic place alongside the great German historians Ranke, Mommsen, Sybel and Treitschke.

The *Bulletin de la Section Historique* of the Roumanian Academy for October continues Prof. Iorga's monographs on Roumanian history, among which is a note on 'L'Alexandrie,' the ancient Roumanian version of the romance of Alexander the Great, who there appears (as usual in the European romance cycle) as the son of Nectanebus the Egyptian necromancer.

Among the 'Miscellanea' in *Archivum Franciscanum Historicum* (January-April, 1915) appears an article dealing with the Convent of Claresses, or Grey Sisters, established at Aberdour, in Fife, in 1486. This regular sisterhood of the third order on its arrival here was by the Bull of Erection placed under the control of the Vicar-General of the Observantines. Documents have recently come to light proving that it consisted in its early days of four members—two regular sisters from Amboise and two novices—to which were added in the course of time four others. Isabella Wycht (or Wight) was superior of the convent, whose history is now amplified by the discovery at Bordeaux of contemporary copies of two documents disclosing the difficulties which arose from the jealousy and ill-will of the provincial vicar and guardians of the Scottish Friars of Observance. Olivier Maillard, Cis-montane Vicar-General, handled the situation with tact, and secured for the sisters a *modus vivendi*.

The MSS., now printed for the first time, from the archives of the Gironde, are (1) a copy of the 'Obedience' or Letter taking the sisters under the special protection of the Vicar-General, dated November 2, 1488; (2) Letter conferring license to wear the scapular, dated at Paris, May 3, 1489. These letters, with the contemporary notes appended to them, are of value in shedding additional light upon the history of the establishment of the Claresses in Scotland.

The Bull of Pope Innocent VIII., dated January 11, 1488, also printed, helps to explain the measures taken to place the third order of St. Francis upon a secure basis, and to free it from the spiteful attacks of petty jealousy.



*La Nation Tchèque*, a half-monthly review (Paris, 23 Rue Boissonade, price 25 centimes), edited in French by Professor Ernest Denis of the Sorbonne, is the Parisian organ if not of Panslavism at least of Tcheco-slavism. 'Austria delenda est' is its dominating note. A well-informed article (15 June) is a short bibliography of recent anti-British books in Germany. This review *des manifestations de haine* closes with a promise in an early number of a corresponding notice of German books which even now *jugent les Anglais avec impartialité*.

The issue for November, preoccupied though it is with the war, finds room to call attention to an autograph letter of 11th October by which the Emperor Francis Joseph changes and unifies the armorial bearing of Austria. There is in future to be 'only one heraldic sign symbolizing the political unity of the different peoples of Austria.' The flags of the monarchy henceforth are to carry the arms of Austria and Hungary conjoined with those of Habsburg, with the device *Indivisibiliter ac inseparabiliter*. In these heraldic simplifications the critics of Austria-Hungary see an imperial manifestation hostile to the Slav nationalities, until now separately recognised by a sort of heraldic federation in the armorials of the dual empire.

## Communications

**EARLY PARLIAMENTARY ELECTIONS IN SCOTTISH BURGHS.** Miss Keith's interesting and informing article on early municipal elections<sup>1</sup> leads me to add a brief note on the cognate subject of early elections to Parliament. Burghal representation began in the fourteenth century, but we have no evidence of the method by which the representatives were selected. We are told that burgesses attended along with earls, barons, and other freeholders, or that there came from each burgh certain burgesses who had been specially summoned. We are sometimes told their names, and we know that, on more than one occasion, they were present in sufficient numbers to allow of the selection, in Parliament itself, of two burgesses from each of six towns. There are thus, in the fourteenth century, three possibilities :

That the burgh members were nominated by a royal official.

That they were elected in the burghs.

That any burghs who chose to be present might attend.

The first suggestion is supported by the wording of the records of 1366, 1370, and 1372, which state that the burgh members had been specially summoned to the Parliament, a term not applied to the other members. But this term is not invariable; it is employed after elections did take place; and nomination is in itself inherently improbable. The second suggestion is open to the objection that the idea of parliamentary representation is not traceable in Scotland before the reign of James I.; but, on the other hand, the idea of election was already familiar in the burghs themselves. If the third suggestion is correct, it would follow that the selection of the Lords of the Articles in Parliament formed the germ of the elective idea, and local elections in the burghs themselves may have developed in order to avoid the expense of sending to Parliament more burgesses than were likely to find anything to do there.

On the whole, I am inclined to believe that the second suggestion is the most probable, and it certainly represents the fifteenth century practice. After the introduction of the representative idea by James I. in the Act of 1427, the word 'commissioners' became the regular term used to describe the burgh members; but the term 'commission' was already familiar in connection with the Convention of Burghs, and the Act of 1427 must have suggested the name and the theory rather than have initiated the practice. The custom of election is probably closely connected with the payment of members, and records of payment would throw considerable light upon the subject, for we may be sure that the burghs did not pay the expenses of



any burgh who chose to go to Parliament. Unfortunately, we have very few early accounts of burghs, but a scrap of information from Aberdeen gives the expenses of the Provost in 1389.<sup>1</sup> He paid three pounds to William de Camera and Simon de Benyn for their attendance 'ad quoddam consilium tentum apud Lychow.' We do not know of any General Council held at Linlithgow in 1398 or in the years immediately preceding, but our information is very scanty, and Robert III. granted charters there and probably held councils.<sup>2</sup> It is possible that the meeting was the Court of the Four Burghs. In 1368, Linlithgow and Lanark had succeeded Berwick and Roxburgh (which were in the hands of the English) as constituent members of the Four Burghs,<sup>3</sup> and it was becoming customary for other burghs to attend; but Haddington was the normal meeting-place of the Four Burghs. Even if the Linlithgow Council of 1398 was a burghal convention and not a Parliament, it is probable that if payment of members had been established for the Convention of Burghs, it had also become customary for Parliament. While it is, therefore, possible that, at first, the attendance of burgesses in Parliament was haphazard and unorganized, it is probable that, by the end of the fourteenth century, the burgh members were deliberately selected and were paid for their attendance. It is even possible that they took properly authenticated commissions with them, for this was insisted upon, in 1405, by the Court of the Four Burghs, and may well have been demanded by the Great Council of the realm. There is no doubt about the practice in the fifteenth century, and the Aberdeen accounts for 1433-38<sup>4</sup> show payments to the commissioners to Parliament.

Who were the electors in the burghs? Two answers are possible. The right of choice may have belonged to the Town Council, who were responsible for the payment of expenses, or the electors may have been those who, in theory, were saved the inconvenience of personal attendance—the 'good men' of the town who by the ancient *Leges Burgorum* were to appoint the aldermen and bailies, the 'whole community of the burgh' who in 1398 elected the alderman and four bailies of Aberdeen at the first known municipal election in Scotland. The evidence is confined to Aberdeen, and there it is conflicting. In the earliest instance the election was made by the Town Council. In 1437 some statutes were made by the common council of the burgh, and were submitted to and approved by the community.<sup>5</sup> One of these regulations states that all commissioners of the burgh sent to Parliaments and General Councils shall be chosen 'per totum commune consilium burgi,' i.e. by the Town Council, and that their expenses shall be paid by the Town Council. We have no evidence about the previous practice in Aberdeen, or about the custom in other towns, but this instance makes it clear that election by the Town Council was known before the Act of 1469, which ultimately put an end to popular elections

<sup>1</sup> *Misc. of the Spalding Club*, v. pp. 39-40.

<sup>2</sup> *Mag. Sig.* i. App. i. pp. 154-5.

<sup>3</sup> *A.P.* i. p. 541.

<sup>4</sup> *Misc. Spalding Club*, v. pp. 40-47.

<sup>5</sup> *Burgh Records of Aberdeen* (Spalding Club), i. pp. 393-4.

in almost all Scottish burghs. That Act refers to 'officers' of the burghs, and may not have been intended to include commissioners to Parliament, but it is not likely that, in burghs where that Act was immediately observed, a popular election of commissioners should have survived.

The Municipal Act of 1469 was not at once obeyed in Aberdeen, and in spite of the rule asserted by the Town Council in 1437, we have two instances of a popular election. Our information about the first of these comes from a brief report of a speech made by the Provost to the Council on the 19th March, 1514. He said that by command of the King and Lord Huntly he had 'callit in the haill towne and gert cheiss certane commissioners to pass to the Parliament.'<sup>1</sup> The commissioners, who included the Provost, were ready to go, but the bailie whose duty it was to pay their expenses declined to do so, and the Provost protested. Again, in 1530, the 'haile toun' chose the commissioners.<sup>2</sup> There was evidently some trouble in 1515, and the Provost's explanation that he had the authority of the King (by whom must be meant the Regent) is suggestive of an apology for an unusual proceeding, as also is the reference to 'my lord of Huntly' (who was not the Sheriff of the county). At this period the city of Aberdeen was suffering from the interference in municipal elections of the magnates and barons of the county, who claimed to vote as leaseholders of burgh lands or as honorary burgesses, and, though it is impossible to speak with certainty, I am inclined to think that the popular elections of 1515 and 1530 were exceptional. The bailie's refusal to pay in 1515 may have been a protest against the Provost's surrender of the rights enjoyed by the Town Council under rules made in 1437. In 1555 the election was made by the Council.<sup>3</sup> In addition to the Aberdeen evidence, there is a record of an election at Edinburgh in 1484, when the Town Council seem to have chosen the commissioners.<sup>4</sup>

Such scraps of evidence as we possess tend, therefore, to suggest that the early elections of burghal commissioners to Parliament were made by the Town Councils, who were responsible for the payment of their expenses.

ROBERT S. RAIT.

A FIFTEENTH CENTURY VERSION OF THE 'TWA WITHERS.' The well-known anecdote of the member of the Scottish bar who agreed to act for one of two eager litigants and sent the other with a note to a professional brother, has probably a long history behind it. An earlier version is found in a sermon of Olivier Maillard, a Franciscan friar who gained a reputation for coarse eloquence and was chaplain to Louis XI. Maillard's *Sermones de Adventu* were published in 1500 and he died in 1502. The version is quoted by François Hotman in his *Matagonis de Matagonibus* (1578).

'Veniamus ad praedictum fratrem Oliverium Maillardum qui sermone xxi fer. 2 dom. advent. ita dicit: Et domini advocati: nunquid plumatis

<sup>1</sup> *Extracts from the Burgh Records of Aberdeen* (Spalding Club), i. p. 443.

<sup>2</sup> *Ibid.* p. 129.

<sup>3</sup> *Ibid.* p. 284.

<sup>4</sup> *Extracts from the Records of the Burgh of Edinburgh, 1403-1528* (Burgh Record Society), p. 50.



aliquando anseres pingues sive pipiones? Tempore Regis Ludovici in una civitate hujus regni erant duo advocati, qui erant compadres; unus bonus vir venit ad unum illorum, et dixit sibi, Domine, ego habeo unam causam in Curia: vos eritis advocatus meus, si placet. Respondit, libenter. Post duas horas venit adversarius suus, qui erat multum pinguis, et dixit ei: Domine, habeo unam causam contra unum rusticum: rogo sitis advocatus meus. Respondit, libenter. Quando vero venit dieta: primus qui non erat tam dives sicut alius, venit ad advocatum, et dixit ei: Domine, hodie debet teneri dieta, si placet, respondebitis pro me. Tunc dixit ipse: Amice mi, alia vice quando fuisti, nihil loquutus sum propter occupationes diversas, ego tamen avisabo de facto tuo: sed ego non possum esse advocatus tuus, quia sum advocatus partis adversae: tamen dabo tibi virum probum qui erit advocatus tuus, et scribam ad eum literas. Bene, dixit iste: habeo vobis gratias, domine. Tunc iste advocatus scripsit literas in hunc modum: Compater mi: venerunt ad me duo capones pingues: ego pinguiores cepi et alium vobis mitto; plumatis à parte vestra, et ego plumabo a mea' (p. 79).

DAVID BAIRD SMITH.

A LIST OF THE KIN, FRIENDS, AND DEPENDANTS OF  
ANDREW FORMAN, BISHOP OF MORAY, 28 MARCH, 1513.

The following list is taken from a Letter of Protection and Respite, under the Privy Seal, dated at Stirling 28 March 1513, in favour of Andrew Bishop of Moray, Commendator of Dryburgh, Pettinwem, & Cottingham in Yngland, then about to pass abroad on the King's affairs. The letter is not in the Privy Seal Register, but it was registered in *Acta Dominorum Concilii*, vol. 25f. 18, 20 April 1513. The list is as follows: Jonet Foirman Priore of Eklis, Maister Robert Foirman dene of Glasgw, Jhone Foirman of Ruthirfurd knt., Elene Ruthirfurde his spouse, Jhone abbot of Kilwynning, Maister Patrik blacader Archedene of Glasgw, Maister Robert blacader persone of Glasgw, maister James merchames-toune prouvest of corstorphine, Andro blacader of that Ilk, Robert blacader his sone & apperand aire, Cuthbert home of fastcastell, adam hume his broder, Williame ogillwy of stratherne knt., maister James ogillweye persone of spyne, Jhone ogillweye of the myltoun, Alexander Reidpetht of wynschelis, Jhone oliphant of kellie kny<sup>t</sup>, Williame oliphant his bruder and all his brethir and sonnys, Jhone of moncreif of that Ilk, Maister David Ramsay, Maister Jhone sanquhare Cancellare of Ross, Maister Jhone weddale persone of kynnore, Maister James dowglas persone of bouch, schir Williame Wincister chamerlane of murray, thomas hunter, maister Adam hunter persone of Depe his sone, Jhone wincister, william reidpeith in angelraw, James trumbille in cargunok, Adam trumbille of phillophauch, william manderstoune, william trumbille sone & aire to the said adam trumbille, george dowglas of bonecedword, Jhone dowglas his brudir, James dowglas in ogilestoune, william manderstoune in hertsides, Adam blacader in the wnzewar, margaret blacader lady of craschallow, Jhone maxwell her sone, dauid lichquhow in drigrauchtoune wodman, william michell alias sauchar, Thomas trumbill, maister James currou, george currou of Inchdrew,

andro bard maister of massindew in murray, Jhone forman, Jhone lwn in the kirklandis of saltoune, James sincler of lochirmagus, Jonet forman, maister thomas chalmer, maister alexander arbuthnot, david brus of clakmannane kny<sup>t</sup>, James trumbille in kirkhoip, thomas wrquhart shiref of crammaty, gilbert wrquhart, william wrquhart, richard paterstone baxtar, george knychtsone of leith, Nichol Rutherford Archibald Rutherford, Jhone Rutherford, Jhone cokburne, william cokburne, James cokburne, Johne waus burges of hadingtoune, david fourhous burges of hadingtoune, schir patrik duncane chapelane, alexander blacader vicar of Campsie, maister henry quhit persone of fynnewyn, Robert quhit of the maw, Jhone bawart, Jhone quhit, Thomas bard in Edinburgh, James bard in Edstoune, brys Richartsone, Thomas Reidpeith of That Ilk, Patrik Cokburn, Gawin cokburn, Jhone waus zonger, william kemp, henry waus, Jhone cauch, Jhone Ogilwy portionar of belfort, Maister alexander Ogilwy in Glassaut, William wysman, Jhone chalmer of strathethyn, Alexander chalmer in tallykery, Andro chalmer, William curle, Jhone falconer burges of Edinburgh, Alexander ogilwy, george barde, and all and sindry utheris his men kyn tenentis servandis and factouris.

C. CLELAND HARVEY.

RUNRIG (*S.H.R.* xiii. 207). Surely Dr. Jakob Jakobsen finally settled the derivation of this and kindred words in 1901 in his *Shetlandsøernes Stednavne*, s.v. *Rendal*, p. 248, of which the following is a translation :

*Rendal, Rental.* The word *rinndeal* means in Gaelic 'a piece of land of fixed extent' or 'boundary.' This word is also found in Shetland both as a common noun and as a place-name in the forms *rendal*, *rental*.—*rigga-rendal* is the old Shetland name for that system of the exchange of land which is referred to in the introduction to this book (pp. 57-58), which more commonly goes under the name 'run-rig.' Lowland Scotch 'run-rig' is a corruption of Gael 'roinn-ruith'<sup>1</sup>=running or parallel division (*rinn*, *roinn*, f., division). 'a rental' indicates in certain places in Shetland a small strip of grass-land which forms a boundary between two pieces of arable land; 'a rental o' ground' betokens a fishing-ground of a determined length and breadth. *Rendeljog* is the name of a swampy tract which forms an old boundary of hill pasture; the last syllable *ljog* is nearer O.N. 'løkr' than Keltic 'leog,' swamp. 'de *Rossarentals*' is the name of a hill pasture boundary (originally horse-pasture) in the island of Foula; *rossa*- : O.N. (h)rossa- (ross, n., horse).

If 'dale' were to be derived from O.N. it could only be *deill*, *deild*, *deiling*, division, or *deili*, marks, *deili-steinn*, mark-stone, land-mark, and not *dalr*, a dale, as suggested by Sir Herbert Maxwell.

ALFRED W. JOHNSTON.

RABELAIS' 'LA FUMÉE DU ROTI' (III. 37). In 1578 François Hotman published an anonymous pamphlet in defence of his *Franco Gallia*, entitled *Matagonis de Matagonibus, decretorum baccalauræi, monitoriale adversus italogalliam sive antifrancogalliam Antonii Matharelli Alvernogeni*.

<sup>1</sup> Why not a translation, as occurs in other cases?



The extreme rarity of the work (*libellus longe rarissimus*; Vogt, *Catal. libr.*) has concealed it from the meticulous research of students of Rabelais, but it contains an interesting reference to the anecdote referred to above. 'Et de illo dicto,' writes Hotman, 'facit festum Bald. in c. 1, per quos fiat invest. allegans dictum Hostiensis et Abbatis in c. ad nostram, de consuet. de illa sententia quondam lata ab illo fatuo Parisiensi contra tabernarium, qui volebat sibi solvi per quendam pauperem, qui comederat suum panem ad fumam et odorem carnum hospitis: judex autem sententiarat, ut solveret eum faciendo sonare monetam in suo manu, de qua sententia notabiliter dicunt Joh. And. et Panormit. quod neque Cato, neque Gratianus potuissent justiore pronuntiare. Panorm. in c. ad nostram, Ext. de consuet. Et eandem historiam recensent. Barbat, in l. 1 col. 7. vers. pone quod furiosus, ff. de verb. oblig. et consil. 58 Clementissimi, col. 2 lib. 1 et consil. 59. illud in medium, col. 4 lib. 2. c. Roch. Curt. in c. ult. Ext. de consuet.' (p. 5). Hotman returned to the subject in his *Strigilis Papirii Massoni* which appeared in the same year. 'Or. de fatuo posui nuper unum exemplum in meo *Monitoriali* de illo judice Parisiensi, qui sententiaverat solvi odorem carnum cum sonitu monetae: de quo praeter inibi allegata reperio loqui D. Jasonem de Mayno, in *cons. 178 in causa nu. 1 vol. 2*' (p. 6). The interest of these passages lies in the fact that in the generation which followed the death of Rabelais, the juristic references of this famous story had been clearly traced. It is probable that Hotman had the version of Rabelais before him when he wrote. *Vide*, Pietro Toldo, *La fumée du roti*; *Revue des Études Rabelaisiennes*, i. 13, and W. F. Smith, *Tiraqueau et Rabelais*; *Ibid.* v. 185.

DAVID BAIRD SMITH.

ANNE HYDE, DUCHESS OF YORK, by J. R. Henslowe (*S.H.R.* xiii. 119). Miss Henslowe writes, with reference to the notice of her book which appeared in the last number of this *Review*.

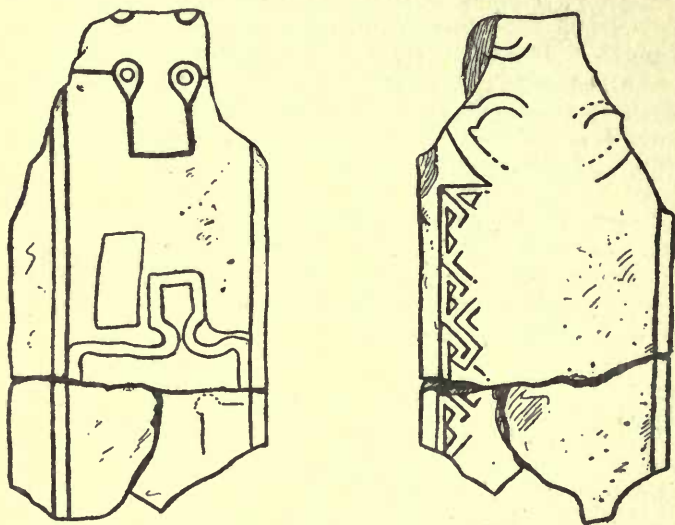
'In respect to the statement that the Hydes of Norbury had held that property from a period before the Norman Conquest, I have followed the *Life of Edward, Earl of Clarendon, from his Birth to the Restoration of the Royal Family*, written by himself, edition 1759. There he says he was third son of Laurence Hyde of West Hatch (Wilts) 'which Laurence was the youngest son of Robert Hyde of Norbury, in the County of Chester, which estate had continued in that family and descended from father to son from before the Conquest, and continues to this day in Edward Hyde, who is possessed thereof, the other estate of Hyde having some ages since fallen into that of Norbury by a marriage.'

The Reviewer points out that the Earl of Clarendon brings forward no proof in support of the above statement.

CELTIC CROSS-SLAB FOUND AT ST. ANDREWS. Dr. Hay Fleming last year called attention (*S.H.R.* xii. 443) to a Celtic Cross-slab discovered by Mr. Mackie at St. Andrews, and he now reports another find by Mr. Mackie on 20th January. It consisted of three fragments of a Celtic Cross-slab in a grave in the Cathedral burying-ground to the north of St. Rule's. Although these fragments fit together, the slab is incomplete,

## 320 Celtic Cross-Slab found at St. Andrews

but enough remains to indicate its nature and the changes to which it has been subjected. Originally it was an upright slab and decorated. The arms of the cross were connected by quadrants, and lower down there has been a beautiful diagonal-key pattern. Most of the surface is so badly weathered that it is not certain whether the cross had a shaft or not. In course of time the slab lost its beauty, chiefly through weathering and partly perhaps by accident. Then it was resolved that it should be no longer used as an upright stone but as a recumbent one. The face with the diagonal key was laid undermost, and so hid from sight. The other face, which had probably suffered most, was re-dressed, and on it a cross much later in date was incised. This later cross occupied a comparatively small part of the surface, but later still another cross was incised on



this face. One of these two seems at first sight very lop-sided. The Celtic and the Medieval craftsmen disdained dead regularity and uniformity. But Mr. Alexander Hutcheson has suggested that the cross is not lop-sided, but is cut athwart the stone, and that it was intended for another commemoration. This seems the true explanation, and the slab in its recumbent form may be accepted as commemorating two individuals.

The three recently recovered fragments when fitted together only measure thirty inches in length by fifteen in breadth. The thickness at one side is four and a half inches, at the other two and a half. A curious feature of the later face is the way in which it has been narrowed by the band or flat bottle. The rectangular figure is not sharply defined.

The sketches of both faces have been carefully made by Mr. Hardie. The slab was found about four and a half feet below the present surface, apparently *in situ*. Much nearer the surface a fragment was found of what may have been a free-standing cross. It only measures about ten inches by seven and a half by five and a half.



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## A Chapter Election at St. Andrews in 1417

THE *Formulare* compiled by John Lauder, who was secretary to Andrew Forman, Archbishop of St. Andrews, served for a time under Gavin Dunbar, Archbishop of Glasgow, became chief secretary to Cardinal Beaton, and ended his career under Archbishop Hamilton about 1552, contains almost exclusively contemporary documents. It is well known that in this volume the University of St. Andrews possesses a document of unique value for students of Scottish history on the eve of the Reformation. But in the course of his practice Lauder came across a few writs belonging to an earlier period which interested him, and which he took the trouble to incorporate. One of these, entered at folio 267, purports to be the instrument drawn up on the election of James de Haddenstoun to the Priory of St. Andrews. The compiler of a book of styles was not thinking of the historian as he wrote. Consequently there is an irritating absence of names and dates—except by occasional inadvertence ; but very frequently the initials at least are preserved, and the persons are not difficult to identify. In the present instance there is no reason to doubt that we have the copy of a genuine document belonging to the early part of the fifteenth century, just when Scotland was questioning the allegiance which she had maintained to the anti-Pope Benedict XIII.

The writ is a long one, and the Latin prolix. All that can be attempted here is by close paraphrase and occasional translation to give the reader an idea of the proceedings. Documents of this

class, framed for transmission to the papal court at a time when chapter election had been reduced in importance by the practice of reservation, were naturally fugitive ; and a good specimen becomes specially interesting.

The notarial instrument, entitled by Lauder *electio sive decretum electionis per viam scrutinii*, takes the form of an intimation addressed to his Holiness. After referring to the canonical rule that a cathedral church ought not to be vacant more than three months lest the wolf assail the flock or the church itself suffer grievous loss in her widowhood, the document proceeds to relate that, when the last prior (*sc.* James Bisset) went the way of all flesh and was duly buried, the canons regular of St. Andrews unanimously elected William de Camera, the sub-prior, to succeed, and sent him off with the decree of his election to seek the papal confirmation.<sup>1</sup> Before he could obtain this, however, he died, and was buried before one of the altars in the church of St. G. (St. Giles) at B. (Bruges). The fact of his death and burial was communicated to the canons of St. Andrews by a number of credible witnesses who were present. Thereupon W. de B. (William de Ballochy ?), *tertius prior*, upon whom the duties of vice-gerent devolved, together with the canons in residence, appointed a day for the election of a successor. According to the use and wont of the Priory each individual canon was cited by name, with intimation that those who were present on that day would proceed notwithstanding the absence of any brethren. The meeting assembled in the cathedral church—the names of the participants being appended to the present document—and after the usual mass *de Spiritu Sancto* and Latin sermon before clergy and populace, performed by certain individuals who were evidently named in the original writ, and in the presence of others similarly specified, the notary and witnesses saw the third prior and the canons enter the chapter-house *ut apparuit concorditer* at the proper hour before dinner—*debita hora ante prandium*. The notary accompanied them ; and, when the door was closed, William de Ballochy called the names of the canons according to seniority, appealing individually to each of the twenty-six who were present. After they had answered, the meeting was asked to decide what was to be the method of procedure—*per quam viam seu modum de priore possent utilius providere*. Some were unanimous for election, and

<sup>1</sup> The style gives the Pope as 'N. II' : probably 'II' is at error for 'V,' and Martin V. was the Pope intended. In reality, however, Benedict XIII. may have been the Pope mentioned in the original.



election by scrutiny: others thought that the whole business should be devolved upon his Holiness. The latter, ten in number, after some conference decided to maintain their position and left the chapter-house, in spite of the entreaties of the remainder. One of the canons who were left, with the mandate of his fellows, made public protestation in his own and their names that the seceders and their devolution of the matter upon the Apostolic See should not be any impediment to the election or have any force except in so far as they were entitled *de jure* to voices in it. The sixteen canons, regarding themselves as the *major et sanior pars* and therefore entitled to proceed to the scrutiny, first knelt to invoke the grace of the Holy Spirit. Then the third prior, having by use and wont the first voice in the chapter, for his own part and by special mandate of the rest warned all and sundry under sentence of excommunication, suspension and interdict, or any others debarred by law or custom from participating in the election, to leave the chapter; gave permission to the others to choose freely, with protestation that it was their intention to admit qualified voters only, and that any votes subsequently found to have been given by unqualified persons should be held as not received. Three of the brethren were appointed and empowered to ascertain secretly and individually first their own choice and then the choice of the remainder, write down the votes, announce the result, and make a *collatio* according to the requirements of the law.

These *scrutatores*, upon accepting the duty, withdrew to another part of the chapter-house, taking with them the notary and the witnesses, and proceeded to the scrutiny. First they elicited their own views according to the form put into their hands. Two of them, F. and G., adjured K., the third, by Father, Son, and Holy Spirit, and at the peril of his soul, that he should exercise his vote according to a sound and a just conscience. K. gave his support to James de Haddenstoun in this form: 'I, priest, canon regular of the church of St. Andrews, bachelor in decrees, senior *scrutator*, thirty years in the profession and habit, exercising the offices of chamberlain, sacrist, third prior, and precentor *per vices* in the monastery, agree to *dominus* James de Haddenstoun, my fellow-canon, and name him for election as prior.' Similarly F., the second *scrutator*, priest, canon regular, thirty years in profession, having repeatedly held the offices of sub-prior, sacrist, and master of work *per vices*, voted for Haddenstoun. So also voted G., the third *scrutator*, whose services to the house are not recorded in the

style-book. Immediately thereupon the three called William de Ballochy, the third prior, who added his voice for Haddenstoun, and then took the rest individually in their seniority by profession. The first was T. M., priest, canon regular, forty-three years in profession, exercising *per vices* the offices of sub-prior, chamberlain, cellarer, and master of work, who voted for Haddenstoun, followed by the others. Haddenstoun himself, called in his order, gave his vote for J. L. (John Lystar).

When the notary had recorded each vote in writing, the *scrutatores* rejoined their brethren and authorised him to read out the results. The *scrutatores*, in virtue of the powers granted to them, then proceeded *collationem numeri, zeli, et meriti etiam in communi facere*. The 'collation' was in the following form: 'It is established that we are twenty-six canons of the church of St. Andrews, of whom ten left the chapter and sixteen remained. Of these sixteen, fifteen directed their votes towards *dominus* James de Haddenstoun and one only, viz. the said James, to John Lystar, as appears by the detailed list of votes read before all. Therefore it is established that the majority of the voters, nay of the whole chapter, even if the seceding brethren had proceeded with the rest, agreed upon James de Haddenstoun: and so he is to be preferred and taken as elect *ratione numeri*. Similarly he is to be preferred *ratione zeli* because those who nominated him are the senior members and are outstanding in respect of their prerogatives, honours, dignities and benefices; and greater confidence would seem to be due to their consciences. Having good motives and a good zeal, and with full regard for the good rule of the Priory of St. Andrews in things spiritual and temporal, they have agreed upon James de Haddenstoun and have named him for prior. And Haddenstoun is of praiseworthy life, honourable conversation, watchful, energetic, careful and far-seeing, prudent in affairs spiritual and temporal, a man of high character, supported by powerful friendships calculated to protect our rights, whom it must be held that God by his special inspiration has called to rule through our votes and unanimous desires. Haddenstoun is also to be preferred *ratione meriti*, for he is of noble birth, whence he may be presumed to have a better ability and a better will to govern. He is a master in Theology, fitted to read in the schools, maintain, prove, and answer *collationes* in presence of our lord the Pope and his court, and to preach in very laudable and honourable fashion. He is of the lawful age, born of lawful wedlock, and in priest's orders. In nominating John Lystar he was alone and



unsupported. It is clear, therefore, that Haddenstoun is to be preferred for election *ratione numeri, zeli, et meriti*.'

After this 'collation' the canons were asked individually if it was their will that Haddenstoun should be elected *in communi*, since the *major et sanior pars* of the voting brethren, nay of the whole chapter, had agreed upon him. As they were all willing and no dissentient voice was heard, the third prior by special mandate solemnly elected him as follows: 'In name of the Father, Son, and Holy Spirit, Amen. When the Priory of St. Andrews fell vacant, due notice was given to the proper persons; and all who were entitled, desired, or were able to take part assembled on the appointed day. It was decided by all those who remained in the chapter-house for the election to provide a prior *per viam scrutinii* according to the form of the General Council. Upon announcement of the scrutiny and a careful *collatio*, it was found that the *major et sanior pars* of the voting canons, nay of the whole chapter, if the whole of the brethren had taken part, gave their votes to James de Haddenstoun, a man far-seeing and discreet, eminent in letters and knowledge, deservedly recommended by his character and good qualities, in holy orders, of the legal age, born in lawful wedlock, prudent in matters spiritual and temporal. Therefore I, William de Ballochy, third prior in the convent, having for the time first voice and first place in the chapter, on my own behalf and on behalf of all the other brethren voting, in virtue of the power granted me by them, do hereby, invoking the grace of the Holy Spirit, elect *dominus* James de Haddenstoun to be prior.'

The election having been thus celebrated, all and sundry the canons present publicly signified their approval, as did the absent canons by tacit consent, seeing that they made no protest or contradiction. So the canons who were present, singing aloud *Te Deum laudamus*, bore their elect, *quasi invitum et renitentem*, to the high altar of the church; and there William de Ballochy solemnly published the election to clergy and people before certain witnesses. Immediately thereafter they returned to the chapter-house, and William de Ballochy in name of himself and his brethren desired Haddenstoun to declare whether he consented. He replied before witnesses that he would give his answer after consideration. On the appointed day Haddenstoun was again formally asked for his decision and replied: 'I, James de Haddenstoun, elected to the Priory of St. Andrews, neither consenting out of ambition nor refusing out of pride, nor seeking

to resist the will of the Lord, do assent to your votes and do agree to my election, always provided that it please his Holiness, to the honour of the high and indivisible Trinity, the glorious Virgin St. Mary, and St. Andrew the Apostle, my patron, in whose name the said church is dedicated.' The document then closes, as Lauder indicates, in the usual notarial fashion.

The *Scotichronicon* tells us, under the year 1417, that the Council of Constance sent an envoy to secure the adhesion of Scotland, and that while the governor Albany supported Benedict XIII. the University of St. Andrews desired a change. We know from the University records that it was in August, 1418, that the Masters of the Faculty of Arts definitely decided upon the withdrawal of obedience from Benedict, and intimated that if the governor did not accede they would act for themselves. The national voice was uttered at a General Council at Perth in October of the same year.

In May, 1417, Haddenstoun, who was a papal chaplain, was made a minor penitentiary by Benedict; and it seems to be implied, though it is not definitely stated, that he was then at the papal court.<sup>1</sup> It is sometimes said that William de Camera intervened as prior between Bisset and Haddenstoun; but it is clear that William, though elected, never obtained confirmation. If Haddenstoun was with Benedict in May, he had certainly returned to St. Andrews before his election. Martin V. began to rule on November 11, 1417, and at Constance, on February 17, 1417-8, he provided Haddenstoun, referring to the chapter election as done in ignorance of the general reservation of major cathedral dignities by Peter de Luna, a reservation continued by himself.<sup>2</sup> Evidently Haddenstoun had thrown in his lot with the supporters of Martin V. and was sent to Constance by the chapter as their elect, along with Lystar. The latter continued relations with Benedict, and communicated with Peniscola; for on March 10, 1417-8, he was provided by the anti-Pope, and Haddenstoun was to be comforted with a pension of 200 gold scudi.<sup>3</sup> When Lystar reached Bruges on his return from Constance he found Benedict's letters, and, according to his own account, repented, saying, 'God be merciful to me a sinner.'<sup>4</sup> His repentance led to further correspondence; and in December of 1418 Benedict deprived Haddenstoun, as a schismatic, of the pension, transferred it to the chief secretary of his own supporter, the Duke of Albany,

<sup>1</sup> *Vatican Transcripts* (Reg. Ho.).

<sup>2</sup> *Papal Letters*, vii. 63.

<sup>3</sup> *Papal Petitions*, 608.

<sup>4</sup> *Ibid.* 609.



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and extended the provision of Lystar to meet the new situation.<sup>1</sup> Meantime Haddenstoun, who had remained at Constance, obtained an indult from Martin to wear the mitre, ring, and pastoral staff.<sup>2</sup> In August, 1419, now that Scotland had withdrawn obedience from Peter de Luna, he was appointed papal nuncio and collector, and was sent off with a safe-conduct.<sup>3</sup>

From Bower we learn that Bisset died on June 25, 1416, and that William de Camera was elected in the same year. The statement that the latter died in 1417 is probably correct; but that he had secured confirmation is demonstrably wrong. The chronicler goes on to say that Lystar was with him, came to Benedict at Peniscola, and obtained provision. 'Meantime, or a little later,' Haddenstoun, as elect, approached Martin V. and was confirmed before Scotland withdrew obedience from Benedict.

This account of Lystar's movements becomes suspicious when we have documentary evidence in the *Calendar of Papal Registers* that he took part in Haddenstoun's election and proceeded with him to Martin V. at Constance. But the main facts seem to be clear. If William de Camera was sent to Martin V., chronology demands that the statement should be interpreted in the sense that he was *not* sent to Benedict XIII. but to await anticipated action by the Council of Constance. This at all events agrees with the absence of any reported action by the anti-Pope, and would explain his seemingly protracted stay on the continent. However that may be, his death probably took place late in 1417 and was followed by Haddenstoun's election. Evidently the ten seceding canons were supporters of Benedict and knew that the remaining sixteen intended to send their elect to Constance. Haddenstoun made no secret of his views: Lystar sat on the fence. Bower's narrative of the period suggests that in St. Andrews the movement for withdrawal from Benedict had been going on for some time before the change was made by the General Council at Perth in October, 1418. It is interesting to observe that in the winter of 1417, and probably soon after the election of Martin V. became known in Scotland, sixteen out of the twenty-six canons of St. Andrews were prepared to give him their adherence.

R. K. HANNAY.

<sup>1</sup> *Papal Petitions*, 610.

<sup>2</sup> *Papal Letters*, vii. 78.

<sup>3</sup> *Ibid.* 2, 8.

## François Hotman

THE study of the life and temperament of François Hotman brings to light some of the prevailing forces which moulded and directed events for two generations and found full play in Scotland. The prevailing political interest of historical students such as Armstrong and Figgis has tended to limit the significance of the sixteenth-century personages treated by them to one aspect of their work. This abstracted view of the period neglects the side of Jean Bodin represented by his *Démonomie des sorciers*, disregards the ecclesiastical interests of Hugo Grotius, and passes over in silence many fields in which Hotman was an active worker. It may be that in defining the ultimate import of these worthies, contemporary historians have correctly gauged their particular contributions to the sum of human knowledge, but their judgment is apt to appear incomplete to readers who regard the past as a stream of many-coloured tendencies. Seeking to envisage the sixteenth century as a whole, the latter remember that Hotman was not only a predecessor of Montesquieu and Vico, and a subject of criticism at the hands of the regalist, William Barclay, but also one of the formative influences in the later phase of the Reform movement, and an important figure in the development of legal theory. He not only aroused William Barclay, but he also formed the mind of Andrew Melville and influenced that of Sir Thomas Craig. He touched life at many points and angles, and when a writer of our day describes his career as 'une odysée de misère,' the phrase must be taken to refer to the variety of his experiences, and not alone to his material misfortunes.<sup>1</sup> He was one of those spirits, 'animi saltem militareis et feroces,' who emerged from one inherited *milieu* to explore many others.<sup>2</sup>

The tradition which Hotman inherited at his birth on 23rd August, 1524, was clearly defined and typically French, though

<sup>1</sup> Petit de Julleville, iii. 568.

<sup>2</sup> *Budaei de asse* (Lyons, 1551), 706.



based on a foundation of Teutonic ancestry.<sup>1</sup> His grandfather came to France from Silesia, and settling down in Paris, married a Frenchwoman. His eldest son rendered useful service to the Crown in connection with the ransoming of Francis I. after Pavia, and other members of the family occupied important positions in the public administration. Lambert, an uncle of François, was Prior of S. Maurice at Senlis, and his father, the youngest of twenty-two children, after administering the Royal Woods and Forests, became a Councillor of the *Parlement de Paris*. The latter married a lady of good birth from Picardy, whose family belonged to the powerful *noblesse de la robe*, three of her brothers being respectively assessor to the *Prévost de Paris*, Royal Secretary, and an esteemed Councillor of the *Parlement de Paris*. François Hotman, the eldest of a family of nine sons and a daughter, was the descendant of generations of functionaries, but he was destined to become almost a traitor to his cast and to lead the van of revolt against that centralised authority which they had all assisted to consolidate. His life marked a startling breach in the family tradition, but the prolific stock to which he belonged carried on the torch in the younger lines, and his son Jean, after wanderings and hesitations, reverted at length to the family type. François marked a dangerous salient in the straight line of the Hotman tradition. The passage of one generation sufficed to straighten it out.

The Hotman family was a notable one, exhibiting in the course of two generations the most diverse tendencies, and maintaining a worthy standard of achievement. The conventional Catholicism of Pierre Hotman developed in the person of his son Antoine into the faith of a Leaguer, and later into a moderate Gallicanism. The latter was Advocate General during the League, but at the risk of his life he defended the claims of Royalty and the authority of the Salic Law, and espousing the cause of the Cardinal de Bourbon, carried on a polemical contest which produced his more famous brother's treatise, *De successionē inter patrū et patris filium*. In after life he wrote in support of the Gallican Church. His wife earned a reputation for sanctity. His memory is enshrined by Loisel in his immortal catalogue of the leaders of the Paris Bar.<sup>2</sup> Jean, another brother of François

<sup>1</sup> Petri Neveleti Doschii *Vita Fran. Hotmani* (1592), and Daresté, *François Hotman, d'après sa correspondance inédite : Revue Historique* (Paris, 1876), ii. pp. 1 and 367.

<sup>2</sup> Scaevola Sammarthanus, *Elogiorum*, lib. iv., and Maimbourg, *Histoire de la Ligue* (1686), iv. 333. 'C'estoit,' wrote Loisel, 'un tres-suffisant homme, et qui

Hotman, was Chancellor to the Cardinal of Lorraine, and during the Religious Wars other members of the family fought on the Catholic side.<sup>1</sup> The fierce Calvinism of François was abandoned by his son Daniel for Romanism, and in the case of his son Jean was developed, through contact with the Anglican Church, into a belief which sought to find a common basis between doctrinal extremes.<sup>2</sup> This diverse orientation of the Hotman family gave them from time to time political importance. The most striking instance of this occurred in 1585, when Jean Hotman was closely associated with the family of Sir Amyas Poulet, the English Ambassador at Paris, and his uncle Antoine was a member of the Council of Archbishop Beaton, the representative in France of Mary Stuart. Morgan, one of the agents of the Scottish Queen, hoped that the relationship might be made use of for the furtherance of his mistress' ends.<sup>3</sup> But the extremes tended to meet, and there was a certain fitness in the publication in 1616, when the older and more vigorous generation had vanished, of the *Opuscles Françaises des Hotmans*, in which the minor writings of the great Protestant jurist are associated with

chassoit, comme l'on dit, de race, estant fils d'un bon conseiller, et frere d'un grand jurisconsulte assez connu par ses escrits, tenant de la prud'homme de l'un et du sçavoir de tous les deux, n'ignorant rien du droict civil ou canon, ni des bonnes lettres requises en sa charge, comme il a fait paroistre, tant par ses escrits qui sont doctes et judicieux, que par les remonstrances et plaidoirs qu'il fit en parlement, lorsqu'il fut eleu advocat du roy durant la ligue. Aussi commençoit-il d'entrer aux consultations, et d'y tenir dignement sa place, ayant les textes de droict et les decisions communes du palais en main, et sur tout le jugement bien certain. Il estoit en effet meilleur advocat qu'il ne sembloit à le voir, ressemblant aux Silenes d'Alcibiade ; car il avoit assez peu de façon, et, si je l'ose dire, peu de grace, et la mine désagréable, mais tres-bonne, lors qu'il parloit. . . ' Dupin, *Profession d'Avocat*, i. 252 ; cf. Pasquier, *Les Lettres*, xvi., à Theodore Pasquier.

<sup>1</sup> *Mémoires de Sully*, ed. Paris, 1822, v. 336, and d'Aubigné, *Histoire Universelle*, iii. cap. 17.

<sup>2</sup> Cf. Pattison, *Isaac Casaubon* (1875), 504.

<sup>3</sup> From the Bastille to Queen Mary on 9th April, 1585, 'I do think,' wrote Morgan, 'of all the means I can to find out amongst Poulet, his friends and followers, some to serve your turn, which God will send you. There is one Hotman, a Frenchman, that much haunteth the said Poulet, whose children he brought up both here and in England. The said Hotman is a great Huguenot, and much addicted to Leicester, as far as I perceive. The said Hotman is a kinsman to Hotman that serveth your Majesty in your Council here ; whereof upon these occasions I will give instructions to the Bishop of Glasgow to deal with old Hotman, and to see whether the other may be made an honest man and an instrument to serve your majesty, which he might do without all suspicion . . .' (Thorpe, *State Papers*, xv. 64 and 65 ; Morris, *Letter Books of Sir A. Poulet*, 1874).



the *facetiae* of his Leaguer brother, and the scholarly disquisitions of his diplomatist son.<sup>1</sup> In the history of the Hotman family is found that *curiosa diversitas* which will always attract a certain type of mind to the study of the sixteenth century.<sup>2</sup>

After studying at the Collège de Plessis, Hotman began his legal education at Orleans in 1539-40, under the influence of Pierre de l'Estoile and Dumoulin. Returning to Paris, he commenced practice as an advocate, but he soon found the rough life of the Law Courts uncongenial to his temperament and doctrinaire cast of mind, and in 1546 he opened a *cours libre* at the University. He made a deep impression, and Etienne Pasquier, writing in his old age to Loisel, bore witness to the debt which he owed to his legal teaching in early youth.<sup>3</sup> Here Hotman was closely associated with Badouin, who was also delivering a *cours libre* on Roman Law, and formed a friendship which was destined soon to be transformed into the bitterest enmity. In the following year he took a step which determined the whole course of his life. He joined the party of religious reform, and, unlike his fellow jurists Dumoulin and Badouin, remained steadfast in the cause until his death. His conversion to Protestantism has been attributed to the spectacle of the constancy of the victims of religious persecution,

<sup>1</sup> Paris: chez la vefue Matthieu Guillemot, tenant sa boutique au Palais, à la gallerie des prisonniers. The Hotman family, devoted through successive generations to the study and practice of law, recalls the Ubaldi of Perugia, who had a similar record at an earlier date. Vide Panziroli, *De claris legum interpretibus*, ii. c. 170, and Morphae, *Catalogus interpretum juris civilis*.

<sup>2</sup> Among the letters of Paolo Sarpi is one of 1608 addressed, according to Polidori, to 'Francesco Hottman, abbate di san Medardo,' i.e. Abbot of S. Médard at Soissons (?). In a note the editor states: 'L'Ottmanno fu anch' egli consigliere del Parlamento di Parigi.' The witty Venetian, in response to a request from his correspondent, gives the latter some characteristic advice on the study of Ecclesiastical History, with particular reference to the controversies of the day. 'Ma eccovi,' he sums up, 'a mio parere, una regola generale e infallibile per tutte le difficulte che voi potrete incontrare nel corso de' vostri studi. Voi dovrete consigliarvi coi Gesuiti, per risolvere poi in tutte le cose direttamente all' apposto di quanto essi vi diranno' (*Lettere di Fra Paolo Sarpi*, ed. Polidori, Firenze, 1863). The letter was addressed to one of the sons of Monsieur de Mortfontaine Hotman, French Ambassador in Switzerland (cf. Jean Hotman, 'Traité de l'Ambassadeur': *Opuscules Françaises des Hotmans*, Paris, 1616, p. 504). This worthy was a brother of François Hotman, and in 1592 his sons were studying at Padua under the protection of Hurault de Maisse, French Ambassador at Venice (v. Letter from de Maisse to Jean Hotman of 26th December, 1592: *Archives du Musée Teyler*, série ii. vol. xii. pt. ii. p. 263).

<sup>3</sup> *Lettres*, xix. (vol. ii. 501, ed. 1619).

but the cause lay deeper in the critical individualism of his spirit. He fled to Lyons from his father's anger, and replied to his threatenings with the defiant declaration: 'Habeamus aquam, habeamus polentam: Jovi ipsi de felicitate controversiam faciemus.'<sup>1</sup>

Soon after his departure from Paris, Hotman came in contact with Calvin, and became one of his secretaries. The two men had much in common, and the correspondence of the great theocrat offers ample evidence of their intimacy and of the stern tolerance with which the older man accepted the vagaries of his protégé. In February, 1549, Hotman published at Lyons a Latin version of Calvin's *L'Advertissement contre l'astrologie qu'on appelle judiciaire*, which the latter had dictated to him in French.<sup>2</sup> After paying two visits to Lausanne and Geneva he settled down in the former place in February, 1550, having been provided with a professorship at the Academy.<sup>3</sup> During his residence at Lausanne he accompanied Calvin to Frankfort, whither the latter had been summoned to settle acrimonious disputes which distracted the English congregation there, and in which John Knox played a prominent part.<sup>4</sup>

He was soon tired of the drudgery of a teacher's life, and troubled Calvin with his complaints. 'Est enim,' the latter wrote to Viret, 'ut video, inflatus solida confidentia, quae facit ut omnia illi evanescent.'<sup>5</sup> At length he had his way, and reached Strassbourg in August, 1555, furnished with letters from Calvin to Sturm and Peter Martyr.<sup>6</sup> He found his friend Badouin in possession of the chair of Civil Law, but Peter Martyr held out hopes of an early vacancy.<sup>7</sup> On 14th June, 1556, the latter wrote to Calvin, 'Othmannus locum Balduini habuit.'<sup>8</sup> In

<sup>1</sup> Doschius, *op. cit.*

<sup>2</sup> On 22nd November, 1547, Hotman wrote to Calvin regarding this work. *Calvini Opera*, xii. 619 and 717. Cf. Doumergue, *Jean Calvin* (Lausanne, 1899, etc.), iii. 596.

<sup>3</sup> Doumergue, *op. cit.* ii. 202, n. 5.

<sup>4</sup> *Calvini Opera*, xvi. 301 and 714; cf. Knox, 'Narrative of the Proceedings and Troubles, etc.,' *Works*, iv. 1 et seq.

<sup>5</sup> Calvin to Viret (15th August, 1551), *Opera*, xiv. 165; cf. *ibid.* 343 and 357. Calvin did not spare his protégé, who wrote, 'Oratio tua vehemens et incitata animum meum perculit.'

<sup>6</sup> *Ibid.* xv. 687 and 727.

<sup>7</sup> On 28th September, 1555, Martyr wrote to Calvin that Badouin was going to Heidelberg, and added, 'Hotomanum subistere loco ejus velim' (*ibid.* 788).

<sup>8</sup> *Ibid.* xvi. 197. In the interval Hotman had visited Basle, from which he sent Bullinger an envious account of the vogue which Castellion enjoyed, in



the same month he was offered a chair by the Duke of Prussia.<sup>1</sup> His settlement at Strassbourg was marked by a rupture with Badouin, which gave rise to a fierce controversy, conducted in the free tone of the age.<sup>2</sup> Calvin, who had a measure of reluctant respect for Badouin, soon wearied of Hotman's vindictive abuse of his enemy, and wrote strongly of his foolish behaviour.<sup>3</sup>

Until the death of Henry II. in 1559 Hotman's interests, apart from his professorship, were theological and ecclesiastical. He was an ardent disciple and a favoured protégé of Calvin, and during his residence at Strassbourg supplied his leader with information which he thought might be of use. His activities in this direction are open to criticism, and a fastidious reader of his letters is inclined to dub him a sycophantish tale-bearer. The usual struggle between Lutherans and Reformed was proceeding at Strassbourg, and Hotman faithfully reported the indiscreet remarks of Calvin's opponents to the latter. In July, 1558, Alexander had abused the Great One to a deacon of the French Church, who, in reporting the outrage to Hotman, had represented himself as having retorted 'Si D. Calvinus sciret se appellare papam et non pertinere ad illum curam aliarum ecclesiarum quam suae Genevensis?' Hotman took care that Calvin knew with as little delay as possible.<sup>4</sup>

The succession of Queen Elizabeth to the English throne seemed to offer a brighter future to Continental Protestants, and

contrast with Calvin's unpopularity. *Ibid.* 803; cf. Buisson, *Sébastien Castellion* (Paris, 1892), ii. 90 and 120; Giran, *Sébastien Castellion* (Haarlem, 1914), *passim*; cf. also Letter from Hotman to Bullinger of 28th September, 1555, *Epistolae* (Amsterdam, 1700), pp. 1 and 253.

<sup>1</sup> *Ibid.* 199.

<sup>2</sup> This incident is dealt with at length by Bayle in his article on Hotman with his usual zest for a scandal. The modern view is expressed by Daresté, *François Hotman, Revue Historique* (Paris, 1876), ii. 1; Doumergue, *Jean Calvin*, i. 154, and ii. 387; *Bib. Ec. Ch.* v. 360. Calvin's sympathies were with Hotman, but he condemned his heat; cf. Prat, *Maldonat et l'Université de Paris* (Paris, 1856), 326.

<sup>3</sup> *Cal. Op.* xvi. 132, 172 and 261, 'Haec tibi ab eo praecipi memineris qui, etsi acrioris quam oportaret vehementiae sibi conscius est, pacato tamen animo quotidie multos impetus sustinent, puae quibus lusorium est tuum cum Balduino certamen.' Calvin's reprimand was hardly justified in view of his unseemly attacks on Badouin, whom he described as *caméléon suborneur* and *Ablativus*. Lenient, *La Satire en France* (Paris, 1866), 224. The former epithet suggests the origin of George Buchanan's attack on Maitland of Lethington. Cf. Badouin, *Responsio ad Calvinum et Bezam* (Coloniae, 1564), 86 *et sqq.*, and A. Wicquot, *François Balduin, Mémoires de l'Académie d'Arras*, II. série xx. 260 and xxi. 140.

<sup>4</sup> Hotmanus 'Calvino,' *Cal. Opera*, xvii. 266.

the fact that Hotman had been living for some years on intimate terms with the exiles who were destined to high office under the new regime turned his thoughts to politics.<sup>1</sup> On 12th December, 1558, he wrote joyfully to Calvin of the advent of a Protestant Queen, and expressed his relief that Calvin had written to the English community at Strassbourg dissociating himself from the anti-feminist polemic of John Knox.<sup>2</sup> Hotman seems to have been dazzled by the wide horizon which thus opened, and was soon deeply involved in the conspiracy which ended in the Tumult of Amboise.<sup>3</sup> In September, 1559, he wrote urgently to Calvin to send Beza to Strassbourg, and enlarged eagerly on his hopes of the fruits which would result from the important affair on which he was engaged.<sup>4</sup> The letter can only be interpreted as referring to the conspiracy, in which he sought to involve Calvin.<sup>5</sup> The failure of the Amboise affair resulted in a fierce breach between Hotman and another friend. After Badouin came Sturm. The latter had accompanied Hotman in the spring of 1560 on a diplomatic visit to Heidelberg on behalf of the cause of French Protestantism.<sup>6</sup> After this journey Sturm and Hotman apparently returned to Strassbourg, but Hotman soon departed by stealth on a secret errand. His unexplained absence endangered his official position, and Calvin found it necessary to intervene and explain to Sturm that his protégé was at the Court of the King of Navarre at Nerac, whither Beza had preceded him.<sup>7</sup> While Calvin was willing to intercede in his favour, he did not approve of his *démarches*.<sup>8</sup> In July, 1561, Hotman had not returned from France,

<sup>1</sup> His English friends included Sir Anthony Cook, Sir Thomas Wroth, Sir John Cheke and Sir Richard Morison (*Cal. Opera*, xvi. 83, 199, 316 and 414). He dedicated his *De Actionibus* to Sir Thos. Wroth, and his *Praefatio in Jurisconsultorum* to the Earl of Bedford, both in 1559.

<sup>2</sup> 'Omnes laetati sunt tuis literis in quibus aperte testatus es libellos illos tibi non placere. In disputatione de Gynaeconatia praejudicium huic piae reginae fiebat. Sed spero rem omnem extinctum iri' (*ibid.* 396). The letter closes: 'Uxor et Joannes et Theages et Maria et quidquid in utero est tibi salutem optant!' On his departure for England Sir Thomas Wroth left his son in Hotman's charge (*ibid.* 480).

<sup>3</sup> On Hotman's share in the conspiracy, *v.* Lavissee, vi. (1) 13.

<sup>4</sup> *Cal. Op.* xvi. (2), 645; cf. 'Hot. Cal.' *ibid.* 672 (14th November, 1559); *ibid.* xviii. 19 and 38.

<sup>5</sup> Calvin found it necessary to write to Coligny denying all association with the scheme (*vide* undated letter, *ibid.* xviii. 425).

<sup>6</sup> *Ibid.* xvii. 21.

<sup>7</sup> *Ibid.* xvii. 201 and 231.

<sup>8</sup> 'Scito, tamen, me ab ejus conciliis fuisse alienissimum nec quidquam eum majis studuisse quam ut me celaret' (*ibid.* xviii. 233)



and in the interval he had been in Germany again negotiating with the Protestant princes on behalf of the King of Navarre.<sup>1</sup>

In the meantime his quarrel with Sturm, who was not inclined to follow him in the dangerous paths of political intrigue, had burst forth. Hotman accused his friend of betraying the conspiracy, which had been in fact detected through his own boastful imprudence. Sturm wrote to Condé defending himself against charges which Hotman was spreading that he was a supporter of the Guise faction, and addressed a scathing letter of rebuke to Hotman himself, in which the latter's political activities are shown in the worst light.<sup>2</sup> He also wrote on 17th June, 1562, to the Bishop of Valence in the same strain, having apparently learned of Hotman's negotiations with the latter.<sup>3</sup> Hotman, however, had cast the dust of Strassbourg from his feet, and in the winter of 1562-3 was in Germany.<sup>4</sup> While he was thus engaged, a pamphlet appeared in Paris, in which he was associated with Calvin and Beza in the responsibility for the Tumult of Amboise, and for a time the Calvinist world became too hot for one whose imprudence had involved his associates in suspicion.<sup>5</sup> The Colloquy of Poissy had induced a *rapprochement* between the Huguenots and the Crown, and Catherine de Médicis was seeking Protestant support to counteract the influence of the Guise family. In these circumstances she was anxious to enlist the support of Hotman for Rambouillet's mission, and gave her envoy written instructions to wait upon 'Dr. Hotomanus' at Strassbourg and to offer him a pension.<sup>6</sup> Hotman accompanied the French envoy to Heidelberg, but their joint negotiations were not attended with much success. The growing breach between the Lutherans and the Reformed was neutralising the political influence of the German Princes in France, and the Cardinal of Lorraine took full advantage of their mutual distrust.<sup>7</sup>

<sup>1</sup> *Ibid.* xvii. 540, xviii. 292.

<sup>2</sup> *Ibid.* xviii. 481 and *Bibl. de l'Ecole des Chartes* (1854), v. 360.

<sup>3</sup> *Ibid.* xviii. 518. For an unpleasing example of Hotman's methods of secretly libelling Sturm, v. letter to Harnack, secretary to the Landgrave of Hesse: *Revue Historique* (1908), xcvi. 304.

<sup>4</sup> *Ibid.* xix. 211, 228, 380 and 494.

<sup>5</sup> *Religionis et Regis adversus exitiositas Calvinii Bezae et Ottomanii conjuratorum factiones defensio prima* (Paris, 1562). Printed in *ibid.* xix. 438.

<sup>6</sup> MS. Hotman de Villiers (*Bulletin de la Société de l'Histoire du Protestantisme français*, xvii. 100).

<sup>7</sup> On 7th March, 1558, Hotman wrote to Bullinger: '... Card. Lotharingum scripsisse Palatino, captivos Parisienses indignos esse pro quibus ipse cum caeteris

In the course of his visit to Germany in the summer of 1561, Hotman found that the astute policy of the Cardinal was bearing fruit, and that while some of the Princes were prepared to send a collective embassy to the King of Navarre, the Elector of Saxony hesitated. In the view of the Elector the Princes must give formal expression of their condemnation of Zwinglianism, and might find it necessary to make their support conditional on the acceptance of the Augsburg Confession by the French churches.<sup>1</sup> In August Hotman wrote to William of Hesse that the Guises were sending couriers throughout Germany to counteract his mission, and that he was watched by spies.<sup>2</sup> The diplomacy of the Cardinal was entirely successful, and, with the exception of the Landgrave of Hesse, the German Princes imposed the impossible condition of the acceptance of the Augsburg Confession. When things were in this case, civil war broke out in France, and Hotman's rôle became a responsible one. He acted as political secretary to Condé in his negotiations with the German Princes, though it is apparent from his correspondence with the Landgrave which has been recently recovered, that he could neither understand nor write German.

At length the long looked-for German legation started for Strassbourg in May, 1562, and Hotman left Orleans to meet it. On the 7th June he sent a long despatch to the Landgrave of Hesse, in which he painted in very lurid colours the wretched condition of Catherine, in the power of the Guises and in constant danger of personal violence.<sup>3</sup> In spite of his urgency the German Princes did nothing, and the Landgrave wrote that he was astonished that the Queen of England and the Evangelical cantons, who were at one with the French Protestants on the article of the Eucharist, did not come to the assistance of Condé. Hotman continued to correspond with the Landgrave and his son until peace followed the assassination of the Duke de Guise in the spring of the following year. On 15th August, 1563, he wrote to the Landgrave that he had received an invitation from Valence, and that he intended to go there for a year after he had paid a visit to the Court.<sup>4</sup> Two years before he had been appointed *Maître de Requêtes* to the King of Navarre, and principibus intercedat, quoniam omnes sunt Calvinistae, Zwingliani, sacramentarii. Itaque in duobus edictis regiis nunquam Lutherani, ut antea, sed semper sacramentarii nominantur' (*Calv. Opera*, xvii. 84).

<sup>1</sup> Daresté, *Hotman, Nouvelles lettres : Revue Historique* (1908), xcvi. p. 298.

<sup>2</sup> *Ibid.* 300.

<sup>3</sup> *Ibid.* p. 307.

<sup>4</sup> *Ibid.* p. 315.



during his visit to Paris he was appointed Historiographer Royal, an equally unremunerate post.

Before this short interlude of active political intrigue Hotman had laid the foundation of his reputation as *savant* and pamphleteer. In 1558 he published his *Commentarii in XXV Ciceronis nobiliores orationes*, in which for the first time he interpreted the work of the great orator in terms of Roman Law, and defined himself as a distinguished legal humanist.<sup>1</sup> In 1560 his *Commentary on the Institutes* appeared at Basle, and displayed his humanism applied to a purely legal subject matter.<sup>2</sup> Before his settlement at Strassbourg, and while he was still under the direct influence of Calvin, he had published several works of a theological and controversial character directed against his brethren Douaren and Dumoulin.<sup>3</sup> He did not, however, return to this field until he published his *Brutum Fulmen* a few years before his death.<sup>4</sup> Before his settlement at Valence, Hotman had achieved a *succès de scandale* in the publication of the notorious libel, *Epistre envoyée au tygre de la France*, a fierce attack on the Cardinal of Lorraine, which passed like a firebrand over France and cost its printer his life.<sup>5</sup>

<sup>1</sup> Published by Robert Etienne and dedicated to Joannes Lucius. In the dedication Hotman justifies his commentary by observing 'quum adhuc commentarii in eas quidem Orationes nulli, quod sciam, scripti sint nisi ab hominibus juris civilis imperitis et ab eis qui praeclare suo se munere perfunctos arbitrantur, si aliquot in locis figuras (ut dixi) Graece nominarint.' The copy of this treatise in the Library of Glasgow University is in a contemporary binding with the *Gentium et familiarum Romanorum stemmata* of Richard Strein, one of Hotman's German pupils. Strein became an Imperial Councillor at Vienna, and corresponded with Hotman in 1589. The pupil's treatise is provided with commendatory letters from Beza to Hotman and *vice versa*, and bears the following MS. note: 'Dono mihi dedit D. Beza, vir ornatissimus, et de me quam optime meritus.'

<sup>2</sup> Published at Basle by Johann Herwagen. The dedication to the Elector of Saxony is dated from Strassbourg, February, 1560. Gravina writes of these legal writings of Hotman: 'Extulit eadem aetas Franciscum Hottomannum, qui Tullianam scribendi venam attulit ad jus civile, eique reddidit Romanae historiae lucem, veteresque Jurisprudentiae cunabula eruit e Ciceronis libris, ubi recondebatur' (*Orationes*, Utrecht, 1713, iv. 158).

<sup>3</sup> *De statu primitivae ecclesiae ejusque sacerdotiis, de pontificis Romani potestate atque amplitudine* (Geneva, 1533) and *Pro ecclesiasticae unitatis defensione: Œuvres comp. de du Moulin*, Paris, 1681, iv.; cf. *Cal. Opera*, xvi. 81. The latter treatise was published under the name of Fr. Villerius.

<sup>4</sup> Hotman's great contemporary Cujas shared none of his ecclesiastical tastes, and is said to have parried a searching theological question with the quiet observation, *Nihil hoc ad edictum praetoris*.

<sup>5</sup> Brantome, *Des Dames: Œuvres complètes* (Paris, 1876), ix. 492. At the time at which this libel was published, Hotman's brother Jean was in the service of the Cardinal of Lorraine. In Sturm's indignant letter of 1561 he taunted

Hotman's political activities during the latter years of his official residence at Strassbourg were, as has been indicated, of a doubtful character and at times open to grave criticism. Their beginnings were insignificant, and it is probable that he had to impose himself on the leaders whom he desired to serve. He was eager to take a hand in intrigue and conspiracy, and though he failed to obtain a footing in the inner circles of the Huguenot party, he was able to obtain a certain measure of reluctant recognition from the Protestant leaders of France and Germany. If the measured invective of Sturm, a scholar of high merit and unblemished reputation, be accepted as well founded, Hotman's manner of ingratiating himself resembled that by which a notorious Jewish financier of last century obtained a partnership and a bride at one stroke. He claimed in France to be the confidant of the German princes, and in Germany he represented himself as deep in the counsels of Condé and Navarre. Neither claim had any real foundation, and until the outbreak of the first Religious War he was treated with suspicion by the Huguenot leaders. With his usual indiscretion he loudly accused the King of Navarre of levity and laxity, but Antoine and his *entourage* had correctly gauged the limitations of this doctrinaire firebrand and vain-glorious conspirator from Strassbourg.<sup>1</sup> The measure of recognition which he eventually obtained was due to his identification with a policy which for a short period was favourably considered by the Huguenot leaders and Catherine de Medici. This policy was at first an attempt to obtain the assistance of the Protestant Princes of the Empire for the Protestant party in France and for the Queen, who found herself in the power of the Guise family. It developed later, when war broke out, into a scheme to get the German Princes to intervene in force on the side of Condé, and effect a settlement which would leave the Crown independent and the security of the Protestants assured. As we have seen, the growing breach between the Lutheran and the Reformed churches, and the mutual suspicions of the Princes, prevented any effectual aid being rendered to Condé. Hotman had not spared himself, and his zeal and

Hotman with his passion for notoriety, which led him to endanger his brother's life in publishing his attack on his master. 'Cum fratrem Joan Hottomannum habeas apud Cardinalem Lotharingiae quaestorem, tu tygrem divulgare audes et fratrem tuum certissimo exitio objicere' (*Bib. Ec. Ch.* v. 360). Cf. Lenient, *op. cit.* 288.

<sup>1</sup> *Cal. Op.* xvii. 621.



intellectual force gained for him a position of some temporary importance, but with the failure of his policy his usefulness was at an end, and he was glad to depart from a field in which he had promised much and achieved nothing.

In the meantime Strassbourg had cast in its lot with Lutheranism, the Academy was showing signs of decadence, and Sturm was a bitter enemy of Hotman.<sup>1</sup> At the instance of the Bishop of Valence, Hotman accordingly returned to France, and for three years from 1563 he filled the principal chair at the University, which had fallen into decay since the departure of Cujas in 1559. His learning and his power of attracting pupils rehabilitated the Law School. His doctrine had the polemical quality which marked all his activities, and was not generally approved by his seniors. 'Nous nous occupons,' he wrote to Henri de Mesmes, 'moins d'interpréter le droit civil, que de renverser les inventions sophistiquées des praticiens, et de nettoyer pour ainsi dire les écuries d'Augias.'<sup>2</sup> In spite of continual disappointments in his struggle to obtain his share of his father's estate, the period of his residence at Valence was one of the most pleasant of his life.<sup>3</sup> He was recognised as a jurist of distinction, was known by the leaders of the Protestant world, and his eldest son Jean, now in his teens, was among his students. But he left Valence at the end of three years owing to a quarrel with the authorities. He claimed the 1200 *livres* of salary formerly paid to Cujas, and, on being refused, departed to Bourges, and thus unconsciously enabled his rival to return to Valence at an increased stipend of 1600 *livres*. During his residence at Valence, Hotman wrote his *Anti-Tribonian*, in which he gives expression in his usual sweeping and exaggerated manner to the considerations which led l'Hôpital to produce l'*Ordonnance de Moulins* of February, 1566.<sup>4</sup> The fact that the treatise was not published during the author's lifetime seems to indicate that it did not meet with the approval of the Chancellor, and that the author judged it prudent to lay it aside.<sup>5</sup>

This treatise was published posthumously by Nevelet in 1603, with a dedication to de Thumery. It is stated on the title-page

<sup>1</sup> Fournier et Engel, *Les statuts et privilèges des Universités Françaises* (Paris, 1894), 66, 67, 74, 76, 131 and 144.

<sup>2</sup> Dareste, *op. cit.* 47.

<sup>3</sup> Hotman to Amerbach, Dec. 1558 : *ibid.* 14, n.

<sup>4</sup> Lavissee, vi. p. i. 86.

<sup>5</sup> Badouin anticipated some of Hotman's views in his *De institutione historiae universae et ejus cum jurisprudentia conjunctione* (1561).

to have been written on the advice of l'Hôpital 'dés l'an 1567,' and in the preface to have been communicated to the editor by Jean Hotman. The sub-title of the treatise, *Discours pour l'estude des Loix*, indicates its scope. Its object was to attack the abuses which appeared to arise from the absorption of the attention of young men studying for a legal career in the antiquities of Roman jurisprudence. Legal texts appeared to Hotman to have less value from an historical point of view than a book of Livy, Suetonius or Tacitus, and as a preparation for a forensic career, the *trouçons et lopins* which Justinian threw together had no value without a preliminary knowledge of Roman History. In short, the remains of Roman law had little historical value, and had no value as authorities to French legal students. The latter were preparing for entrance into a world of legal thought and practice which had nothing in common with that of Rome.

Turning first to the law of persons, Hotman indicates with his usual force and point the contrast between the world of sixteenth-century France and that of Justinian, between the *Coustumiers de France* and the Digest. The study of the latter is useless. 'Car,' he writes, 'c'est autant comme si les Prestres et Moines de maintenant enseignoient à leurs Novices la façon de dancer és processions solennelles, parce que les Prestres Saliens de Rome avoient coustume de la faire.' The same conclusion is arrived at when Hotman turns to the law of things, and the Law of Succession, including the questions connected with *fideicommissa* and accretion. He would leave successions to be regulated by *droit naturel*, 'estant la matiere testamentaire par la confession mesmes de tous les Practiciens, la source et mere nourrice de la pluspart des procez et chicaneries qui sont au pais que l'on appelle de droit escrit.' He enlarges on the futility of studying the obsolete intricacies of the Roman *stipulatio* and forms of process. What part can such studies have in the education of 'un Philosophe politique discourant de raison et equité, tel que doit estre un jurisconsulte'? They are useless even for the formation of the most ordinary and mercenary *praticien*. Roman Law, he maintains, was never intended to take the place of equity and natural reason. It was created by the Roman *bourgeoisie* for their own protection, and was adopted by the ruling caste in other communities.

Having dealt with what one may describe as classical Roman Law, Hotman turns to the codification which took place under Justinian at the hands of Tribonian. He describes the Digest



as a hotch-potch of fragments, torn from their setting and forced to convey a meaning which their different authors would never have accepted. These fragments belong to all periods, and often refer to forms which were obsolete in Justinian's day. They are presented, he adds, 'non pas avec discours et deduction, qui fut intelligible, mais par petits eschantillons et lopins qui sont comme des bulletins anciens de la Sybille, ou Enigmes fait à propos pour gehenner et tourmenter les meilleurs esprits de ce monde.' Thus Hotman disposed of 'ce precieux reliquaire de Tribonian.' In his view, its reputation would have disappeared in the West, which wisely followed customary law, had it not been revived by the Papacy for its own ends, and made use of for the creation of Canon Law, by the side of which it took on new life.<sup>1</sup> 'Par ce moyen,' he adds, 'les Princes estrangers, qui ont vouler enrichir aucunes de leurs villes de l'estude et exercice des livres de Justinian, ont esté tellement contraints par cette mixtion et conjunction artificielle de recevoir l'exercice du droit Canon, qu'encores aujourd'huy en plusieurs endroits de l'Allemagne ils ne se peuvent developper des lectures du droit Canon, tant est asservi à la grandeur du siege Romain l'exercice des livres de Justinian. Parce que notoirement l'un attiroit l'autre, comme une adjonction inseparable.' Hotman's estimate of Canonists is summed up in the proverb, *Magnus canonista, magnus asinista*.<sup>2</sup>

From the Canonists he passes to the Glossators and to the *practiciens*, whom he describes as their offspring in respect that 'l'ordure du droit Canon et des sophistes chaffourreurs jointe avec les livres de Justinian, a par cy-devant recen et porté toute l'envie et mal-veillance des procez et plaideries, comme si elle seule en fust cause.' But his examination of external abuses does not divert his attention from 'le vice interieur, qui semble naturellement estre és livres de Tribonian et discipline d'iceux.' This vice is introduced through the prevalent educational methods and material. The study of the Pandects has been further com-

<sup>1</sup> Cf. Hobbes' famous *dictum*: 'And if a man consider the originale of this great Ecclesiasticall Dominion, he will easily perceive, that the Papacy, is no other, than the Ghost of the deceased Roman Empire, sitting crowned upon the grave thereof: For so did the Papacy start up on a sudden out of the Ruines of that Heathen Power' (*Leviathan*, iv. 27).

<sup>2</sup> Hotman's antipathy to Canon Law was not entirely disinterested. The correspondence of Calvin makes it probable that Hotman was betrothed to a Catholic before his conversion to Protestantism, and this neglected tie may account for his hostility to Canon Law and for the charge of adultery which Badouin brought against him and his Protestant wife.

plicated by the Florentine Codex being made available and by the innumerable questions of textual criticism and interpretation raised by the humanist school of Jurists. 'Cependant,' he writes, 'on peut juger par ce discours, si c'est grand felicité aux hommes de maintenant, de consumer la fleur de leur aage en l'estude de ces livres, veu que la plus grand partie d'iceux ou est du tout abolie et hors d'usage, ou est remplie de desordre et confusion, ou est farcie de contrarietez et antinomies, ou est entachee de fautes et erreurs, ou est revoquee en doute et en dispute par les corrections et changements qui s'y font ordinairement.'

Hotman's insistence on the importance 'du vice naturel et du defect interieur qui est en la matiere et substance de la discipline' is apt to mislead a hasty reader in his estimate of the import of the treatise. Hotman observed the eternal conflict between the conservative tradition of his country and its eager willingness to accept doctrinaire gospels imposed upon it from without. To his mind the invasion of Roman and Canon Law seemed as alien to the real spirit of France as the doctrinaire theories of the French Revolution appear to the French nationalists of our day. Just as the Revolutionary tradition encouraged the kind of discussion which diverts public attention to fruitless and ingenious debates, so it appeared to Hotman that 'seroit il plus expedient et plus salulaire de commettre à la prudence et judgement des hommes de bon sens et entendement, cogneus pour bons droituriers, la decision de la pluspart des causes privees, sans vouloir entreprendre d'establir une loy particuliere sur chacune d'icelles, qui est une chose autant impossible comme elle est infinie.' It was an appeal from technical jurisprudence to the judgment of men who had been formed in Hotman's school of abstract justice, customary law and knowledge of the scriptures.<sup>1</sup>

On his departure from Valence Hotman found a warm welcome at the University of Bourges, and was honourably lodged at the hôtel of the Duchess de Berry, but after five months' residence his fierce Protestantism produced a riot and he fled to Paris, leaving his library to the tender mercies of the mob. On the outbreak of the second Religious War in 1567

<sup>1</sup>The latest estimate of the *Anti-Tribonian*, Baron's *Franz Hotmann's Anti-tribonian, ein beitrage zu den codificationsbestrebungen vom XVI bis zum XVIII Jahrhundert* (Bern, 1888) links it on to the development of legislative codes in Germany.



he took refuge in Sancerre, and assisted in the defence of this Protestant stronghold. After three years of misery, shared with an ailing wife and a growing family, he returned to his teaching at Bourges. The defiant self-reliance of his youth had been broken on the wheel of Fortune, and, like many another sixteenth-century worthy, he produced a *Consolatio*. This little treatise is one of his most characteristic productions. During the siege of Sancerre he found consolation in the Scriptures and St. Augustine's *Civitas Dei*, in the contemplation of the Divine guidance granted to the chosen people, and produced in fact something in the nature of a Commentary on Psalms cvii. and cxiv.<sup>1</sup> It offers a striking contrast to the writings of the same category produced by Du Vair and Justus Lipsius, in which the revived spirit of Stoicism finds expression.<sup>2</sup> This treatise was published in 1613, with a Dedicatory Letter by Jean Hotman to his cousin François, the correspondent of Paoli Sarpi.<sup>3</sup>

At Bourges, as had been the case at Strassbourg and Valence, Hotman was surrounded by German students, and, to meet their requirements, he delivered a course of lectures on the *Libri Feudorum*, in which the Teutonic origin of Feudalism was emphasised for the first time. The Massacre of St. Bartholomew brought this short interlude of peaceful work to a sudden close, and Hotman and his family fled with nothing but their lives to Geneva. He had 'said his good-night' to France, and never saw it again. His acute mind had probably arrived at the conclusion that, with the death of the most worthy Huguenot leaders, the cause of Protestantism was certain to pass into the hands of political leaders whose aims were ultimately secular.<sup>4</sup>

The first months of Hotman's residence at Geneva were occupied by him in the composition of the writings which the

<sup>1</sup> In a letter to Bullinger of Feb. 1572, Hotman writes that during the siege he found great consolation in the latter's chronological Commentary on Daniel.

<sup>2</sup> Du Vair, *De la constance et consolation ès calamités publiques*, and Lipsius, *De constantia* (1585); *Traite de la constance* (Tours, 1594): cf. Petit de Julleville, iii. 480; Zanta, *La renaissance du Stoicisme* (Paris, 1914), and Croll, *Juste Lipse: Revue du seizième siècle*, 1914, p. 200.

<sup>3</sup> It is interesting to find that Jean Hotman's letter closes with a greeting to Du Vair: '*Duvaero nostro viro doctiss. salutem ex me plurimam.*' The copy of this treatise in Glasgow University Library belonged to that distinguished scholar, Edward Reynolds, Warden of Merton and Bishop of Norwich. Reynolds was a friend of Jean Hotman.

<sup>4</sup> Lavissee, vi. p. i. 135, and Romier, *Les origines politiques des guerres de religion* (Paris, 1914), ii. 225.

horrors of St. Bartholomew evoked. In 1573 his *De furoribus Gallicis* was published under the pseudonym of Ernestus Varamundus and with the false imprint of Edinburgh. In it he described in the manner of Sallust and in the terse and vibrant Latinity of which he was the master, the nightmare of blood and cruelty from which he had escaped.<sup>1</sup> He pictured the Scots Guard protecting the maddened and degenerate king, haunted by terrors which they were powerless to avert.<sup>2</sup> In January, 1573, the widow of Coligny wrote to Hotman urging him to produce a vindication and memorial of her murdered husband, and in compliance with this request he wrote his *Colinii Vita*.<sup>3</sup> But these pamphlets are of minor importance to his *Franco-Gallia*, which was published at Geneva in 1573. This is the work by which he is remembered and by which he earned for himself a European reputation in a few months. He was already widely known as a distinguished jurist and a virulent pamphleteer, but his masterly handling of the past history of France in the *Franco-Gallia*, to aid the cause which he had at heart, gave him a secure place beside Duplessis-Mornay and George Buchanan in the history of political theory.<sup>4</sup> This treatise has been defined as 'un livre de doctrine et un livre de combat, une 'Politique' et un pamphlet.'<sup>5</sup> Hotman looked to the *Politiques* to enforce his theories. He was guilty of the common error of seeking to impose on enlightened opportunists a doctrinaire policy, and was inevitably destined to disappointment.<sup>6</sup>

<sup>1</sup> *De furoribus Gallicis, horrenda et indigna Amirilii Castillionii nobilium atque illustrium virorum caede, etc. Vera et simplex narratio. Ernesto Varamundo auctore, Edimburgi 1573.* Cf. Quérard, *Les supercheries littéraires* (Paris, 1870), iii. 912.

<sup>2</sup> 'Nam in aula Ligio regia perpetuo in statione et excubiis esse solet; arcis vestibulo, Vasconum, Scotorum, et Helvetiorum cohortes dies noctesque praesident' (52).

<sup>3</sup> The letter is printed in *Bulletin de la Société de l'Histoire du Protestantisme français*, vi. 29. An English translation of these two pamphlets by P. de la Ramée appeared in 1574.

<sup>4</sup> Hotman treated his *Franco-Gallia* as a serious contribution to history. 'Deinde,' he wrote to Capellus in 1575, 'liber est historicus, historia facti est. Tota igitur facti controversia est' (*Epistolae*, 47). His reputation among his contemporaries led to his being generally credited with the authorship of *Vindiciae contra tyrannos*: vide, e.g., Agrippa d'Aubigny, *Histoire Universelle*, t. i. bk. 2, cap. 15 and t. ii. bk. 2, cap. 2.

<sup>5</sup> Lavissee, vi. p. i. 146.

<sup>6</sup> 'A Paris même,' he wrote to Walter on 24th April, 1574, 'on a jeté en prison plus de mille personnes, nobles, gens de robe ou marchands. Ils ont pris



A distinguished contemporary has defined Joseph de Maistre as 'un prétorien du Vatican,' and the champion of the Papacy in face of the Revolution had something in common with the Huguenot jurist who turned to the past for a remedy for the ills of his time.<sup>1</sup> Their immediate and practical aim and attitude were similar, but their material and their interests were poles asunder. The former found in the theoretical claims of the Papacy a medicine for a world which had been carried away by doctrinaire conceptions of liberty, while the latter turned from the encroachments of centralised royalty to an abstract tradition of constitutional freedom. To the eyes of Hotman the Valois monarchy was the Revolution, a disastrous breach with the past; but while de Maistre had recourse to an articulate authority, Hotman found it necessary to create for himself from the fragments of the past a theory which would serve his purpose. They shared, however, the conception that the course of events had falsified the true lines of development, and sought to revert to a past which was malleable to their doctrinaire hands. They had both received in some Pentacostal manner the gift of vision. The two writers share what M. Faguet has described as the Praetorian spirit; they were devoted, competent, but impatient of discipline and indifferent to the *communis consensus*. Hotman's study of French origins was preceded by Pasquier's *Recherches*, but it has nothing in common with the massive product of that distinguished antiquary. It possesses the marks of the historical disquisitions which are sometimes delivered by counsel in ecclesiastical cases. It is well arranged, relevant and pointed, but it bears little relation to facts, and is arbitrary and abstract. The litigant disguised as historian is not a safe guide, and a collection of historical instances torn from their setting does not really disguise the defects of a theoretical proposition.

In the *Franco-Gallia* Hotman seeks to define 'la forme de la police de nostre chose publique,' and, with that end in view, he gives a rapid survey of the development of French institutions. His thesis is, shortly, that, as far back as one can go in the history of France, one finds representative institutions and

le nom de *politiques*, et avec l'appui du frère du roi ont demandé que l'on fit revivre l'ancienne constitution française, en convoquant les Etats généraux. C'est en effet le seul remède à tant de maux, mais c'est en même temps le plus grand coup qui puisse être porté à la cause des tyrans' (*Revue Historique*, ii. 374).

<sup>1</sup> Faguet, *Politiques et Moralistes*, i. 60.

constitutional checks on the central power. There was no real kingship in ancient Gaul, and the encroachments of Roman imperialism were swept away by the Frankish invasion. The amalgamation of the Gauls and Franks produced a new creation, *Franco-Gallia*, which marked a distinct breach with the separate traditions of each element.<sup>1</sup> The characteristics of this new regime, which prevailed until the growth of a centralised monarchy destroyed it, were the limited nature of kingship and the existence of representative assemblies. The former was elective and divisible, and was held at the will of the nation, while the latter were integral parts of a well-defined constitution. The assemblies met by right at stated times, were composed of representatives of all classes of the community, and were in a position to deal with constitutional matters. This well-defined system was to Hotman a harmony which had been reduced to discord by the encroachments of royal power, and he aimed at its restoration. The past which he sought to revive was unfortunately the creature of his imagination, and devoid of foundation in fact or even in theory.<sup>2</sup> Against this capital defect may be placed the merit which belongs to one of the earliest attempts to deal with distinctively national history from the point of view of politics.<sup>3</sup>

It is a limited patriotism that seeks to heal its country's woes by imposing a doctrinaire remedy from without. On the other hand, the remedy which Hotman offered may be said to have consisted in a return to the worthy elements in the country's past. This is Hotman's defence. The criterion to be applied is the question whether this past could have been revived without a complete disruption of the national organism. That Hotman's ideal France could not have been revived without a preliminary

<sup>1</sup> Hotman's conception of the important part played by the Franks in the development of European nations is supported by the verdict of modern historians. Cf. 'Parmi les peuples qui depuis le *v<sup>e</sup>* siècle, se sont déversés sur l'empire, les Francs ont prévalu, malgré leurs échecs en Italie et en Espagne. On peut dire qu'ils conduisent l'histoire' (Lavis, ii. p. i. p. 127).

<sup>2</sup> The modern view of the historical questions dealt with in the *Franco-Gallia* is set forth by Fustel de Coulanges in his *Histoire des institutions politiques de l'ancienne France*, and in particular in the sixth volume, which bears the title *Les transformations de la royauté* (ed. Jullian, Paris, 1914, pp. 238, 385-412), and by Luchaire in his *Manuel des institutions françaises* (Paris, 1892).

<sup>3</sup> Fueter, *Histoire de l'historiographie moderne* (Paris, 1914), p. 174. Cf. Armstrong, *Political Theory of the Huguenots: English Historical Review*, iv. 13, which contains a detailed analysis of the *Franco-Gallia*, and Esmein, *Droit constitutionnel* (Paris, 1914), 282.



dissolution is proved by the fact that he found it necessary to sweep away the whole legal institutions of the country, and to transform the mentality of the most influential class. He advocated an intellectual revolution which was based on no general sense of its necessity. The slow revolution marked by the growth of royal power was only ripe for destruction two hundred years after his death.

The theoretical interest of Hotman's thesis has thrust into the background its importance as a political pamphlet written in support of the claims of Henri of Navarre. This has been due to two main causes. In the first place, it was only in the fourth edition, published in 1586 with six additional chapters, that the treatise was given this practical turn. In the second place, it was only in the year 1911 that the publication at Haarlem of the Hotman correspondence from the archives of the Musée Teyler demonstrated that Hotman had *remanié* the material of his *Franco-Gallia* at the urgent request of Henri of Navarre and his councillors.<sup>1</sup> The correspondence is a tribute to the influential position in the learned world occupied by Hotman, but it also shows that he was judged capable of moulding his writings to ulterior ends. To students of the period the reiterated warning, 'qu'il falloit plustost déduire nostre droict *a jure regni vel potius feudali et francisco quam a justa re*,' is illuminating. Hotman was urged to take his stand on a view of royal power, based on a separation of the kingdom from the individual ruler, and on the system of reciprocal rights and duties expressed in the feudal law. In obedience to these suggestions, he devoted six new chapters to an elaboration of his views on the power of the community to depose unworthy rulers, to the royal domain and *appanages*, to the powers of representative assemblies, to the distinction between the king and the kingdom, to the manner in which the national assemblies had resisted papal encroachments, and to the limited character of royal sovereignty in France. These additional chapters outline the position taken up at one time by the supporters of Henri of Navarre, and subsequently adopted by the pamphleteers of the League. It rested on the view that

<sup>1</sup> Blok, *Correspondance de François Hotman* (*Archives du Musée Teyler*, serie ii. vol. 12, part 2, Haarlem, 1911), pp. 203 *et seq.*, particularly letters from Henry of Navarre, of 24th August, 1584, from Duplessis-Mornay and Paul Choart. These were insistent that Hotman should write nothing that could excite the jealousy of Henry III., and Choart referred to the manner in which James VI. of Scotland was supposed to have injured his prospect of succeeding to the English crown by his over-eagerness (p. 210).

kingship was not a possession which could be defined in terms of the Roman law of personal property, but a function to be interpreted as only one part of a governmental harmony. It might also be treated as falling within the field of feudal institutions in which every right was weighted with a corresponding duty. The changes effected in the fourth edition of *Franco-Gallia* clearly indicate the conscious development of political theory to suit the needs of the hour which marked the age. In the history of this treatise may be traced the trend of contemporary politics.<sup>1</sup>

While the *Franco-Gallia* was published at Cologne in a French translation in 1574,<sup>2</sup> it did not receive an English dress until the commencement of the eighteenth century. The English translator was the first Viscount Molesworth, an ardent Whig and a disciple of Algernon Sidney, and the translation was produced as a political pamphlet.<sup>3</sup> It is beyond question, however, that Hotman's treatise was widely known in England during the author's lifetime.<sup>4</sup> The appreciation of the Irish peer was preceded by a century by the criticism of a Scottish Regialist, and in William Barclay's *De regno et regali potestate* the

<sup>1</sup> In his *Franco-Gallia* Hotman deals with some of the legal matters which he had treated in his *Anti-Tribonian*. The Chapter, *Des Parlemens et sieges judiciaux de France*, contains an energetic expression of his view that Clement V. in transferring the Papacy to Avignon, had contaminated the simple French legal practice of that day with 'cest art de chichanerie Romaine.' Again, Hotman's treatment of the Salic Law in the *Franco-Gallia* recalls his views on Succession Law expressed in the *Anti-Tribonian*. It is to his credit that he refused to make use of vulgar errors which had unduly exalted the import of the Salic Law, and rested his opposition to female rule on the customary law and practice of France. *Vide* Armstrong, *op. cit.*

<sup>2</sup> *La Gaule François de François Hotman, Jurisconsulte*: a Cologne par Hierome Bertulphe, 1574. The translation is anonymous, but is generally ascribed to Simon Goulart of Senlis, who became the third ruler of Geneva on the death of Beza. The Hotman family was connected with Senlis, and Goulart, who was pastor at Geneva from 1572, was probably one of the attractions which drew François Hotman there. It is interesting to note that Hooker's *Ecclesiastical Polity* owes much to the patristic researches of Goulart (Lee, *French Renaissance in England*, 150, 316, 339).

<sup>3</sup> *Franco-Gallia, or an Account of the Ancient Free State of France*, translated into English by the author of the *Account of Denmark* (1711 and 1721). The second edition is preceded by an interesting preface, in which the Whig principles are set forth with some epigrammatic force. Lord Molesworth's attention was probably drawn to the *Franco-Gallia* by his master, Algernon Sidney, who deals with it in his *Discourses concerning Government* (London, 1751, p. 233), cap. ii. sec. 30. On Molesworth, *vide* Seecombe in *D.N.B.*

<sup>4</sup> It is quoted e.g. by Craig in his *Jus Feudale*, i. 12, § 9.



*Franco-Gallia* is ranged for attack beside Buchanan's *De jure regni* and the *Vindiciae contra tyrannos*.<sup>1</sup> Barclay's treatise was published in 1600, and by that time Hotman's historical thesis regarding the limitations of royal power had been adopted by the League and the Jesuits. The doctrinaire arguments of Buchanan and Duplessis-Mornay still demanded criticism in their original form, but Hotman is only attacked 'at the second intention,' as the inspirer of the polemical writings of Jean Boucher. Hotman was credited with the authorship of the *Vindiciae* in some quarters, and Barclay shows considerable acumen in disposing of the attribution,<sup>2</sup> but the latter only comes to close quarters with the *Franco-Gallia* when he turns to Boucher, the 'fighting parson,' in the seventeenth and succeeding chapters of his Sixth Book. He treats Hotman, under whom he had studied at Bourges, with respect, and contrasts the 'subtilis alioqui acutus jurisconsultus' with this ignorant pamphleteer, who made use of Hotman's perverted learning for his own ends without acknowledgment.

In 1573 Hotman published the substance of the lectures on Feudal Law which he had delivered at Strassbourg, Valence and Bourges, under the title *Commentatio tripartita ad Libros Feudorum*. In an introductory letter he expressly links this treatise to his *Franco-Gallia* in an interesting manner.<sup>3</sup> After sketching the decline of Roman Law as presented at length in his *Anti-Tribonian*, he depicts the break-up of a general system of law into local *consuetudines*. 'Jam vero,' he writes, 'quid de Francogallia nostra dicemus? in qua non, ut in veteri proverbio est, quot homines, tot sententiae sunt, sed quot civitates ac regiones, tot leges, instituta, mores: ut jam probabiliter disputari posse videatur, non

<sup>1</sup> Lib. i. *ad init.* For an account of William Barclay, *vide S.H.R.* xi. 136.

<sup>2</sup> *Ibid.* lib. ii. cap. 1. Cf. iv. cap. 16 et 17.

<sup>3</sup> The work is preceded by two dedicatory letters: the first dated from Bourges in June, 1572, and addressed to Caspar Seydlitz, one of his German students from Silesia, and the second dated March, 1573, and addressed to Reuber, a jurist who became in after years the trusted counsellor of the Elector Palatine. The former contains a pleasant picture of L'Hôpital conversing paternally with Hotman's students, and the latter recounts the tale of the MSS. which Hotman lost when he had to fly from Bourges. Some, however, had been in the printer's hands and had escaped, and he had succeeded in recovering or rewriting others. Others had been seized by 'is, quem tu joculariter Christophorum Porcum appellabas' (Christopher de Thou). The ruthless manner in which Hotman criticised contemporary Feudal developments had a political basis. The doctrinaire left wing of the Huguenot party bitterly resented the manner in which Reform was made subservient to the political ambitions of feudal potentates.

unam Justitiae et aequitatis esse formam...' These local customary laws were in due course reduced to writing, and suffered at the hands of sophists the same degeneration which Roman Law had experienced at the hands of the Emperors and their creatures. In falling into the hands of specialists they ceased to be intelligible to the common people, who suffered accordingly. He observes that the case was particularly hard when a body of foreign customs was imposed on a people by a conqueror, and cites the example of England suffering under Norman laws of a particularly offensive character. 'Sane Normannus,' he adds, quoting Polydore Virgil, 'pro suo instituto, non potuit alias dare leges: quando non alia est natio, quae peritius sciat calumniari, praevicari, atquae, tervigersari: id est, per fraudem et cavillationem, frustrationemque litigare, seu vexare litibus.'<sup>1</sup> Far happier, he adds, were the peoples who had enjoyed the simplicity and purity of the Saxon-Frankish code, and quotes the saying of Tacitus: 'Plus apud illos bonos mores valere; quam apud alios bonos leges.' He proposes to treat in this treatise 'institutum de Feudastico jure nostrum,' a body of customary law which has peculiar importance as treating of principalities and powers and, being like Civil Law, Public Law directed to the good of the community. This feudal customary law is set forth in the *Libri Feudorum*, and he opens with an attack on this code as violent as that which he directed in his *Anti-Tribonian* on the Digest. He found it marked by three vices: *ambiguitas, repugnantia et absurditas*.<sup>2</sup> 'Ausus etiam sum,' he proceeds, 'barbarica illorum librorum scriptione offensus, in libello quodam observationum scribere, ingeniorum illam carnificinam esse et Augiae stabulum, in quo expurgando altero Hercule opus esset.' In support of this view he quotes numerous antinomies, many of which are familiar to students of Craig's *Jus Feudale*. The debt which Craig owed to Hotman cannot easily be overestimated.

In his *Disputatio*, the first section of his tripartite treatise, Hotman deals with feudal institutions from an historical point of view. He finds his material in the *Germanorum historiae* rather than in the despised *Libri Feudorum*, and assigns to feudalism a distinctively Germanic origin. The *clientela* of the Roman differed from it in important respects, but there was sufficient similarity

<sup>1</sup> Cf. A. Maitland, *English Law and the Renaissance* (Cambridge, 1901), 58.

<sup>2</sup> Cf. his phrase: 'istis feudisticis delutationibus exagitandis finem imponamus' (*Disputatio*, c. 24) and 'rhapsodia ex variorum auctorum scriptis suffarcinata' (*Commentarius*, Pref.).



between the two to justify Hotman in defining a *feudum* as *clientela militaris ea lege contracta, ut cliens pro beneficio accepto militarem operam praebeat: vicissimque Patronus suam illi fidem, benevolentiamque praestet*.<sup>1</sup> The military element is essential, and where it is wanting, as in the case of *feuda* held by women, the *feudum* is degenerate, and is in fact a *feudastrum*.<sup>2</sup> Hotman protests against the application of legal categories derived from Roman Law to feudal conceptions. He insists on the equal reality of the *dominium directum* of the superior and the *dominium utile* of the vassal, and declines to reduce the latter to a usufruct.<sup>3</sup> In this view he stood alone in his age, but his reasoning convinced Sir Thomas Craig. The adoption by the latter of Hotman's two *dominia* was a decision of capital importance in Scottish legal theory.<sup>4</sup> Again, Hotman carefully distinguishes *feudum* from *emphyteusis*.<sup>5</sup> While insisting on the individuality of feudal customary laws, he devotes some space to the examination of certain features of them from the point of view of Roman jurisprudence. Thus, after weighing the considerations to be urged on both sides, he answers in the affirmative the question: *an obligatio servitii feudalis jure civili valeat?*<sup>6</sup> Again, he discusses whether a *feudum* can be acquired by the *Lex Commissoria*.<sup>7</sup>

Like all the Protestant jurists of his age, Hotman was attracted by legal origins, and directed his attention to the primitive and uncontaminated Civil Law of the Republic. He went further back than his German brethren who turned from Canon Law to the legislation of Imperial Rome and helped to form the theory of the modern state. He went back to the laws of the Roman primitive community, and found that simplicity and sweet reasonableness which to his mind lay behind every existing code of law.

<sup>1</sup> *Disputatio de jure feudali*, cap. iv.

<sup>2</sup> 'Hottomannus, non inligenti vocabulo, vocat feudastra, id est, semifeuda, quod a vera feudi natura degenerent' (Craig, *Jus Feudale*, bk. i. 9, § 6); cf. *Disputatio*, cap. xv. and xvii.

<sup>3</sup> *Disputatio*, cap. 34, where he defines eight points of similarity and eighteen of distinction. He describes the *feudum* as the *hypostasis* or *subjectum* and the right of the vassal as the *accidens*, an interesting piece of legal metaphysics which Craig adopted (*Disputatio*, c. 4 and 33).

<sup>4</sup> Craig, *op. cit.* i. 9, § 11.

<sup>5</sup> *Disputatio*, cap. 35; cf. Craig, *op. cit.* i. 9, § 19.

<sup>6</sup> *Ibid.* c. 31; cf. Craig, *op. cit.* ii. 11, § 31.

<sup>7</sup> *Ibid.* c. 17. Craig wrote regarding this passage: 'Hic Hottomannus, captata occasione, mirum in modum contra jus Feudale insultat, ambiguitatem, absurditatem et antinomiam objiciens... At absurditatem exaggerat Hottomannus.' (*Op. cit.* ii. 7, § 29; cf. Hot. *Commentarius*, L.F. i. 27.)

He did not regard the jurisprudence of the classical Roman period as the supreme source of legal wisdom; he found in it rather the revelation of the perfect type which, could it be unearthed, lay hidden beneath even the farrago of the *Libri Feudorum*. He sought the ideal simplicity of justice and right dealing, and his impatience and intolerance towards these fragmentary records is the measure of his idealism. These characteristics give piquancy and a certain fascination to his treatises on Feudal Law, and account for the manner in which a douce Scottish practitioner like Sir Thomas Craig was permeated by their spirit.<sup>1</sup>

In the same year (1573) Hotman dedicated to the Landgrave William of Hesse the first edition of his *Quaestionum Illustrum Liber*, a work of the same type as Dirleton's *Doubts*. It is another of the sources of Craig's *Jus Feudale*, and it is interesting to observe that many of the legal speculations in which Craig indulges are specially treated by his eminent predecessor in this treatise.<sup>2</sup> Many of them were doubtless *loci communes* of debate, but a perusal of the feudal treatises printed in Zilettus' *Mare Magnum* does not lead one to minimise the debt which Craig owed to Hotman. This treatise is also of interest to the student of Hotman's character. He treats in it of the question, *Rege mortuo, cujus nepos ex primo ejus filio demortuo, et alter ejusdem filius extant, utri hereditas deferatur*.<sup>3</sup> This dispute as to the respective rights of succession of the nephew and uncle came to be of political importance later, when the opponents of Henry of Navarre set up against him the claims of the Cardinal de Bourbon, his uncle. In 1573 Hotman decided in favour of the older generation, but at the request of Henry he maintained the opposite view in his pamphlet, *De Controversia Patruī et nepotis in successione regni*, published twelve years later. Not

<sup>1</sup> 'Hottomannus, vir sane magni judicii,' wrote Craig in a typical passage, 'miris modis Oberto et Gerardo insultat . . . Sane in hoc casu et ego cum jure civili et Hottomanno assentior . . . ; sed odio quod in jus feudorum aperte Hottomannus profitetur, paulo eum altius, quam par erat, evictum constat' (*Jus Feudale*, ii. 11, § 10; cf. *ibid.* i. 6, § 3; i. 13, § 17; iii. 3, § 31, and iii. 5, § 26). Hotman's trenchant criticism did not spare Sir Thomas Littleton, whose treatise was given to him by Etienne Pasquier. He describes it as 'ita incondite, absurde, et inconcinne scriptum, ut facile appareat, verissimum esse quod Polydorus Virg. in Anglica Historia de jure Anglicano testatus est, stultitiam in eo lib. cum malitia et calumniandi studio certare' (*Dictionarium verborum Feudalium*, s.v. Feodum).

<sup>2</sup> *Vide*, e.g., *Quaestio XI*. An dominium sine possessione acquiri possit? and *Quaestio XII*. In dominio transferendo an praesentia et naturalis traditio requiratur?

<sup>3</sup> *Quaestio 3*, cf. *Ibid.* 4.



content with this recantation, Hotman altered the later editions of his *Quaestiones Illustres*. In the first edition he based his decision in favour of the uncle's claim on the texts of Roman Law, but in the later editions he supported the claim of the nephew by drawing a distinction between Civil Law and the customary law of France.<sup>1</sup> This treatise also marks an important change in his manner of treating the question of royal succession. In his *Franco-Gallia* he made the monarchy largely elective, but in this legal work he envisages the law of succession as definitely fixed and the claim of the heir as not open to discussion. These changes lay him open to accusations of time-serving inconsistency, and some countenance has been given to them through the recent recovery of the letters addressed to him during the last ten years of his life by Henri IV. and his entourage. These letters reveal Hotman in the position of an official pamphleteer on behalf of the king's cause, and as a matter of fact almost all his writings were *tendancieux*. If we condemn him on this ground, we must also condemn the age in which he lived. In the sixteenth century theories, political and legal, were adopted like weapons: they arose from concrete situations and had in themselves no formative influence.

For some time after Hotman's return to Geneva his mind was absorbed in the publication of these legal treatises and in the production of the political writings evoked by the Massacre of St. Bartholomew and of the furious replies which his critics drew upon themselves.<sup>2</sup> He declined a chair at the University of Marburg which the Elector Palatine pressed upon him, and when peace was restored to France he refused a semi-political post

<sup>1</sup> *Vide* 6th ed. (*Apud Jacobum Chouët*, 1598), p. 30 *et* *sqq.*

<sup>2</sup> Thuanus, *Historia sui temporis* (ed. London, 1732), vii. pt. 2, p. 25 *et* *sqq.* Hotman, *Matagonis de Matagonibus* (1578) and *Strigilis Papirii Massoni* (1578). These rare pamphlets, written in a macaronic style which caricatures that of the glossators, are perfect examples of the controversial methods of the age, and define with fierce brutality the thesis which found more dignified expression in the *Franco-Gallia*. Hotman insists that he is merely *simplex narrator et recitator historiarum* and offers the arguments of his critics to Ronsard 'ad perficiendam suam Franciadem.' He exalts German influence in France at the expense of the insidious corruption of the Italianate Court, and attacks the influence of women with comical violence. He seizes the opportunity of attacking Cujas, 'Recatholicatissimus doctor in utroque,' and covers his dead opponent Badouin with obscene abuse. Of women he wrote, 'Mulieres sunt sanctae in ecclesia, angeli in accessu, daemones in domo, bubones in fenestra, picae in porta, caprae in horto,' and compared his critic to women, 'quae dicuntur non posse inservire Missae quia nunquam perficeretur Kyrieleyson quia semper volunt esse ultimae. ad loquendum.' The relevancy of his attack on Badouin lay in the fact that he was Masson's teacher in law at Angers.

at Montpellier which was offered to him by the king. His acute mind, sharpened by bitter experience, refused to accept the patched-up peace as lasting, and the course of events justified his judgment. A few months later, Henry III., in the course of one of the quarrels which distracted the doomed family of Valois, gravitated towards the Huguenot camp and made tempting offers to Hotman. But a reconciliation was effected between the brothers, and the hopeful prospect vanished like smoke. The disintegration of Protestantism, which found expression in the growing hostility between Lutherans and Calvinists, gradually closed the doors of the German universities to Hotman, and he had to support himself by lecturing on law and taking private pupils, by practising as a consulting advocate and by minor diplomatic work on behalf of the German princes. He was burdened with an ailing wife and a growing family, and bewailed his miserable condition.<sup>1</sup> Geneva, distracted by plague and the hostility of the Duke of Savoy, proved but a precarious asylum, and in 1578 he left it for Basle, where, with a short interlude at Geneva, he was destined to spend the remainder of his life. The majority of his students at Geneva were young Germans, some of whom were destined to fill important positions in after-life, but none of them played a part equal to that which awaited Andrew Melville. The young Scotsman sat at the feet of Hotman at Geneva and drank deep at his well. 'He hard ther,' wrote his nephew James, 'also Francis Ottoman, the renoundest lawer in his tyme.'<sup>2</sup> The harsh and vivid intellect of Hotman inspired the kindred spirit which directed the second Reformation in Scotland, and the personality of the former, revolutionary jurist and convinced Calvinist, was indirectly an important factor in our national history.<sup>3</sup>

<sup>1</sup> 'Uxor dies et noctes has fortunas nostras deplorat. Videt me senem morbis obnoxium, novem liberis onustum, naufragum, opis conciliis egentem' (Hotman to Cappel, 7th January, 1575 : *Epistolae*, 46).

<sup>2</sup> *James Melville's Diary* (Wodrow Society), 42.

<sup>3</sup> It is interesting to note that in the preceding generation the French element had been strong in the law schools of Germany. In 1523 Zasius wrote to Amerbach: 'Lectio ordinaria juris civilis Catenus elevata est, ut aegre sex assiduos auditores, et eos quidem Gallos habeam' (*Epistolae*, Ulm, 1774, 62). Like Cujas, Zasius had the distaste of a scholar for polemical theology, which distracted youth from fruitful studies. He described Luther as *pestis pacis, omnium bipedum nequissimus* (*ibid.* 73-97), and contrasted him unfavourably with Erasmus. Joseph Scaliger echoed the same complaint in 1608, in face of the Jesuit reaction : *Opuscula* (Frankfort, 1612), 461.



Hotman's political activities during his residence at Strassbourg gained him two patrons who remained faithful to him and assisted him in a measure during his declining years. These were William IV., Landgrave of Hesse, son of the Landgrave Philip, the distinguished Reform leader, whose sexual vagaries led the Protestant churches to countenance<sup>1</sup> concubinage, and the uncle and tutor of the young Elector Palatine. The former carried on a regular correspondence with Hotman, and was always glad to receive a visit from him at Cassel. In July, 1573, Hotman wrote of a visit to Cassel and of his admiration at the sight of the astrological apparatus collected there.<sup>2</sup>

The Elector's letters present an interesting picture of post-Reformation Germany, and well repay perusal. In 1559 and again on 12th March, 1573, he had offered Hotman a chair at Marburg, and on the latter's refusal, owing to political engrossment, he had made representations on his behalf to the French king.<sup>3</sup> Three years later the Landgrave wrote Hotman regarding a protégé who was suffering from the heat at Padua where he was studying. He referred to a legal opinion with which Hotman had been charged, and closed his letter with an anxious postscript regarding his health.<sup>4</sup> The worthy prince suffered from gout,<sup>5</sup> and Hotman seems to have dabbled in empirical medicine. The latter also corresponded with his other patron, the Elector Palatine, on medical treatment, and on the fascinating subject of alchemy. The Italian *fuorusciti*, who had poured into France in a steady stream since the reign of Francis I., had infected Northern Europe with a passion for the shady side of medicine and experimental physics.<sup>6</sup> Thus we find Hotman and the Elector

<sup>1</sup> William IV. (le sage), eldest son of Philippe I., succeeded his father in 1567, and died, aged 60, in 1592. Louis VI., Elector Palatine, abandoned the Reformed faith for Lutheranism. He was succeeded in 1583 by Frederick IV. (b. 1574), whose tutor, Jean Casimir, brought him up in Calvinism, which he re-established in the Palatinate (*L'Art de vérifier les dates*, Paris, 1819, série ii. t. 15, p. 361, and t. 16, p. 13).

<sup>2</sup> 'Quae vidi ego, cum istic aliquandiu apud C.T. commorabar, mathematica instrumenta! quas machinationes! qualem vero et quanto artificio elaboratam sphaeram! ut etiam Archimedeam illam propemodum superare videratur' (*Quaestionum illustrium*, Praefatio).

<sup>3</sup> Calvin, *Opera*, xvi. (2), 705.

<sup>4</sup> He required a physician, but he must be skilful and not a quack. 'Ante omnia,' he wrote, 'videndum erit, ut iste sit Hypocraticus. Nam Paracelsistas cum suis chemicis somniis non admittemus' (*Epistolae*, p. 68).

<sup>5</sup> *Ibid.* p. 73.

<sup>6</sup> Romier, *Les origines politiques des guerres de religion*, i.-ii. (Paris, 1913-4), *passim*.

exchanging reports regarding 'l'or potable,' of a 'miniére que savés,' and of a receipt for 'Idromel.'<sup>1</sup> References to the abortive Formulary of Concord and to the feats of the great English queen are followed by urgent requests for French plums.<sup>2</sup> The Landgrave was occupied between successive attacks of gout with the planting of a garden<sup>3</sup> and the formation of a library at Cassel, and made use of Hotman's assistance in both directions. The references, in particular to the library, throw an interesting light on the mentality of post-Reformation Germany. In June, 1580, William of Hesse-Cassel wrote that the new buildings on which he had been engaged were complete, and that he proposed to devote himself to the formation of a library. He asked Hotman to send him from Basle folio editions of Zwingli, Bucer, Peter Martyr, Wolfgang, Musculus, Calvin, Bullinger, Viret and 'aliorum neotericorum Reformatae Religionis monumenta.' He preferred folio editions and good bindings ('asseribus albo corio obvolutis, quod nos Germani in *surizoryttor* vocamus').<sup>4</sup>

In October of the same year the Landgrave wrote with enthusiasm of Hotman's purchases on his behalf, 'quae sicut non adeo ornate, prout exoptandum, compacta fuerint, attamen cum tantorum authorum monumenta nova nostra Bibliotheca non indigna censeatur...' The passion of the collector had taken possession of him, and he urged his correspondent to send him more Protestant theology in good bindings, such as Capito, Aretius, Marloratus, Beza and Walter. If well-bound sets of *opera omnia in folio* cannot be secured, he writes, let him send them unbound and he will have them bound to his taste. Nothing but folio

<sup>1</sup> *Epistolae*, pp. 65, 73, etc.

<sup>2</sup> *Pruna Brignollica* and *surculi Briconiales*: e.g. 'sed etiam prima occasione mediocre quoddam vas plenum prunorum conditorum, quae vulgo Bricionolles nuncupantur' (162).

<sup>3</sup> e.g. 'Quod ad surculos illos attinet quos nobis per Hassium misisti, horum pars aliqua, licet exigua quidem, in horto nostro perierunt. Ambae vero plantae hyacinthi orientalis, adeo foeliciter animi nostri desiderio respondere, ut odoris suavitate ceteras omnes ejusdem generis, quae ab Imperatore defuncto nobis missae fuerunt, longe superare videantur... Ceterum quo denuo hortus noster Cas-selanus variis fructuum generibus ornari possit, nobis constitutum est, proximo anno proprium quendam nuntium ad te Genevam mittere, idque in mense Februario; quo tempore commode et sub initio veris ad nos redire possit. Quare te rogamus, ut quicquid interea surculi bonae et exquisitae arboris comparare poteris, illud diligenter asserves' (Letter of 14th January, 1584). This passage recalls Pierre de Nolac's fascinating *Excursus on Pétrarque jardinier* (*Pétrarque et l'Humanisme* (Paris, 1907), p. 258 et seqq.

<sup>4</sup> *Epistolae*, p. 122.



editions would satisfy him. 'Intelleximus,' he wrote, 'opera Aretii in folio extare. Quod si ita est, gratius nobis esset opus illud in folio quam in octavo. Da igitur operam ut in folio, si fieri potest, mittatur...'¹ In December the Landgrave again appeals to Hotman for 'libri probe ligati ad Bibliothecae nostrae ornamentum.'² By October of the following year he had turned his attention to editions of the classics, and pressed for the despatch of all that Hotman and his friends could lay their hands on. He had made vain efforts to get them in Germany. 'Typographi negant hos authores Graeco idiomate impressos in Germania inveniri,' he wrote. 'Cum autem Theologi hos summe expetant, dabis operam si vel in Gallia vel Italia impressos mihi acquirere possis.'³ It is probable that the Landgrave adorned some of his shelves with lighter material, but he did not address himself to Basle for that purpose, and would have received little sympathy from Hotman. The latter wrote with fury to Walter in December, 1580, of an edition of Machiavelli's works which Perna was printing at Geneva, 'detestanda opera omnia Machiavelli ab eodem illo Stupano Latine conversa,'⁴ and we may assume that at least this 'complete set' did not find its way to Cassel. Many famous names appear in the course of the correspondence. Thus, the Landgrave requests Hotman, in December, 1580, to induce Erastus to accept a Chair of Medicine at Marburg University, and there are frequent references to Justus Lipsius, Scaliger, Henri Etienne and Paolo Sarpi.⁵ The last glimpse which we get of the Landgrave is found in a letter from Reuber to Hotman of January, 1587. Fourteen years before Hotman had refused the offer of a Professorship at Marburg, but in his old age and poverty he returned to the project.

¹ *Epistolae*, p. 137.

² *Ibid.* p. 142.

³ It is possible that the reference is to editions of the Fathers. The phrase used is 'nonnulla veterum Graecorum monumenta' (*ibid.* 147).

⁴ *Ibid.* 141.

⁵ e.g. *ibid.* 157, 167, 195 and 109.

In October, 1580, Hotman made the acquaintance of Montaigne, who passed through Basle on his way to Italy. The latter recorded the meeting in his *Journal de Voyage*. 'Nous y vîmes force gens de sçavoir, comme Grineus, et celui qui a fait le *Theatrum*, et ledit medecin (Platerus) et François Hottoman. Ces deux derniers vindront soupper avec Messieurs lendemain qu'ils furent arrivés. M. de Montaigne jugea qu'ils estoient mal d'accord de leur religion, pour les responses qu'il en receut; les uns se disans Zvingliens, les autres Calvinistes, et les autres Martinistes...' (*Journal de Voyage*, ed. Paris, 1909, p. 78). Montaigne wrote to Hotman from Bozen (*ibid.* 148).

He was too late. The University was dominated by the Landgrave Louis, 'ubiquitarius summus, talis factus a dominante conjuge, quae ab Hunio Theologo pessimo nebulone regitur.' His brother William, Hotman's friend, was at Cassel, and the authorities, 'negociationibus dediti, homines doctos parum curantes,' would grant neither stipend nor exemption from taxation.<sup>1</sup>

Hotman's latter years were shadowed by disillusionment no less than by penury and bereavement. His critical temper was associated with a strong vein of idealism, and as early as 1579 he was repelled by the growing dissensions among Protestants, but he had no conception of compromise, and remained in the narrowing world of Swiss Calvinism.<sup>2</sup> Basle was gradually drifting, like Strassbourg, towards the German shore, and Hotman left it for Geneva in 1584. He resumed his old life of teaching and giving legal opinions in the Calvinistic stronghold.<sup>3</sup> He was now a widower, and dependent for the cost of any unusual outlay on the sale of such fragments of his patrimony in France as he had been able to secure from the reluctant clutches of his relatives, or on the property of his wife. By this time his son Jean was in the household of Poulet, the English Ambassador in Paris; his second son was dead, worn out with the privations of guerilla warfare in the south of France; the third had reverted to Roman Catholicism and passed from his father's ken; and the fourth, who had inherited none of the family talent, was a tradesman at Zurich. Only his daughters were left to him, and they were helpless young girls. Twenty years after Hotman's death, Scipio Gentili, moved to reminiscence by the death of his brother Alberico, wrote to Jean Hotman of a visit which he had

<sup>1</sup> *Epistolae*, 191: 'Nam Ludovicus praesens cum sit, multo plus potest quam Wilhelmus absens.' In 1579 Hotman had refused a chair at the University of Leyden offered to him in pressing terms by Douza and Lipsius (*ibid.* p. 109).

<sup>2</sup> On 26th May, 1579, he wrote to Walter: 'Credo istas dissensiones ex fastidio Evangelii, et corruptelis ac depravatione morum natas esse. Quid commune est Evangelio cum helluatione et crapula et ingurgatione tanta, quantam nunquam me visurum, aut auditurum sperassem? Quid mirum, si Deus istas disputationum furias in istud hominum genus immittat? Velim agi de disciplina et conformandis moribus. Nos Papistis ipsis ludibrio sumus. Doctrina reformata est, vita deformatissima' (*ibid.* 111).

<sup>3</sup> On 6th November, 1584, Hotman wrote to Stöck: 'Sed mihi crede nihil opus fuit consolatione, sed gratulatione potius, quod ex illa Basiliensi solitudine me meamque familiam huc in tot amicorum affinium et familiarum meorum convictum recipim, etc.' (*ibid.* 181).



once paid to his father at Basle. He greeted the old savant as *Your Excellency*, and received the bitter and melancholy retort: 'Dic potius Tua Miseria, Tua Calamitas, Tuum Naufragium!' <sup>1</sup> A long life of misery had taught François Hotman the vanity of the defiant self-confidence with which he had cut himself off from his father in his youth.

The only consolation left to the ageing scholar lay in the exercise of an intellect trained by legal studies and years of polemical writing to a high point of critical *finesse*, and he enjoyed it to the utmost. The period of his last residence at Geneva was marked by the publication of numerous works, including his *De re nummaria* and his *Observationes*, in which he indulged in trenchant criticisms of Cujas.<sup>2</sup> His attitude of scornful superiority to the material with which he dealt irritated more conservative and scientific jurists. As early as 1555 Dumoulin wrote to Amerbach of Hotman as a *litterator*, and in thanking Hotman for a copy of his *Commentatio* even his friend Cappel could not avoid a note of irony.<sup>3</sup> The same note is present in a letter which Reuber addressed to him in 1586, urging him to compose his 'swan's song' in demolishing Canon Law.<sup>4</sup> The veteran was only too eager to accept the suggestion, provided sufficient pecuniary inducement were offered. He sounded the Elector Palatine on the subject, and repeatedly urged Lingelsheim to induce his

<sup>1</sup> 'Omnia ejus non solum seria sed et faceta memini. Illud in primis, quod saepe commemore soleo, cum in portu Basileae sedens me interrogantem isto vulgari et inepto more, unde ejus excellentia advenisset, oculis in me intentis me comiter objurgaret, quam tu, inquit, excellentiam mihi nominas, dic potius Tua Miseria, Tua Calamitas, Tuum Naufragium' (*Epistolae*, 394).

<sup>2</sup> *Observationum et emendationem Libri XIII* (Geneva, 1586 and 1589), xii. 30; cf. *Quaestiones*, 34, and *Hotmani in Cujacii commentarium in l. Frater a fratre Renovata disputatio*; *ibid.* p. 299. Cujas' criticisms of Hotman may be found in his *Observationes*, xv. c. 16, and xvii. c. 7 and 15, and in his *In Paratit. Digest. s.v. De mandatis principum*. It is characteristic of Cujas that he does not name Hotman. He charges him generally with errors caused by the superficiality of his interpretation. They were at issue regarding, e.g., *legis actiones*. This subject is dealt with by Gravina in his *Opuscula* (Utrecht, 1713), 298, and *De Ortu et Progressu Juris Civilis* (Leipzig, 1708), 218.

<sup>3</sup> Cappellus Hot. June, 1575: *Epistolae*, 54.

<sup>4</sup> 'Vellem te in tua honoranda senectute, quam Deus vegetam tibi concedit, oppugnationem Juris Canonici suscipere, ad cujus argumenti explicationem et tractationem neminem te melius instructum scio. In eo scriptitionis genere sese confutanda offerret Pontificis Romani Principum negligentia, et nullo jure usurpata jurisdictio, quo sola suam auctoritatem et impia sua dogmata semper testatus est... Non dubito quin de ejusmodi Cygnia aliqua cantione sis cogitaturus' (Reuberus Hot. 3rd April, 1586: *ibid.* 189).

young master to provide financial assistance.<sup>1</sup> 'Habeo contra jus Canonicum,' he wrote to Toussaint on 8th May, 1587, 'notas innumerabiles, quibus Antichristi R. partim stuporem in civilis juris scientia, partim imposturas, fraudes, falsitates incredibiles patefeci. Concilia Graeca et Latina recentiora cum illa Gratiani farragine contuli. Dici non potest, quantas imposturas animadverterim: ut mihi non dubium sit, quin orbem terrarum posthac pudeat, tam foeda Purpuratae meretricis menstrua, tandiu in tanta caecitate pro divinis oraculis coluisse. Opus intra biennium facile Deo adjuvante potest confisci. Sed mihi Maecenato est opus.'<sup>2</sup> Alas, the Erastian Princes of post-Reformation Germany were not inclined to spend money on the project.

During the five years which preceded Hotman's death his legal treatises were hawked over Germany in search of a princely patron who would pay something in exchange for a Dedication. Reuber, the Chancellor of the Elector Palatine, sent him assistance, and, modestly declining a Dedication, asked that his name might merely be mentioned therein. Hotman, however, was not content, and pressed for the patronage of his young master and his uncle. Reuber unwillingly consented, protesting that the uncle knew no Latin, and that the Elector was too young to understand a treatise on Roman Law. Hotman received a charming and witty letter of thanks from the latter and a sum of money.<sup>3</sup> His efforts in other quarters were unavailing, though he went the length of appealing to Queen Elizabeth and endeavoured to revive forgotten family ties with distant kinsmen in Silesia.<sup>4</sup> There was, however, one quarter from which Hotman received ample encouragement and appreciation during the last years of his life. The position of his only patron was unfortunately such that he was only able to offer him thanks and empty official appointments. On the formation of the League in Paris in December, 1584, following on the death of Alençon in June of the same year, Henry of Navarre welcomed the assistance of Hotman in the war of pamphlets

<sup>1</sup> *Epistolae*, 207 and 8. 'Nam jusculum ejus Canonisticum ita condire cogito, ut et ipsius Assectis crebrum commotum reddam.'

<sup>2</sup> *Ibid.* 195.

<sup>3</sup> *Ibid.* 226, 230, 253. In view of Reuber's protest, Hotman substituted his *Re nummaria* for his *Observationes*.

<sup>4</sup> *Ibid.* 253, 219, etc. Hotman went the length of borrowing from Toussaint on the expectations of his son Jean, 'qui in summa gratia est apud Lycesterum Comitem' (*ibid.* 251).



which ensued. The result was the publication by Hotman of a Latin edition of his *Franco-Gallia* under the title *De jure Regni Galliae* with considerable additions, of his *De controversia patris et nepotis in successione regni*<sup>1</sup> and of his *Brutum Fulmen*. These treatises were directly inspired and largely controlled by Henry and his advisers. The recent discovery and publication of the Hotman correspondence at Haarlem has given new significance to them.<sup>2</sup> The first two have been referred to already, but the last merits special notice.

Five years before his death Hotman published his *Brutum Fulmen*, in which he took advantage of the excommunication of Henry of Navarre by Sextus V. to launch a sweeping attack on the Papacy in his most characteristic style. This virulent treatise forced the attention of Europe on its author, in the same manner as his *Epistre* and *Franco-Gallia* had done at an earlier period, and gained for the old warrior a kind of Indian summer of that notoriety in which his heart delighted. Such arbiters of literary taste as Scaliger<sup>3</sup> and de Thou<sup>4</sup> greeted it with approval, mingled with amused astonishment. The national cause which he sustained was shared by him with most of his contemporaries of any real mental calibre, and his attack on papal claims gained a hearing as being well-timed. But for the fact, however, that the best interests of France were opposed to the unlimited exercise of Papal authority at the date of its publication, the treatise would have been immediately classed as a blunt and heavy bludgeon to be added to the Protestants' armoury. Had Hotman been content to confine himself to the political and ecclesiastical situation of the hour without introducing the life-long bitterness

<sup>1</sup> This treatise is remarkable in respect that it contains a recognition of the hereditary character of kingship.

<sup>2</sup> Blok, 'Correspondance de François Hotman': *Archives du Musée Teyler*, série ii. vol. xii. pars ii. p. 207 et seq. (Haarlem, 1911). The correspondence contains autograph letters from Henry, Duplessis-Mornay, Sillery, Du Pin and others.

<sup>3</sup> 'Hotomanni Franco-Gallia est bonne, j'y ay aidé ; il y a au Catalogue Brutum Fulmen. S'il est de Geneve, volo : s'il est de cette ville, ne emas. Fulmen Brutum, liber mihi donatus ab ipso Hotomanno, est praeclarus liber, multa bona dicit, sed multa addita sunt in editione Lydensi ; praestat Genevensis' (*Scaligerana*, s.v. Hotomannus). My copy of the Leyden edition belonged to Thomassin, the great French canonist.

<sup>4</sup> 'Postea et in censuram illam scripsit Franciscus Hotomanus jurisconsultus, joculari stylo, libroque Brutum Fulmen titulum fecit ; quo et de beati Francisci et beati Dominici vita ac moribus veteres historiae, ab obsolete viris scriptae, ridicule discutuntur' (*Historia sui temporis*, London, 1732, iv. 305).

of his antipathy to Roman Catholicism, his *Brutum Fulmen* would have taken its place by the side of his *Franco-Gallia*. He could not resist the temptation to attack all along the line, and, in the light of the ultimate triumph of the Counter-Reformation in France, his onslaught must be held to have missed its mark.<sup>1</sup> Yet the production of a work on any other lines would have been too hard a task for Hotman. Not only had a long life spent in destructive criticism unfitted him for the production of a positive political programme, but he was also out of sympathy with the most important element in the situation with which he proposed to deal. The *Brutum Fulmen* is generally negative and destructive, but it contains many of the elements which marked the Gallican polemic for centuries. There are constant references to the anti-Papalists of the Conciliar period, to Marsilio of Padua, to Platina, to writers of the school of Lorenzo Valla, and to the ideas represented by the Pragmatic Sanction of Bourges. From the Gallican point of view he quotes Douaren and Faber, and the pronouncements of the Parlement de Paris, addressing himself at times to his *togati lectores*; while at other times he turns to canonists such as Zarabella, Jason and Philippus Decius. His violence, however, defeats itself. He sums up his attack on the Bull of Sixtus V. in four charges: (1) *Temerarii judicis incompetencia*; (2) *Allegationis falsitas*; (3) *Ordinis judicialis defectus*; and (4) *Conceptae formulae stultitia*. Under the first heading he includes the following: (1) *Papa sibi divinitatem asciscit*; (2) *Religionem Christianum illudit ac deridet*; and (3) *Falsas et comementitias religiones in Ecclesiam inducit*. The last subdivision enables him to launch an unbridled assault on the Regular orders,

<sup>1</sup> This was the judgment of cultivated Protestants of the period. Bongars, a distinguished Huguenot diplomatist and savant, made some sound criticisms on the political writings of Hotman in a letter addressed to President de Thou in May, 1595. 'Je vous confesseray librement, de *Franco Gallia*, vellem parcius, tant pource que le livre n'est pas de saison, que pource qu'il me semble que le bon homme s'est grandement abusé en cette dispute la. La doute donnoit quelque couverture à l'ouvrage, lors qu'il fut imprimé la premiere fois: et nous laissons eschapper beaucoup de paroles, en une fascherie extreme, ausquelles nous rougirions si elles nous estoient représentées, après le cours de la passion. . . . Je scay bien que le bon homme se plaisoit de cette piece la, il l'avoit tesmoigné par les impressions reiterées. C'est une maladie, de laquelle beaucoup de nos gens, et trop sont entachés, qui eussent volontiers reduit nostre Monarchie à une Anarchie. S'il y a du mal en un chose, ce n'est pas a dire, qu'il la faille ruiner.' Of the *Brutum fulmen*, Bongars wrote, 'Je vous assure, Monsieur, que le Roy n'achepta jamais livre si cher, que cestui là: il a esté payé beaucoup pardessus son prix.' *Lettres de Jaques de Bongars* (La Haye, 1695), p. 651.



and particularly on St. Dominic and St. Francis and their followers.<sup>1</sup> The Jesuits, he maintains, are simply their successors.<sup>2</sup> Not content with attacking the Bull, he attacked the Pope, the Papacy, and generally the most characteristic developments of Roman Catholicism, or rather of the Medieval Church. A justification for the sweeping character of Hotman's indictment may be found in his expressed belief that, if religious freedom were granted in France, a large majority of the population would renounce allegiance to Rome,<sup>3</sup> but it is certain that he was mistaken. His cold and critical intelligence, so well furnished with a mastery of searing invective, saw nothing in the Society of Jesus but a renaissance of perverted monkish sentiment.<sup>4</sup> He had been drawn in his old age into the bleak uplands of desiccated Calvinism peopled by the Swiss, the Hollanders, and the Scots. But the old warrior had been permitted to sing his *Cygnia cantio* and to exercise his practised hand in 'cleaning the Augean stables of Canon Law.'<sup>5</sup>

The last stage of the Odyssey of François Hotman commenced when he fled with his daughters from Geneva, invested by the Duke of Savoy, and returned to Basle in September, 1589. He died there on 12th February, 1590, worn out with misery and quack medicines. His material belongings consisted of his MSS., some boxes of books, a little plate, and some worthless astrological instruments and chemical *formulae*. Against these was set a mass of long-standing debt, largely incurred in his experiments in alchemy.<sup>6</sup> He was buried in

<sup>1</sup> e.g. 'Stultitia discipuli Bernardonis supereminet auriculas omnium onagrorum, qui sunt in Arcadia' (185). Cf. pp. 44 *et seqq.* Reference may be made to *L'Alcoran des Cordeliers*.

<sup>2</sup> 'Nam Jesuitae nuper exorti sunt, qui defessis Dominicanis integri ac recentes succurrerent . . .' (193). Cf. p. 63.

<sup>3</sup> 'Denique constat inter omnes, si par Gallis hominibus utriusque colendae exercendaeque religionis liberatas daretur, vix quartam popularium regni partem in sedis Romanae religionis permansuram' (118). But cf. Armstrong, *French Wars of Religion*, p. 20.

<sup>4</sup> 'The form in which the Catholic reaction was threatening Europe was indeed that of military force, but it was also an invasion of opinion. The Jesuits did not draw the sword in Germany until they had gained a footing in the minds of men' (Pattison, *op. cit.* p. 350).

<sup>5</sup> *Vide* p. 339. The most effective method of estimating the value of Hotman's treatise, from the point of view of his contemporaries, is to compare it with, e.g., William Barclay's *De Potestate Papae*: vide *Scottish Historical Review*, xi. 155.

<sup>6</sup> 'Senex etiam,' wrote his first biographer, 'ad naturalium arcanorum cognitionem adspiravit, Plinii aliorumque ductu et exemplo' (Doschius, *op. cit.*).

the Cathedral, by the side of Erasmus and Oecalampadius, at public expense.<sup>1</sup>

J. A. de Thou, who had studied under Hotman at Bourges, noted his death in his *Historia*, in a few colourless sentences, which offer a marked contrast to his affectionate tribute to Cujas, who died in the same year.<sup>2</sup> The eminent historian probably remembered Hotman's attack on his father, and while he noted in his pages from time to time the telling effect of his polemical writings, he condemned the man with silence when he passed to his account.<sup>3</sup> The verdict of Scaliger was similar. 'Hottomannum,' he wrote, 'sola dictio Latina commendat ac eloquentia. Caetera, pauvre homme.'<sup>4</sup> Protestant writers have sought to place a halo round his brows, but the effort does not carry conviction, and Dareste, who has studied him in the course of a long life, wisely refrains from an attempt at a final estimate.<sup>5</sup> The skin of a jackal of Calvin ill fitted the frame of a great jurist and eminent historian.<sup>6</sup> The omnivorous appetite which marked the intellect of François Hotman was combined with the harsh and relentless bias of an ecclesiastical partisan. Seething with spleen and bile, his mind was incapable of the serene aloofness of Cujas and de Thou, and disdained the urbanity of lesser lights, such as Etienne Pasquier. To the malevolent curiosity of a Platina he added the intellectual force of a legal mind which acted on the material presented

<sup>1</sup> The egregious Fynes Morison describes his tomb. Vide *Itinerary* (Glasgow, 1907), i. 59. No portrait of Hotman exists. Doschius describes his appearance as 'Statura excelsa, naso oblongo, oculis caesiis, vultu augusto.'

<sup>2</sup> Lib. xcix. 17, ed. London, 1732, vol. iv. 895.

<sup>3</sup> 'Christopherus Thuanus, primus illius Parlamenti praetor, homo levitate simul et crudelitate insignis' (*De furoribus Gallicis*, 48). For de Thou's estimate of Hotman's *De successionem* vide *Historia*, iv. 256.

<sup>4</sup> *Scaligerana*, s.v. Hotman; cf. 'De voce Ionum in Plinio, puto recte sensisse Othomanum, atque utinam ita bene in aliis: minus enim sibi invidiae, et nobis laboris quaesivisset.' Letter of January, 1575, *iuveni doctissimo* (Scipio Gentilis?): *Epistolae* (Frankfort, 1612), 246.

<sup>5</sup> Vigié, *Les Theories politiques liberales au XVI<sup>e</sup> siècle* (Paris, 1878). The first contribution of M. Dareste to the study of Hotman appeared in 1850 and the last in 1908, both in *La Revue Historique*.

<sup>6</sup> 'Vir fuit,' wrote Gravina, 'universae antiquitatis, tum sacrae, tum prophanae oppido peritissimus, et non minus ingenio, quam oratione felix et candidus; cui ad veram virtutem nihil defuisset, nisi bonitatem, quam a natura traxerat, mutanda religione pervertisset' (Gravina, *De ortu et progressu juris civilis*, Leipzig, 1708, 218).



to it like a corrosive acid.<sup>1</sup> 'Tels hommes,' to quote a phrase of a great moralist, 'passent une longue vie à se défendre des uns et à nuire aux autres, et ils meurent consumés de vieillesse, après avoir causé autant de maux qu'ils en ont souffert.'<sup>2</sup>

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<sup>1</sup> For the estimate of the succeeding generation on Hotman as a jurist, *vide* Duck, *De usu et autoritate juris civilis* (London, 1679), 70 and 83, etc. For a modern estimate, *vide* Brissaud, *Droit Français* (Paris, 1904), 353; *Great Jurists of the World* (London, 1913), 104; Flint, *Philosophy of History*, 187, and H. D. Foster, *Political Theories of the Calvinists* (*American Historical Review*, xxi. 481).

<sup>2</sup> La Bruyère.

## The Early Years of Henry Frederick, Prince of Wales, and Charles, Duke of Albany [Charles I.]

1593-1605

**I**T would appear that the learned Royal author of the *Basilicon Doron* found it an easier matter to write books of good advice for his sons' guidance than to be personally concerned with their upbringing. An investigation of the contemporary records makes it clear that it was the practice of James VI. and of his Queen Anne to entrust the care and education of their children to trusted friends in their native land, upon whom devolved the duty of bringing them up in their tender years. There are some points in connection with the history of the early years of the children of King James VI. which have been somewhat obscure : it is worth while to review some of the scattered sources of our knowledge as to those years, and to consider the influences which surrounded the royal children and the way in which those influences may have affected the formation of their character.

The history of the early years of the eldest son, Prince Henry Frederick, who was, until his death in 1612 at the age of nineteen, the heir to the throne, presents less difficulty than that of his brother Charles. The very fact that he was the heir to the throne caused him to be the subject of more detailed records. The manuscripts of the Earl of Mar and Kellie, preserved at Alloa House, and published in 1904 by the Historical Manuscripts Commission, contain documentary evidence from which authoritative accounts of his guardianship from 1593 to 1603 can be derived.

Prince Henry Frederick was born at Stirling on 19th February, 1593-4. From the month of his birth he was entrusted to the care of John, second Earl of Mar, and his wife, Dame Annabell Murray. That fact is conclusively shown by the Ordinance for the Nursing and Keeping of Prince Henry, dated February,



1593-4, published in the Earl of Mar's MSS.<sup>1</sup> Sir Robert Douglas, in his *Peerage of Scotland*, however, states that 'upon the birth of Prince Henry, in 1593, President Seton was entrusted with his tuition till he went to England, anno 1603.' And some support has been found for this statement in the fact that in the acknowledgment given by the King under the Great Seal, dated 28th June, 1603, to the Earl of Mar for his care in the education of Prince Henry it is stated that Prince Henry was placed in his charge 'in the year of our Lord 1596.' A further examination of the Mar papers, however, clears up this difficulty. A letter from King James to the Earl of Mar, dated 11th September, 1594, refers to his guardianship of the Prince.<sup>2</sup> On 24th July, 1595,<sup>3</sup> there appears a further letter from the King to the Earl of Mar, strictly charging him to retain the Prince, and not to deliver him to anyone without express order from his Majesty.

'And in kayce God call me at any tyme,' the letter proceeds, 'that nather for Quene nor Estaitis pleasure ye delyver him quhill he be auchtein yeiris of age and that he commande you himself.' In the following year, 1595, we find a renewal of the commission to the Earl of Mar, authorising him to continue his custody of the Prince for the year 1595. There is no document among the Mar MSS. specifically renewing the charge in 1596, but it is not improbable that it was so renewed; and if so, the reference in the Great Seal document of 1603, already mentioned, would be to some such renewal of the charge rather than to the original charge which undoubtedly took place in 1593.

Prince Henry remained at Stirling in the charge of the Earl of Mar and his Countess until May, 1603, when he was conveyed by the Queen to England, whither James VI. had already proceeded. The Treasurers' accounts for May, 1603, contain the following entry: 'The furnishing following delyverit be the directioun of the Lordis of Secreit Counsall for the use and cleithing of the Queenis Majestie, the Prince grace and princes, thair paiges and laqueyis and certane utheris quha wes appointit be directioun foirsaid to attend upone thair service at thair removing heirfra towards Ingland...' (fol. 272 a). And in the same month<sup>4</sup> £90 13s. 4d. was paid for eight stones weight of gunpowder shot in the Castle at Edinburgh, when the Queen and Prince Henry arrived at Holyrood from Stirling.

<sup>1</sup> *Hist. MSS. Comm. E. of Mar*, p. 39.

<sup>2</sup> *Ibid.* p. 43.

<sup>3</sup> *Ibid.* pp. 43-44.

<sup>4</sup> *Treas. Accounts*, fol. 290 (a).

On May 23, 1603,<sup>1</sup> King James grants to the Earl of Mar a discharge from the responsibility for the custody and education of Prince Henry, but he was required to continue 'his careful and vigilant attendance upon the person of the Prince' until he was actually handed over to his Majesty.

From all this evidence it appears clear that Prince Henry was in the charge of the Earl of Mar at Stirling from his birth in 1593 until at the age of ten he was taken to England to his father's court. The possibility of his having been at any time under the charge of President Seton, Lord Fyvie, seems thus altogether excluded.

As already stated, there is more difficulty in reconstructing the account of the first four or five years of the life of Duke Charles, afterwards King Charles I. There is no one source like the MSS. of the Earl of Mar, to which recourse can be had to get a collected account of those years in the life of Charles. Information has to be gleaned from several sources, the most fruitful of which are the *Treasurers' Accounts*, the *Register of the Privy Council of Scotland*, the *Calendar of State Papers* (Domestic Series) and other public records. Nor is it easy to reach a definite conclusion as to the conditions of his guardianship, especially during the years 1600-1603. There has not been any doubt in the past as to the fact that from the time when James VI. left Scotland for London in 1603 until the autumn of 1604 Charles was in the charge of Alexander Seton, Lord Fyvie, afterwards Earl of Dunfermline and Chancellor of Scotland.

Charles was born at Dunfermline on 19th November, 1600.<sup>2</sup> As to this date practically all authorities are agreed. It may be noted that the following day, 20th November, is assigned in the *Historie of King James the Sext* (Bannatyne Club, 1825), where it is stated: 'Duc Charlis, the King's sone, was borne the 20 day of November and was baptesit the 23 of December and installit Duc of Albanie, Marquise of Ormont and Erle of Rosse.' From the references which will be quoted it will be seen that Duke Charles remained at Dunfermline at any rate until 1603, and probably until 1604. The question arises: Was Lord Fyvie guardian of Charles during the years 1600-1603, or did his charge only begin when his royal master went south in 1603? It would appear that in some sense Charles was in the charge of Lord Fyvie from his birth.

<sup>1</sup> *Hist. MSS. Comm. E. of Mar*, pp. 52-53.

<sup>2</sup> *Reg. Privy Council of Scot.* vol. vi.



Queen Anne of Denmark was 'Lady of Dunfermline,' the regality of Dunfermline forming part of her dowry. On 15th February, 1596, Alexander Seton, then Lord Urquhart, and President of the Court of Session, was granted by Queen Anne by charter the office of heritable bailie and justiciary of the regality of Dunfermline. In the same year the office of Constable or Keeper of the Palace of Dunfermline was also conferred upon him. Accordingly, during the years 1600-1603, when Duke Charles was in the Palace of Dunfermline, Lord Fyvie was occupying the posts of Bailie of the Regality and Constable of the Palace; and so during those years the Prince was in his charge, although it was not until April, 1603, that 'the charge of the education of the Duke of Albany was committed to Lord Fyvie' by a Privy Council decree.<sup>1</sup>

Lord Kingston, in his continuation of Sir Richard Maitland's *History of the House of Seyton*, referring to the departure of King James and Queen Anne to England in 1603, and to the custody of Prince Charles by President Seton, says: 'He kept him in his house three years and carried him into England himself, by land, to the King and Queen's Majesties, well and in health; for which faithfull service the King's majestie was thankfull to him.' Part of the three years mentioned by Kingston must have been the time which Charles spent in Dunfermline prior to 1603, though it appears strange that the Palace of Dunfermline should be described as Lord Fyvie's house. It is possible that during part of 1603-04 Charles lived in Lord Fyvie's own house in Edinburgh.

If Lord Fyvie was in general charge of the young Prince from 1600-1603, the more immediate charge of his person seems to have devolved upon Dame Margaret Stewart, Lady Ochiltree. This is shown most clearly by the following extract from the *Register of the Privy Council of Scotland*:<sup>2</sup>

'Dame Margaret Stewart, Ladie Ochiltreie, producit a gift of a yeirle pensiou of sevin hundreth merkis money of this realme grantit unto hir be the late king for hir carefull and duetifull attendance upoun the late Queene and thair royall childreene in thair young and tender aige; haveing servit the late Queene the space of threttene yeirs from hir arrivall in this kingdome till hir removeall to England and haveing had the charge and credite of Ladie Margaret till sho was twentie foure weekis of aige and of

<sup>1</sup> *Reg. Privy Council of Scot.* vi. 556. *Haddington MSS. Excerpts.*

<sup>2</sup> 2nd Ser. vol. i. *Acta*, March, 1625-Jan. 1628, fol. 90 (a).

Duke Robert till the houre of his decease and of the Kingis Majestie till he wes twa yeiris and ane half that by warrand from the Queene he wes delyverit to the late Earle of Dumfermline.'

Lady Ochiltree's statement of her service of the Queen for thirteen years previous to 1603 is substantiated by a payment of £666 13s. 4d. made to her in 1590-91, recorded in the *Exchequer Rolls of Scotland*.<sup>1</sup> And again she receives the same sum in 1601: 'Item payit be command of his hienes precept to Margaret Stewart maistres nureis to his Majesteis second sone the Duik of Albanie in recompence of hir service as the said precept with hir acquittance producet upon compt beiris £666 13s. 4d.'<sup>2</sup>

On 13th February, 1601, John Murray was appointed valet to Duke Charles.<sup>3</sup> In November, 1601, Charles was still at Dunfermline: 'Item the furnitour following delyverit be his hienes speciall command and directioun to Alexander Millar, tayllyeour, for the use of Duike Charles, his grace darrest sone. . . . Item ane eln bukrum to send this geir in to Drumfermeling 13s. 4d.'<sup>4</sup> In November, 1601, the *Register of the Privy Seal* records the 'gift to Charles of Scotland, Duke of Albanie, etc., etc., of the ward and non entry of the earldom of Buchan and lordship of Auchterhouse since the decease of James, Earl of Buchan, Lord Ochterhouse and until the entry of the righteous heir thereto.'<sup>5</sup>

Shortly afterwards, on 26th January, 1602,<sup>6</sup> the King on behalf of Duke Charles, with the advice and consent of his treasurer and the Lords of Council, sets in tack the Earldom of Buchan and the Lordship of Ochterhouse, to 'his hienes darrest counsalour Alexander, Lord of Fyvie, President of his hienes session,' in return of an annual payment of 1000 marks to the Crown, for the same period for which Duke Charles held the ward and non-entry.

In 1602 we find the first reference to another noble lady who was in attendance on the young Prince at Dunfermline. Jeane Drummond, third daughter of Patrick, third Lord Drummond, and second wife of Robert Ker, first Earl of Roxburgh, was apparently the first governess of Charles, and perhaps of others of the royal children. In February, 1602, we find the following entry: 'Item be speciall command and directioun the furnissing following send to Drumfermeling to Maistres Jeane Drummond for the use of his hienes sone Duik Charlis';<sup>7</sup> and similar

<sup>1</sup> Vol. xxii. p. 151.

<sup>2</sup> *Treas. Accounts*, 1601.

<sup>3</sup> *Reg. Privy Seal*, vol. 71.

<sup>4</sup> *Treas. Accounts*, f. 68 (b). <sup>5</sup> *Reg. Privy Seal*, vol. 72.

<sup>6</sup> *Ibid.* vol. 72.

<sup>7</sup> *Treas. Accounts*, f. 109 (a).



entries concerning 'furnissing' sent to 'Maistres Jeane Drummond' occur in the later accounts.<sup>1</sup>

Another of Duke Charles' personal entourage about this time was Marioun Hepburn, his 'rokken.' April, 1602.—'Item for ane stickit mat to Marioun Hepburn rokker to Duik Charlis £6 13s. 4d.'<sup>2</sup> We hear of Marion Hepburn, nurse, again in 1602-3,<sup>3</sup> when she receives a pension of £166 13s. 4d., and on March 23, 1605, when she is granted an annuity of £15 by Privy Seal Letter<sup>4</sup> in recognition of her services to the Prince.

An interesting entry in the *Treasurers' Accounts* is found under date April, 1603: 'Item payit be command foirsaid for certane plaigeis babeis and uther small necessaris for the use of his hienes sone Duik Charlis quhilkis wer delyverit to Robert Robiesoun £6 18s.'<sup>5</sup>

It was in April, 1603, as we have seen, that by decree of the Privy Council, Duke Charles' education was definitely committed to Lord Fyvie, one of King James' last acts before he left Edinburgh to take up the Crown of England. The year and a half which followed that event contain several letters from Lord Fyvie giving an account of the Duke and of his health: for it was on account of his extreme delicacy in his early years that he was left in Scotland and did not accompany the Queen, Prince Henry Frederick and Princess Elizabeth to England in June, 1603.

The first of these letters is one dated 29th April, 1603,<sup>6</sup> from Lord Fyvie to the King, and in it he refers thus to his royal ward: 'that precious jewell it pleasit your hieness to credict to my keiping, quha is (praisit be God) for the present at bettir health far then he was, and, to mak your maiestie mair particular accoumpt, eats, drinks, and uses all naturall functions as we wald wiss in onye child off his graces age, except that his nights rest is nocht as yit as sound as we hoipe in God it sall be shortlie. The greate weaknesse off his bodie, after so lang and heuie seikness, is meikill suppliet be the might and strenth off his spirit and minde: I will assure your maiestie he luiks als statlie and bearis als greate ane maiestie in his countenance, as could be requirit of onye prence, albeit four tymis aboue his age.'

<sup>1</sup> *Treas. Accounts*, Dec. 1602, fol. 205 (a); March, 1603, fol. 251 (b).

<sup>2</sup> *Ibid.* f. 135 (a).

<sup>3</sup> *Comptroller's Accounts*.

<sup>4</sup> *De Concessionibus*, etc. Rymer's *Foedera*, xvi. p. 611.

<sup>5</sup> *Treas. Accounts*, f. 265 (a).

<sup>6</sup> *Letters and State Papers of Reign of James VI.* Abbotsford Club, 1838, pp. 46-47.

Early in May, 1603, Lord Fyvie was in Stirling,<sup>1</sup> whence he passed to Dunfermline,<sup>2</sup> possibly to visit his ward; for on May 30<sup>3</sup> he again writes to the King and mentions Charles: 'Your sacred maiesties maist nobill sone Duik Chairles contenewis, praisit be God, in guid healthe, guid courage, and loftie minde, althoght yet weak in bodie; is beginnand to speik some wordis—far better as yet off his minde and tongue nor off his bodie and feite. Bot I hope in God he sall be all weill and prencelie, wordie of your maiestie, as his grace is jugit be all werye lyke in lineamentis to your royall person.'

It is not difficult to understand that the writer of such adroit and courtly letters would stand well in the eyes of one so susceptible to flattery as James VI.; and it is interesting to see that this was evidently the case, as we learn from a reference in the Venetian State Papers. On October 22, 1603, Scaramelli, the Venetian Secretary in England, writes thus to the Doge: 'He (King James) has written however to the President, Alex. Seaton the governor of his Majestie's second son who is very deep in the King's confidence, telling him to put off this meeting as long as he can: though Seaton, too, is thought to be a Catholic at heart, for he was maintained at the University of Rome by Pope Gregory XIII at a cost of ten ducats a month, and took his doctor's degree at Bologna.'

Scaramelli is, of course, referring to Lord Fyvie's political services: for soon after, viz. in 1604, he was appointed a commissioner for the Union between the Crowns of Scotland and England. By April, 1604, Duke Charles' health was sufficiently improved to make it feasible for him to be conveyed south to London. To this event there is a whole series of references in the *Calendar of State Papers* (Domestic Series).

On 14th April there is a warrant to pay to Dr. Atkins, physician, sent to Scotland to attend Prince Charles, 50s. per diem. On 11th June there is a warrant to pay 'to the President of the Session in Scotland, i.e. Lord Fyvie, 500*l.* for charges of bringing the King's son, Duke Charles, to England.' On 19th June there is a warrant to pay 'the chargis for the provision of litters with their attendants for the conveyance of Duke Charles to England.' On 3rd July, Dr. Henry Atkins, who had arrived at Dunfermline, writes to Cecil about Prince Charles' health: 'He is recovering and is beginning to walk alone, which he never

<sup>1</sup> *Treas. Accounts*, f. 292 (b).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Letters and State Papers of the Reign of James VI.* p. 55.



did before. They will begin the journey to England on the 17th.' On 21st September there is a warrant to pay '40*l.* to Edward Phillips, apothecary, sent into Scotland with Dr. Atkins to Prince Charles.'

The journey to England appears to have taken place in August, 1604. An excellent account of some experiences on the journey has been given by Mr. George Seton in his *Memoir of Chancellor Seton*:<sup>1</sup> 'From the following curious letter, addressed by Sir John Crane<sup>2</sup> to the Mayor of Leicester, and still preserved among the records of the Corporation of that historical town, it appears that the Duke of York (afterwards Charles I.), accompanied by Lord Fyvie, spent a day and a night at Leicester, in August, 1604. The young Prince must have been attended by a considerable retinue, seeing that the required sleeping accommodation amounted to twelve beds, and the beer to seven hogsheads. We may presume that the 'pewter' referred to in the letter embraced a suitable supply of tankards for the consumption of the liquor. The letter is dated from Worksop in Nottinghamshire, which was probably the previous resting-place of the royal party :

'S<sup>r</sup>, I ame to advertis yo<sup>u</sup> that on Wednesday the XV<sup>th</sup> of this instant, Duke Charles, the Kings Ma<sup>ty</sup>s second sonne w<sup>th</sup> my Lo. of ffyvie, Lo. Prsident of the Sessions in Skottland, who hath charge of his Grace, entendeth to bee at Lecester, whear thaye mean to rest Thursday all day, and on ffriday after dinn<sup>r</sup> to goe forwards on their Jorneye, ffor which cause theise are in his Ma<sup>ty</sup>s name to require yo<sup>u</sup> to make choice of a sufficient house for the lodgine of the Dukes Grace w<sup>th</sup> the Lo. Prsident whearin ther must be xij bedds, w<sup>th</sup> all nessesaries for a Kytchine, and y<sup>t</sup> there bee vij hogsheads of Beare layed in the same house, for the w<sup>ch</sup> you shall have satisfaction ; for pewter and lininge his Grace must be furnished w<sup>th</sup> from you ; before his cominge their shal bee one sent for the making of provision, unto whom I would, if hee find it nedfull, he may have yo<sup>r</sup> assistance. Thus, not doutinge of yo<sup>r</sup> care hearin, I byd yo<sup>u</sup> hartelie farewell.—Yo<sup>r</sup> lovinge ffrend,

JOHN CRANE.

'ffrom Worsop, the ix of August, 1604.

To the Right Wo<sup>ell</sup> the Mayo<sup>r</sup>, Leicester, or in his absence to the Aldermen of the same, give theise.'

The Mayor immediately despatched a messenger to Sir William Skipwith to procure his town mansion for the use of the Prince and his attendants, which was prepared for their reception. The

<sup>1</sup> Pages 58-61.

<sup>2</sup> A John Crane was Comptroller of the Works and also interim Governor of Berwick in 1603.—*Border Correspondence in the Record Office, London.*

house was decorated with fresh boughs, with which it was long customary to hang the walls of rooms for perfume and coolness during hot weather, while the floors were strewn with rushes and green leaves. Pewter and linen were borrowed, as on the occasion of the Queen's visit, bedding and furniture being removed to Sir William Skipwith's mansion from the Recorder's chamber at the Guildhall. The Prince arrived on Wednesday the 15th of August, and remained until after dinner on Friday, when he departed for Dingley, *en route* to London. During his stay the Corporation provided a 'banquet,' besides several gallons of sack and other wines, and a sugar loaf. A gift of Rhenish wine and claret was made to a certain Mr. Grimes,<sup>1</sup> who had the charge of the King's horses; and twenty shillings were given to his Majesty's trumpeters. The royal attendants, as on the former occasion, evinced a disposition to make the most of their opportunity, without respect for the rights of property; as it appears that, after their departure, the Corporation had to pay for certain 'Flanders fruit dishes,' which were provided along with 'divers sorts of banquetting dishes,' some of which were broken, and the rest carried away by the Duke's officers and followers. A portion of the pewter and linen which had been borrowed was also abstracted by them; whilst someone actually stole the bolster belonging to the Recorder's bed! It is to be hoped that the Prince's worthy guardian—the Lo. P'sident of the Sessions in Skottland—knew nothing of the villany of his attendants, who perhaps considered that the inhabitants of Leicester would overlook the barefaced pillage, in grateful recognition of the honour conferred upon them by the royal visit.

Another contemporary writer, Robert Carey, Earl of Monmouth, who succeeded Lord Fyvie in the charge of Prince Charles, also gives some interesting information in his *Memoirs* on the journey to England and the arrival in England: 'The summer after (1604), my Lord Dunfermline and his lady<sup>2</sup> were to bring up the young Duke. The King was at Theobalds, when he heard that they were past Northumberland; from thence the

<sup>1</sup> The 'Mr. Grimes' here referred to was Richard Graham, Gentleman of the Horse to James VI., created a baronet in 1629, and grandfather of Richard, first Viscount Preston, whose present representative is Sir Robert-James-Stuart Graham of Esk, Bart.

<sup>2</sup> Grizel Leslie, Seton's second wife. She is not specially mentioned as having accompanied her husband and the young Prince to Leicester (p. 58 *supra*); but it would appear from Carey's statement that she must have found her way to London in the course of the summer.



King sent me to meet them, and gave me commission to see them furnished with all things necessary, and to stay with them till they had brought the Duke to court. I did so, and found the Duke at Bishops Awkeland. I attended his Grace all his journey up; and at Sir George Farmor's (Eaton), in Northamptonshire, we found the King and Queen, who were very glad to see their young son. There were many great ladies suitors for the keeping of the Duke; but when they did see how weak a child he was, and not likely to live, their hearts were down, and none of them was desirous to take charge of him.

'After my Lord Chancellor of Scotland and his lady had stayed here from Midsummer till towards Michaelmas, they were to return to Scotland, and to leave the Duke behind them. The Queen (by approbation of the Scotch Lord Chancellor) made choice of my wife,<sup>1</sup> to have the care and keeping of the Duke. Those who wished me no good, were glad of it, thinking that if the Duke should die in our charge (his weakness being such as gave them great cause to suspect it), then it would not be thought fit that we should remain in court after. My gracious God left me not, but out of weakness he showed his strength, and, beyond all men's expectations, so blessed the Duke with health and strength, under my wife's charge, as he grew better and better every day. The King and Queen rejoiced much to see him prosper as he did. . . . My wife had the charge of him from a little past four,<sup>2</sup> till he was almost eleven years old (1611); in all which time, he daily grew more and more in health and strength, both of body and mind, to the amazement of many that knew his weakness, when she first took charge of him.'

On 27th October, 1604, there appears a grant to Sir Thomas Knyvet<sup>3</sup> of 20*l.* *per annum* in consideration of his giving up his lodgings at Whitehall for the use of Prince Charles. On 6th January, 1605,<sup>4</sup> Prince Charles was created Duke of York. One of the witnesses at Westminster to the document is 'Praedilecto & fidele nostro Alexandro Domino Fyvie.' On 26th January<sup>5</sup> Mr. Chamberlaine writes to Mr. Winwood: 'He (the King) continues still his wonted bounty . . . and hath lately given . . .

<sup>1</sup> Elizabeth, daughter of Sir Hugh Trevanion.

<sup>2</sup> This must have been subsequently to 19th November, 1604, when the Prince completed his fourth year.

<sup>3</sup> *Cal. State Papers* (Dom. Ser.).

<sup>4</sup> Rymer's *Foedera*, xvi. 607.

<sup>5</sup> *Progresses of King James the First*, 1828, p. 491.

£200 a year in fee farm to the Lord of Fifies for his pains in the Union and bringing up the young Duke of York.'

In February, 1605, Lord Fyvie's guardianship of Prince Charles was formally concluded. On 8th February we find in the *Calendar of State Papers* the following Declaration by the King: 'We heretofore committed the custody of Charles, our second son, now Duke of York, to Sir Alexander Seaton, Baron of Fyvie and Chancellor of Scotland who has conducted him to England and being now about to return to his charge in Scotland, has delivered him up. We therefore give this public testimony that he has carefully and discreetly governed our son and has now delivered him into our hands in such good and sound estate, that his diligence and duty therein deserve thanks and reward.'

And on 12th February there is a 'Discharge for Alexander Seaton, Lord Fyvie, Chancellor of Scotland, of the custody of Charles, Duke of York, with attestation of his being in perfect health.' On the same day<sup>1</sup> Prince Charles, acting through the King as administrator for him, appointed Lord Fyvie his assignee to the gift of the ward and non-entry of the earldom of Buchan 'for the many thankfull and notable services done to his Majesty be his hienes richt trustie and weilbelovit counsalour Alexander Lord of Fyvie and for sowmes of monie payit be him.'

So ended Lord Fyvie's official guardianship of the future King. Reference has been made to the fact that Lord Fyvie was in London in the autumn of 1604 partly on business connected with the Union of Scotland and England and partly on business concerning his guardianship of Prince Charles. No satisfactory reason has, we believe, ever been given why Shakespeare brings 'Seyton' into *Macbeth* as 'an officer attending on Macbeth.' The date of *Macbeth* is a question on which there has been much controversy. Some critics assign it to the year 1604. If that view is correct, then it may not be impossible that the name was suggested to Shakespeare by the presence of Alexander Seton in London in 1604, when his political work in connection with the Union would have made him well known. And conversely, if this theory has any foundation, it may to some slight extent support the assignment of *Macbeth* to the year 1604.

Having thus reviewed the miscellaneous information, from which we can derive some knowledge of the external circumstances of the early years of Prince Henry Frederick and Prince Charles, it remains to consider what significance, if any, can be

<sup>1</sup> *Reg. Privy Seal*, vol. 74, fol. 255.



found in the selection of guardians made for them, and what influence it may have had upon their characters. The two principal figures in this account of the early years of the two Princes are of course John, second Earl of Mar, and Alexander, Lord Fyvie. Their association with the family life of James VI. represents very accurately the phases through which the influences surrounding the Scots Court passed in the decade 1593-1603. John, Earl of Mar, was the head of a family which had been closely associated with the earlier years of James himself. The King had as a child been committed to the charge of the first Earl of Mar, and had been brought up under the same roof as John, second Earl of Mar. There seems little doubt that a strong link of friendship and regard existed between James and Mar. Moreover, Mar represented with fair consistency the Protestant party in Scotland : he was closely identified with the ministers of the Church of Scotland ; he was in command of the royal castles of Stirling and Edinburgh. It is well known that the relations between King James and his Queen were the reverse of cordial for several years following the birth of Prince Henry in 1593. The Queen was bitterly opposed to the Earl of Mar, and appears to have attempted to remove Prince Henry from his charge. Of this there is some indication in the letter from the King to Mar, dated 24th July, 1595, to which reference has already been made. Accordingly, Mar's guardianship of Prince Henry may be regarded as representative of the dominance of the Protestant influence in the life of the Scots Court and nation about 1593.

So too the appointment of Dame Margaret Stewart (*née* Kennedy), Lady Ochiltree, as 'maistres nureis' to the Queen and her children from 1590-1603 is significant. She was the wife of Andrew, Lord Ochiltree, a nobleman who was consistently associated with the Protestant party in politics and bitterly opposed to the Catholic Earls and to the Romanising influences which were at work in that decade in the Court. Of Lady Ochiltree's character we do not find much recorded. In 1595, when the King rigorously resisted the Queen's efforts to secure the person of Prince Henry, the Queen in disgust retired to her bed and pretended to be suffering from a mortal sickness : as a matter of fact her confinement was then close. Lady Ochiltree and a jury of matrons were appointed to investigate the Queen's malady, and they pronounced it to be genuine. If the influences which surrounded Prince Henry in his first ten years were thus designedly Protestant, those which surrounded Prince Charles were equally

designedly Catholic, or at any rate Episcopalian. Changes had been slowly but surely taking place in the religious kaleidoscope in Scotland during the seven years which intervened between the birth of Prince Henry and that of Prince Charles. Mar was no longer the 'power behind the throne' which he was in 1593. The struggle with the ministers of the Kirk was running its weary course. The King's plan to restore a bastard Episcopacy in Scotland had been carried into effect. Above all, the unsuccessful Gowrie Conspiracy had just taken place, and Gowrie was all too intimately associated with the party of the ministers. Under these circumstances it is little wonder that the guardian chosen for Prince Charles was not Mar, but one whose political and religious outlook differed widely from that of Mar, Alexander Lord Fyvie.

Politically Lord Fyvie occupied in 1600 a position of the greatest influence. He was one of the 'Octavians,' the eight statesmen who formed a kind of Cabinet for the government of the country. Lord Fyvie enjoyed great popularity with Queen Anne: he was also in high favour with the King, notwithstanding the temerity with which in 1598, as President of the Court of Session, he gave judgment in favour of the Rev. Robert Bruce in his suit against the Crown in spite of the King's personal appeal to the Court: he was a trusted correspondent of both the Cecils, father and son. But from the religious point of view he was an enigma. He was popularly believed to be a Papist. Speaking of the appointment of the Octavians, Calderwood, the great Presbyterian writer, remarks: 'This change portended a great alteration in the Kirk; for some of their number was suspected of Papistrie.'

The Rev. David Black was even more outspoken about Lord Fyvie: 'What could they look for? Was not Satan at the head of both court and council? Were not all kings devil's bairns? Was not Satan in the court, in the guiders of the court, in the head of the court? Were not the Lords of Session miscreants and bribers: the Council cormorants, false, godless and degenerate: and the Queen of Scotland a woman whom, for fashion's sake, they might pray for, but in whose time it was vain to hope for good?' It is not at all certain, however, that Lord Fyvie was even at heart a Roman Catholic, and still more doubtful whether he was such officially. Calderwood, writing of him after his death, says: 'howsoever he was popishly disposed in his religion, yet he condemned many abuses and corruptions in the Kirke of Rome.'



And so it was to Lord Fyvie that King James entrusted his second son, probably from his very birth, but certainly with more complete responsibility when he went South. As has been already shown, the guardianship lasted from 1600 to 1604 : that is to say, about four years. One cannot reasonably expect to see the results of the influence of surroundings at so early an age marked with much clearness. Yet it seems probable that the influences which surrounded Charles in these four years were at any rate a contributory factor in giving a trend to his character as it developed in later life. He would have acquired his antipathy to the Presbyterian form of Church government : he would have received a bias in the direction of loyalty to Episcopacy, a loyalty which was to lead him to the final tragedy. Under Lord Fyvie's influence we may be sure that the doctrine of the Divine Right of Kings was carefully instilled into his youthful mind. If one compares the character of Charles in later life with those of his father and of his mother, it is difficult to find many, if indeed any, points of resemblance to either. The influence of the heredity of his grandmother accounts for much ; but the influence of those early years spent in his native land under Lord Fyvie's charge must not be overlooked.

I am indebted to Mr. Henry Paton, M.A., for assistance in collecting in the records in Edinburgh some of the materials for this paper.

WALTER W. SETON.

## Scotstarvet's 'Trew Relation'<sup>1</sup>

*Mr Ja. Dalrymple his oration<sup>2</sup> at his entry to be advocat  
15 Feb 1648 in presence of the Lords of counsell &  
session<sup>3</sup> on the title 22 lib 1 of the fewes. If any man  
make investiture or excambion of his souldiers benefice  
without his consent to qhom the benefice belongs, let it be  
holden as unmade.*

**I**LLUSTRIOUS and noble Lords and most worthy senatours learned Lawyers & courteous auditors heir present the interpreters of fables tells us that Orpheus being much inflamed with a huge desyre of wisdome above the measure of mortall men vndertooke a long & laborious journey to the infernall parts of the earth & remaned there a space that being instructed in the oracles of Sybilla he might carry away the degree & triumph above all other wise men so that his memory might never be extinguished qho being admitted to the sounding cave of Sybilla qhen he had seene the propheticall leaves of trees sparkled all qhere by the majestie of qhich things he being terrified and with incertitude what he sould choyce of so many hundreth thousand

A facsimile of the MS. exhibiting the commencement of this 'Oration' is added opposite.

<sup>1</sup> Continued from *Scottish Historical Review*, vol. xii. p. 412.

<sup>2</sup> It is of peculiar interest to have the terms of this maiden speech of James Dalrymple, afterwards Lord Stair, before that court of which he was to become in a legal sense the most distinguished of all its Presidents. Born in 1619, he was in 1648 no fledgling, but had had a career of some military and scholastic variety and attained important academic position before he gave himself definitely to the Scottish bar.

<sup>3</sup> Lord Stair's biographer, the late Sheriff Aeneas Mackay, describes his admission thus: 'On 17th February, 1648, Stair was admitted advocate, having no doubt passed the examination in the Roman civil law, which, down to the middle of the following century, formed the ordinary and only honourable mode of entrance to the Scotch bar.'—*Memoir of Sir James Dalrymple* (1873), p. 25. A note on the same page says 'The civil law thesis required from Intrants to the bar had been introduced before 1619.'



[illegible]





leaves being distracted qhere to begin he became stupid his hair stood up and his voyce failzied and if by the indulgence of Sybilla he had not bein walkned and directed out he had sounded<sup>1</sup> in a deadlie oblivion, 2<sup>d</sup> a thing not unlykkie to that qhich hapned to me, noble lords, qhill I turned over so many vast volums of leaves lyke Sybillaes leaves by an indigested digested<sup>2</sup> & confused Cod and the glosses of commentaries written therupon with there counsellis & decisions the wearisomnesse therof is well knowne to such qho hes straggled in these bywayis without a guide so that I know [not] qhat first to speake in such a variety of things I was inhibite to handle any title or chapter of the civil Law<sup>3</sup> by the copious amplitude of the matter qhilk hindered me from capitulating the things that I would speake at this tyme granted to be so to digest the same as they aucht to be lest I sould disgust your llo[rds]hips or wrong others whose actions are higher to be agitated It will seeme to your lo[rds]hips out of purpose to handle the quiddities & wynding moranders<sup>4</sup> of law and I have oftentymes in vaine wished that these qho vnder-taks this bussines to have lessons of the law might by your lo[rds]hips appoyntment have a prefixed text althoght the matter in itselfe were never so difficill in end knowing that it will be taken heed wnto with great attention & kyndly acceptance qhilk is best in itselfe and tends to the interest of many I resolve to handle something that is now in controversie in this house that I may give patrociny & travell nether invited by the parties nor for respect of any man qhatsumever but to the verity itselfe and publick vtility of the land 3<sup>d</sup> I did see Lately a persute intended betwixt the noble worthy gentlemen persewers & defenders contraverting upon this behalff there were certane territories or Land that fell againe into the kings hands by right of his croune by abolishing of prelats qhich therfore the barrons held before and now hold of the illustrious king as supreme sole & immediat lord superior of the same, the same lands the noblemen defenders have obtened from the king and gotten them erected in temporal livings qherby they are interponed betwixt the king and the barrons persewers as intermediat superiors if they gott there desyre, the persewers therfore craves your aut[orit]y

<sup>1</sup> Sounded, swooned.

<sup>2</sup> *Sic*: A scribal repetition from the previous word. Read Digest.

<sup>3</sup> See Sheriff Mackay's note, *supra*.

<sup>4</sup> ‘Moranders’ presumably a misreading for ‘meanders.’

interponed noble senatours that it may be declared qhat<sup>1</sup> they are and sould remane only vassals to his majesty without agknowledgment of any other superior but himselfe as they were of before and be consequence these grants lately given to these Lands by the king to be declared invalid and estemed null & to be reduced The thing then to be judged in this cause is qhither it be lesome for any man by indulgency of the prince to accept or to the king to give such gifts qherby one or other superior may be interponed betwixt him and his vassals they refusing to condescend to the same, so we goe from the hypothesis of the parties to these and it is a publick cause & popular to syde through all mouthes qhilk to agitat a litle will nether seeme vnfitt to me nor I hope impertinent to yow nor offensive to any altho the matter itselfe be of no small importance yet does contene in itselfe an apology of my boldnesse to any just judge with your permission Let me [be] suffered courteous auditors to deduce the matter from the original itselfe—

In the auntient golden age all the elements were pure without bounding common by the law of nature nether was there a grater property of the earth then therafter of the water or more of the aire so farre as the placing doune of the foote or the setting doune of the seats extended they had only full dominion therof there only possession given them totally therevnto; there was no inquiring in that simple and sincere age after marches marchstones or tithes yet humane kynd augmenting subtilty & avarice growing against the common law the law of nations by a certane necessity was brought in a Laudable profit perswading to the same and the propertie of rowmes introduced distinguished and separate from possession qho even in themselffs are disterminat by a fiction of the law & distinguished in civil & natural possession and more nor one hes leave to possesse at once dyversly albeit there be only one proprietar; then began bounds to be set and marches placed, then began tithes to be devysed that silver age scarcely distinguished betwixt vsufruct or lyferents from the property established the full & solid dominion in or placing the Labouring in the person of the tennent and that service in others as the other lord was pleased to appoynt. Bot this iron & hard age qherin we haue fallen hes involved & confounded the dominion of one and the same roome multiplying the samyn so that there is ane direct dominion and an other profitable ane lord superior and another an inferior or fewer to qhom againe the other inferior in ane subalterne course without bounds proceed & avarice hes so farre

<sup>1</sup> 'Qhat' *sic*. Query, read 'that'?



gone on that all men are desyrous & ambitious to seeke the dominion [P. 23] of all to the attaining of quich lest they sould be prohibited they devysed imaginary wayis qherby they all may be stiled lords or masters and that the propriety may consist with the community qherin in the meane tyme the dominion being left by such an intricat involving lyke slaves every one become servaunts nether have we any thing proper or free bot the aire qherin we breath. The original qherof was the Roman empyre declyning this proceeded and was gotten from the Longobards qho to the effect they might nourish souldiers with a constant stipend gave them roumes vpon condition that the dominion sould be reserved to themselffs, the usufruct either temporary vital or perpetuall sould remane with the souldiers they randring therfor to there lords and masters service and faithfull assistance in the warre from qhence such a lyke grant or roome gott the name of few from *fides* faithfull fewars vassals or attendants at there masters gates and there masters were called suizers & superiors and a mutuall paction intervening of the overlord of protection of the vassals of obedience by a solemne oath taken in both hands——

from this institution all feudal lawes contened in this booke of the fewes proceded for because fewes were not acqyred by a pryce but were bestowed upon souldiers by the favour of there masters for service done by them and given to them as a perpetuall band of gratitude therfor it was not lesome nether for the overlord to deny protection of his vassall nor to the vassall to deny obedience to his master by selling the few or transferring it in the persone of any other except with mutuall consent and any of the two doing any thing unworthily against the master the direct dominion of the Land returnes to him and because the land was fewed for militious service they were only granted wage<sup>1</sup> unfit for warre or renuncing to enter to the few the direct dominion was to returne to the master from qhence the m<sup>r</sup> having taken inquisition of the successor of his vassall and taken his oath of fidelity he receives him to his fathers few and that act or instrument of ressavng it is called investiture

Now some 400 yeirs is past over since the name of few or nature of it was knowne to the wordle the Romane fewers knew no such thing

<sup>1</sup> Some omission apparently here makes the passage rather unintelligible, but the sense presumably is that on the successor to the vassal being of an age unfit for war or refusing to enter there was a reversion of right to the superior. Probably the scribe passed from ‘wage’ to ‘age’ in copying.

nor thought vpon it; then all mo[rta]ll things were enjoyed by a full right as now our moveable scarcely in the last novels of Conrade & Frederic emperours mention is made therof yet Obertus<sup>1</sup> in the 2<sup>d</sup> book of the fewes first title testifies that it is contrare to the Romane Law for the emphyteutie in few ferme and these qho had the lybell called lybellaries and superficiaries are greatly different from these *feudators* for the emphytues are digressed farre from there origine and redacted to the estate of a few and is now counted among the kynds therof but now throgh all the wordle qhither it hes travelled with the foot of an heart or flowne with the wings of an eagle I know not yet it is communicate to all men for militiuous service any uther service or burden qhatsumever is imposed to be payed and by the change of the service the m<sup>r</sup> and the vassall hes a lighter tye to others thoght that even to women fewes are communicable with a lesse solemnity of fidelity & perrell of selling then before thoght that men now all heare of a frank & allodiall few given to women yea the few as the same Obertus notes is become lyke a patrimonie.

From this universall communication of fewes not without good advyse it pleased princes to induce a new dominion upon the subjects of befor they enjoyed the empyre of jurisdiction now also they are prevalent by the dominion of superioritie & recognition and are become hightest first and original Lords of all Lands within there dominions as they from qhom the sds lands first flowed and to qhom the last fewes returnes qhich therfor either mediatly or immediatly are all holden of them nether are they only agknowledged as lords of the men but also of the Lands. Therfor our illustrious King enjoyes not only the title of jurisdiction & superiority but also hath vs his subjects tyed as personally and in our estates really being the supreme Lord therof he does recognise vpon his subjects forfalts there Lands yea the few itselffe by its awin nature remanis with him or by the lesser age of the air being minor & not meet for service the few in the meanetyme remans open; as father of the country he hes the custody of the persons of the people qhich they call ward and as supreme lord of the fewes retenis with himselffe the rents & emoluments of the same. Be the same right the prelaticall hierarchy being abolished the fewes of the clerks or kirkmen therupon being laid open returns to the king *ipso facto* not by a retributory law of etc qherby his majesty offended with the fault

<sup>1</sup> Oberto dall' Orto, a lawyer of Northern Italy in the time of the Emperor Frederick I. (Barbarossa).



is pacified by the punishment of the delinquents but by this title of sole superiority for a legall act comes to be punished under the name of fault, now here the vitious acts of persons how many soever they be is not punished but the estate of hierarchie itselffe is rooted out as vnprofitable.

Therfore fewes of the clerks being so open & Laid voyd there is a gape here betwixt the king and ecclesiastical vassals qhilk he may fill two wayis for he may either take to himselffe these fewes immediatlie as the clerks were to be his awin vassals and of mediat ones make them immediat or els he may substitute and place others in the roome of these extruded prelats without the harme or prejudice of the vassals seing now they are in lyke cace as they were before provyding that they suffer not the pressure of a wylder master as we have somtymes seene it done in the temporary erections for albeit these liberalities have bein excessive yet the statute of parl<sup>t</sup> in K[ing] Ja[mes] the 6 tyme of happy memory pag. 195. par. 14. they are rescinded.<sup>1</sup> Now the same ecclesiasticall vassalls being made in the number of these immediat ones either be the kings chartour of annexation or declarator of the estates qherby they are to be holden as if in effect they had bein received by the King & infest, the question then is qhither or not it be Laufull to his majestie to interject betwixt him and his vassals another superior and this is the cleare cace of our cause for so it is contraverted betwixt the parties; we stand for the negative and by permission of these great men qho have intress of qhom I humbly crave pardon I shall endeavour to shew that it is not permitted b[y] the common Law the municipall or Law of nations, nor our custome but direct contrair to the same.

Seeing the question is established anent the right and dominion of roomes with good reason I have opened to yow the cause the beginning and progresse therof even from the beginning of the wordle to our tymes let me then be permitted to apply the same to our bussinesse we say then that the old lawes of fewes in that qhilk intervenes betwixt the king and his leiges and immediat vassals does most nobly shine and albeit the rest were reduced lyke unto a patrimony yet this remanis established in the iron fundaments & pillars of a few for a kingly few is only granted the rest either acquyred by title of buying permutation or some other title, that also is so granted for corporal service in the wards that all the vassals are holden by reason of the fewes to doe to others or for other payments and there is greater solemnity in

<sup>1</sup> *Acts Parl. Scot.* 1594, cap. 5, vol. iv. p. 63.

the oath of protection in a leige few qhen the King having taken his croune gives his oath of protection to all his subjects cheifly to his fewers and finally alienation of the few upon the kings part as herafter we sall shew it is impossible upon the part of the vassall it may be presumed upon ane great vrgent necessity it is then undoubted that from the common feudal law an argument may be broght to our leige fewes and therfor I come to my text lately landed [?] from [P. 24] qhence I bring my first and greatest reason *ut supra*.

[P. 24] We will not stay upon explication of the words hasting to the matter; by excambion is understood the changing of roomes qhilk oftymes was done without new infeftment therfor it is sd alternative if any make excambion or investiture the investiture denotes the act or instrument of receiving the vassall and be the benefice is understood the few itselfe being in its awin nature granted and the word souldier by the original name signifies a fewer, then the sense is perspicuous if any lord superior qha granted to any man a few give to any man other infeftment therfor without infeftment changed without consent of his fewer, such ane fact is voyde & null and sould be halden as vnmade, sall it then be Lauffull to the king to give infeftment to any other of his vassals few without his consent, truly the text answers that such ane fact is not only prohibited by the Law and so invalide and by way of action may be annulled bot it is even by the law itselfe null as if it had not bein made, the same also is averred<sup>1</sup> in the 38<sup>e</sup> title lib 4 by Conrad his law and by au[tori]ty of the emperour Frederick in the title beginning an other constitution qhere clearly it is affirmed that the overlord cannot alienate the few without the vassals consent, o most happy word of alienation paralell & within investiture or excambion for it is so perspicuous and generall that it comprehends always qherby the overlords may either dispoine his direct or profitable dominion either from himselfe or his unwilling fewar or devolve the same in the persone of any other so

<sup>1</sup> The passages cited appear to be these :

*Feudorum*, liber ii. tit. 34, *De lege Corradi*, § 1 : Ex eadem lege descendit quod dominus sine voluntate vasalli feudum alienare non potest.

*Feudorum*, liber ii. tit. 55, *De prohibita feudi alienatione per Fridericum*, Imperialem decet solertiam, &c. § 1 : Praeterea ducatus marchia comitatus de caetero non dividatur ; aliud autem feudum si consortes voluerint dividatur : ita ut omnes qui partem feudi habent jam divisi vel dividendi fidelitatem faciant ; ita tamen ut vasallus pro uno feudo plures dominos habere non compellatur ; nec dominus feudum sine voluntate vasalli ad alium transferat.



that no starting hole is here left, but let us heare the emperour him selfe speaking imperiously in the 5 booke title 20. That no man or senior presume to dispoſe the benefice of there awin souldiers without there awin consent.

This is also to be found in the 2<sup>d</sup> booke title 9 about the end the words of the text<sup>1</sup> are : *Insuper et omnibus modis prohibemus ne ullus senior de beneficio suorum militum cambium aut precarium aut libellum sine eorum assensu facere presumant.*<sup>2</sup>

Let vs adjoyne herevnto the testimonies of the learned men in thir places Curtius and Capit they rander the reasons thus Lest say they the vassals be compelled to agknowledge two lords instead of one of qhom came this interpretation to be understood if it be not the interposition of superiors for if the few be doubly expounded he would not be compelled to put two for one but one for another. Bardus also in his 16 counsell p. 436 teacheth that thē few cannot be taken away except it be admitted acording to the nature of the few, the lyke also teacheth Fulgo in his 9 counsell. So our learned countryman m<sup>r</sup>. Tho. Craig in his learned book of the fewes t. 16. out of the law and our customes in direct termes testifies<sup>3</sup> that it is not lesome to the king to subject his vassals to another lord. I demaund then is it not more cleare then the light both from the sense of the law and doctors that it is not lesome to the king to give infestment of his immediat vassals few to another or to interpone an intermediate Lord or superior, this our sentence is both fully and plainly established by the strenght of the law so that in all thir books of the fewes (except qhere nothing is written affirmatively of fewes) it appears that not one poynt is written in the contrary nor any doubts left therintill qhilk may make ane scruple, now let vs proceede to the customes qhich is an other Law and acqyre qhat accustomed to be done in our predecessors tymes and the rather because Obertus saith that there is is no such respect to be had as of the consuetude in the manner of fewes lib. 2. tit. 2, affirming<sup>4</sup> *legum Romanorum non est vilis autoritas sed vim suam extendunt ut usum evincant aut mores*; the Roman lawes are of no small

<sup>1</sup> In *Feudorum*, liber v. as edited by Cujas, this passage appears under tit. i. *Constitutio Conradi de Beneficiis*. Francischinus Curtius *Tractatus Feudorum*.

<sup>2</sup> Sic : read *presumat* as in text of the *Feudorum*.

<sup>3</sup> *Ius Feudale*, lib. i. dieg. 16, § 7 : Rex autem superior non potest in praejudicium sui vassalli superioritatem alienare aut alii eum invitum subdere nec civitatem aut cives invitos alienare aut alteri mancipare.

<sup>4</sup> *Feudorum*, liber ii. tit. i. *De feudi cognitione*.

use and authority but do not extend there strenght farre as to evince vse & manners, then qhither we Looke to our awin customes or that of other more civil nations truly we sall find them to be most rarely proponed and ever opposed that a prince sould or may interpone another persone against there will qho are vassals we have a fitt & notable example out of the French history by the death of Charl. 4 called the fayre<sup>1</sup> (qho died without airis maill) a bloodie controversie arose anent the succession to his kingdome betwixt Edw. 3<sup>d</sup> K[ing] of England qha was grandchild to the defunct by his mother & Philip of Valois first prince of the blood air male qha objected the Law the other opponed his propinquity after a terrible batle it was transacted & agreed that the duchy of Britany with other territories sould be holden by the Inglish king of the kings of France heretabilly they randring homage therfore qherby K[ing] Edw<sup>d</sup> was to be interponed betwixt the French king and the dukes & his subjects of Britany as intermediat superior, Arthur d[uke] of Brittane<sup>2</sup> refused this article of the peace as condescended to without his consent and so refused to fulfill the same, the bussines being referred to the counsell of peeres, he there contended that by the Law of fewes it was not lesome to the king to interpone an vther superior betwixt him and his immediat leiges vassalls against there will, the royall authority made for the king, his liberty and the publick promise and the desyre of a long wished for peace with qhich the peeres being moved most earnestly desyred the dukes consent qhich being pertinaciously refused, the benefit of the law being boldly demaunded, at last against there will they were compelled to decerne for no expected commodity it was lesome to interpone the Inglish king betwixt him and the duke & his subjects qherby the king<sup>3</sup> behoved to returne to his captivity in England qhere he died a captive. The lyke also may be found in that history qhen Charl[es] the 7 gave vnto his [son]<sup>4</sup> Charles the duchy of Normandy in legacie by his testament for his patrimony and burdened his eldest sone & air Lewis the ii. with the fulfilling of that legacie who that he might accomplish the same was often dealth with

<sup>1</sup> Really Philippe le Bel, died 1328.

<sup>2</sup> The episode very inaccurately handled here is the strife of Jean de Montfort and Charles of Blois, A.D. 1341-1345, for the duchy of Bretagne. There was no Arthur of Bretagne in the time of Edward III.

<sup>3</sup> This was King John of France, who died captive in England in 1364.

<sup>4</sup> 'Son' omitted in MS.



for the same effect both by request & armes yet he still refused because the people of Normandy would not admitt an other superior without whose consent the king could not obtrude<sup>1</sup> vpon them Charles his brother. I retorne now home and we will looke vpon our awin customes where none I hope will be so effronted that will affirme that ever any such thing was attempted to be done; heir the example of the temporal erections is nowayis valide which now are prohibited and then only permitted when the ecclesiastical vassals themselfs were not immediat vassals to the king if any thing more hapned it aucht to be imput to the pusillanimity of these qha either willingly offered there necks to that yoake or did not oppose themselfs with dew courage who will be found ever rejected who complened hervpon —Be the common law & custome of nations it is notour that it is not Lauffull for any superior to interpone any overlord betwixt him and the few dewties or nearest vassall and the samyn is established by the strenght of the obligation paction & solemne contract of the few says Baldus which contenes a certane contract from thence betwixt the lord and the vassall on both hands & obligation aryses lib 10 tit de verb. oblig. Phelinus also Alex<sup>r</sup> and Amdopax affirms the same in there decisions & latlie Dodrius in the decision 221 confirms the same; this contract is most clearly demonstrat by the instrument of concession which they call the chartour by two principall & essentiall clauses thereof by the first qherof the king gives grants & confirms to his vassals the lands to be holden and to hold of vs and our successors immediat Lords and superiors thereof; the other clause paying yeirlie therfore to vs and our successors thir clauses with the rest [P. 25] of the chartour are oft confirmed by act of parlt will it not then be ane notable violation of both these & most injust of the king & countries faith given them if any other superior intervein; can it be sd that the vassall hath gotten his Land to be hald and to be halden of the king and his successors as his vassals and that our Sov. lord is superior therof for paying to the king & his successors but trully to that interjected superior qho farre be it from vs to thinke that he sould style himselff the kings successor for in loyall things qho then will be so bold as to violate the paction being so publick & perspicuous.

But that there be no strenghening left this proposition is

<sup>1</sup> Louis XI. in 1465 ceded to his brother Charles the duchy of Normandy, which, however, was in 1468 declared by the Estates General to be inseparable from the Crown.

sustained cheifly by the highest religion of an oath that the king at his coronation faithfullie promitts & solemnly sweares that he sall governe his people acording to the municipall Law and priviledges of the Land; is there any more noble then that qhich concernes the reall right of Land or any privilege comparable to that qherby the subjects are approximatt and made neere to him without all mediat impediments and are so fostered as it were under the kings bosome & protection, yea that oath of protection qherin as to the eldest Lord he is obliged to his vassals is therin included qhich being sworne by the nature of the feu it is already shewin that it is not Lauffull without the fewers consent to the king to dispoine the samyn few or to obtrude to his vassals another superior: there be 4 pillars of justice or tyes of Law qherby we are bound to doe or to eschew any thing, Law, custome, paction and oath by all which we have clearly demonstrat that the king or any other superior are strictly halden not to vrge there vassals to agknowledge any other superior but themselffs, but to the effect that in the matter itselffe justice & equall equity may shine nether supported by any positive sanction but leaning only on its awin foundations Let us presuppose that this privilege of the subjects were nether cleared by imperiall constitution nor confirmed by the custome of nations hitherto but placed in its pure pr[in]cipals and wanted example, let this be the first & never before heard example I invoke yow to be judges noble senatours whither would your equity incline or decree Leade vs I doubt not bot by your approbation and voyces the samyn would be confirmed I meane this priviledge of the Law & nations for there be 2 things that lawyers Looke to in doubtfull matters to wit the facility & vtility thereof led therto by two the one the principall of nature the other of Law, *salus populi suprema Lex et deus et natura operantur facillima*. Let vs follow thir rivulets that we may attaine to the cleare fountaine of justice let vs follow these branches that we may apprehend the most firme root of verity, now if we Looke to the facility by the Law of contraries we will abhorre that intention qherby the king would interject betwixt him and his nearest vassals any other superior contrare to the vassals will or grant to any vther infeftment for in a few there most be ane distinction betwixt the direct dominion and the profitable or as our country men speaks betwixt the superiority & the property: this belongs to the vassals the other remanis with the king qho aucht not dispoine the superiority or grant new investitures therof because all superiorities are incorporat among the



royall things for either that most be done be resignation to be holden of some other or be concession to be holden of himselfe; by resignation it cannot be seing he agknowledges no man in the wordle to be his superior, is it to be holden of himselfe then he remanis superior and so he both gives the superiority & retenis it and so gives no thing *dans et retinens nihil dat*, he cannot grant the property becaus he hath disponed it already to his vassals nether doth the posterior derogat from the former but the former prerogats to the posterior few that is not voyd nor open; so that as in the natural bodye there is no penetration so in the politick it is no lesse certaine that a full few cannot be made more full then the propriety belongs to the former fewer and the king in all necessity retaines the superiority: what then by law belongs to the interjected superior? they have a devyse for this that there may be more subordinate superiorities of one and the selfe few, the king retenes one and he gives another, then the superiority would be subdivided and of a Little peece a lesser peece would be made, for if the king may interject one betwixt him and his first vassall, so may he betwixt him and the 2<sup>d</sup> & so *in infinitum*.

The incommodities following interjection have either regard to the prince or to the people and that either privatly that tuicheth each man, or publickly that tuicheth all men, the princes prejudice is that he is instigat to dispone the most beautifull & rich flowre of the crowne viz. a 3<sup>d</sup> of the superiorities of all the kingdome and the emoluments proceeding therfrae, the hurt of private persons is that in place of the king they are forced to agknowledge an other lord qho is more greivous the publick losses are weighty shaking & overturning the constitutions of the country by the acts of annexation.

Ye see then most noble senatours the diminution of a new worke by these dispensations, it is incumbent to your llo[rds]hips to impd the progresse therof & stop the beginnings of the same, Africk is no more fertil of new monsters nor humane body more capable of new deseases nor the politick is stored with monstrous & new conceptions, by your herculean courage to cutt in peeces this Gordian knot. And for an epilogue of my speach I sall not digresse vpon your prayses as some flattering sycophants doe but only to desyre yow to proceede as ye doe in the care of the publick vtility and distribution of justice and so wishing yow all happines I subsist.

In a collection of ‘Practicks’ in MS. written in 1657 by John Thomson (the copyist of Scotstarvet’s ‘Trew Relation’ as shewn in the *Scottish Historical Review*

xi. p. 165) there occurs the following 'Practick' which may well be set alongside Dalrymple's speech: 'Dominus directum dominium a se alienare aut transferre invito vasallo non potest quia interest vasalli non mutare ex quacunque causa dominos nisi ejus consensus accedat quod ita temperandum est ut id non posse credatur nisi totum feudum teneat cum curia et jurisdictione ut aut nos loquimur nisi totam baroniam vendat . . . . . Nostro jure alienationem superioritatis permittunt dominis dummodo vassali conditio non reddatur deterior, modo alium superiorem non interposuerit inter se et superiorem quo casu alienatio prohibetur ne multiplicatis dominis in quorum annua servitia vassalis tenetur, duriores vasalli fiant partes pluribusque incommodis custodiarum et non introitu sic obnoxius.'

This is almost verbatim from Craig's *Jus Feudale*, lib. ii. diegesis 11, § 35. The following summary is from a MS. 'Épitome or Abridgement' of Craig, of which a good many copies exist and which was made probably *post* 1650:

'The superior may not dispo[n]e the superioritie from himself to any other against the will of the vassell neither can the superioritie be convenientlie sold except only the haill few itself. But be owr Law, the selling of a Superioritie is permitted provyding the condition of the vassell be not maid worse. . . . . The overlord may not interpone any vther superior betwixt him & his vassell.'

These quotations shew that the general doctrine was a commonplace. It is still the law. 'The superior cannot without either a reserved power to that effect or his vassal's consent or acquiescence create a superiority intermediate between the vassal and himself—Douglas *v.* Torthorell 1670, Morison's *Decisions*, 15,012; Archbishop of St. Andrews *v.* Marquis of Huntly, 1682, Morison, 15,015.'—Craigie's *Scottish Law of Conveyancing*, 1899, p. 133. Of course the particular proposition involved in the question as to ecclesiastical lordships is a more special problem than that here handled by the debutant advocate who was ultimately to leave behind one of the greatest names in Scottish Law.

It may be noteworthy that in his *Institutions* Lord President Stair set down the doctrine as decided in the courts thus: 'But a superior cannot interpose one betwixt himself and his vassals by infest[ing] another in the lands to be holden of himself, for such an infestment was found null by exception, Jan. 30, 1671, *Douglas of Kelhead contra Vassals* (9306).' Stair's *Institutions* (ed. 1832), bk. ii. tit. 4, section 5. In manuscript versions of Stair's work, written considerably anterior to its first publication in 1681, this passage does not occur, the Kelhead case having arisen subsequently to the original composition of what appears to have been at first known as Stair's *Practiques*, in which the section on 'Superioritie' is title 14. This section was extensively revised before printing, and the quoted passage was one among many interjections added by Stair to the treatise before its final commitment to the press.



## Orkneyinga Saga

VIGFUSSON has already pointed out that *Orkneyinga Saga* consists of two sections, viz. (1) 872-1064 and (2) 1064-1171, and that both were probably edited together, in their present form and prefaced with *Fundinn Noregr*, in the late thirteenth century. He was further of opinion that *Fundinn Noregr* could not have been composed until some time after 1098, on the assumption that the ship incident in the myth had been derived from the well-known episode in the life of King Magnús berfoætr.<sup>1</sup>

Before consulting Vigfusson's criticism, an independent examination of the saga resulted in the same conclusion, viz. that the saga was divided into two sections with *Fundinn Noregr* inserted as a preface to the whole saga, but, in addition to that, the following new facts and characteristics were brought to light :

### I. FIRST SECTION OF SAGA

The first section contains only one complete saga, which is placed at the end, viz. that of earls Þorfinnr hin ríki and Rögnvaldr Brúsason, his nephew, with incidental notices of earl Þorfinn's brother-earls, viz. Sumarliði, Einarr rang-munnr, and Brúsi, 1014-1064. This complete saga, which may be described as *\*Þorfinns ok Rögnvalds sögur*, is cited as *Jarla sögur*,<sup>2</sup> in *Ólafs saga hins ríka*, and in *Magnúss saga hins góða*. It is prefaced with a summary of the sagas of the preceding thirteen earls, 872-1014. The former occupies 44 and the latter only 12 pages ; 12 pages for thirteen earls (142 years, five generations), and 44 pages for five joint-earls (50 years).

With regard to the abridged nature of the early sagas of this section, we know from Ari fróði (1118-1148) that there then existed a *Torf-Einars saga* (d. 910), from which he quoted a passage in *Landnámabók* containing information not given in *Orkneyinga*. *Flateyjarbók* (ii. 519) mentions *Sigurðar saga hins*

<sup>1</sup> *Orkn. Saga*, Rolls ed., preface, and *Prolegomena to Sturlunga Saga*, vol. i.

<sup>2</sup> A title hitherto supposed to have applied to the whole of the first section.

*rika* and *Þorfinns saga hins ríka*. *Ólafs saga hins helga*<sup>1</sup> mentions that there were many *frásagnir* (stories) about the sons of Þorfinnr hausakljúfr (circa 963-980), regarding whom *Heimskringla* gives no account, and *Orkneyinga* disposes of these five earls and the notorious Ragnhildr in three pages. As the editor of *Heimskringla* acknowledges his indebtedness to Ari for information about St. Ólafr, probably the knowledge of these *frásagnir* is also derived from Ari. *Vatsdæla saga* (900-1050), in a MS. of circa 1380, cites *Æfi Orkneyja jarla*, as to the descent of the Orkney earls from Torf-Einarr.

The first section is not quoted anywhere as a separate and composite work. References to the earls of 872-1014 are cited from their individual sagas, as already quoted, while quotations about Þorfinnr and his joint-earls are cited from *Jarla sögur* as follows :

*Jarla sögur* is cited in *Ólafs saga hins helga* (repeated in *Fornmanna sögur*, *Heimskringla* and *Flateyjarbók*) as the source of a verbatim quotation about Þorfinnr and Brúsi, which is taken from the saga of Þorfinnr and his brother-earls. It is also cited in *Magnúss saga hins góða* (repeated in *Fornmanna sögur* and *Flateyjarbók*, but omitted in *Heimskringla*) as the source of information about Rögnvaldr Brúsason, which is also taken from the saga of Þorfinnr and his joint-earls.

It will, therefore, be noted that while *Ólafs saga hins helga* quotes information about Þorfinnr and his joint-earls from *Jarla sögur*, it refers its readers, for information about the preceding earls, to their individual *frásagnir* and not to *Jarla sögur*.<sup>2</sup>

*Jarla sögur* was thus the name of the complete saga of Þorfinnr and his brother-earls, and was equivalent to the *Þáttir jarlanna Einars Þorfinns Sumarliða* of *Flateyjarbók*.

*Jarla sögur* is an exceedingly appropriate name for the sagas of earls Þorfinnr and Rögnvaldr Brúsason, and may have been composed by their *jarlaskáld*, earls' poet, Arnórr (the court poet of earl Þorfinnr), who was so nicknamed because he had composed poems, *jarla drápur* (and may we now add *jarla sögur*?) about these two earls. Arnór's poems are interlarded in *Jarla sögur*. The expression, 'sem seger Arnórr' (prefixed to his verses), is quite in keeping with his authorship, as Sturla Þórðarson used precisely the same expression in his *Hákonar saga Hákonarsonar*, which is strewn with Sturla's verses : 'sem seger Sturla.'

<sup>1</sup> In *Heimskringla*, see Saga Library, iv. 169, *Old-Lore Miscellany*, i. 65.

<sup>2</sup> Ólafs and Magnúss sagas were both edited, probably, in the beginning of the thirteenth century.



It is quite possible that Arnórr may have written, as well as composed, *Jarla sögur*. Writing began in Norway (after the introduction of Christianity with its missals and scriptures) with the taking down of the oral laws, in 1035-47, by the direction of King Magnus the good. Writing would probably have begun in Orkney at the same time, if not earlier, considering that it was Christianised before Norway, and was nearer to England, whose clergy were the first missionaries to the Norsemen; if it had not already learnt writing through its constant intercourse with England and Ireland.

The internal evidence of the date at which the first section was edited, in its present form, is as follows:

Göngu-Hrólfr is mentioned in the summary, under the ninth century, as the ancestor of the kings of England, a statement which could not have been made until a few kings had succeeded the Conqueror, say 1150. Under the date 1036 the journey of King Magnus hin góði and Rögnvaldr Brúsason through Sweden to Norway is quoted from *Magnúss saga hins góði* (fl. 1035-1047). Under the same date, for information about Kings Magnús and Sveinn, is cited *Æfi Noregs Konunga*, which may be Ari's lost *Æfi*, written 1118-1148, at which time writing began in Iceland with the taking down of the oral laws and sagas. *Magnúss saga* could have been quoted any time after it was composed, circa 1047, either in its oral or written form; as King Magnus began writing in Norway he may well have had his own saga put on record.

It is probable that *Jarla sögur* was edited, with its introductory summary of the sagas of the preceding earls, by one of the many Icelandic skálds in the *hirð*, or court, of Rögnvaldr Kali, 1136-1158. This saga would appeal to earl Rögnvaldr, because it contained a full account of Rögnvaldr Brúsason, after whom he had been re-named on account of his resemblance to the latter in personal appearance and character.

Another attractive feature would be the poems of Arnórr, seeing that earl Rögnvaldr, himself a poet, was at this very period busy with poetic work in collaboration with Icelandic skálds. It was at this time that he composed his *Háttalykill*. Earl Rögnvaldr must also have got master Rödbert to write the Latin Life of St. Magnús in 1136, the very year in which Rögnvaldr gained the earldom and in which earl Páll was kidnapped—the earl who had so strenuously discountenanced the veneration of St. Magnús.

It should be noted that, in the first section, the summary of the sagas of the earls, 872-1014, does not correspond closely with

*Heimskringla*, but there is some evidence that they have both been derived from a similar and, probably, literary source; whereas the account of Þorfinnr hin ríki and Brúsi, in St. Ólaf's saga, which is repeated in the *Heimskringla* version, is a verbatim extract from the saga of Þorfinnr and his joint-earls, which is cited as *Jarla sögur*. Possibly *Heimskringla* and *Orkneyinga*, under 872-1014, are both derived from Ari's lost *Æfi*, amplified from the original sagas themselves, which may account for the similarities and variations. If that is so, it explains a curious quotation in *Orkneyinga* and a marked omission in *Heimskringla*.

We will suppose that the early part of *Heimskringla* was founded on Ari's *Æfi*,<sup>1</sup> and that the editor of the first section of *Orkneyinga* used Ari as his authority for the lives of the earls preceding Þorfinnr, viz. 872-1014. When the editor came to Þorfinnr's saga, which he had before him in full, he inserted a note as to Rögnvaldr Brúsason having accompanied King Magnús hin góði through Sweden to Norway, on the authority of *Magnúss saga hins góða*, because the *Æfi*, like *Heimskringla*, had no information on the subject. Then, instead of continuing his citation about King Magnús from *Magnúss saga*, he naturally went back to the *Æfi* as his groundwork authority, to which he referred his readers for information about King Magnús and King Sveinn, notwithstanding that this information is, of course, also given in the *Magnúss saga*, which he quoted. The only excuse for the citation of the *Æfi*, when *Magnúss saga* gave all that was wanted, would be the convenience of reverting to the standard authority which was being used by the editor, when that supplied what he wanted, after he had extracted the additional information contained in *Magnúss saga*.

Now, on this assumption, viz. that *Heimskringla* is founded on the *Æfi*, we thereby get the explanation of the above-mentioned reference to *Magnúss saga*; because the abridgment of *Magnúss saga*, in *Heimskringla* and in the *Æfi*, had no reference of any kind to Orkney or its earls.

*Heimskringla* gives no account of Orkney events during the reign of King Magnús hin góði, not even the succession and death of earl Rögnvaldr Brúsason. The extract from *Jarla sögur*, in *Ólafs saga hins helga*, ends with the final agreement made between Brúsi and Þorfinnr in 1028, the year when King Ólafr fled out of Norway; and then it records the death of earl

<sup>1</sup> Vigfusson thought that Ari's work would be brought down to the time of Haraldr Harðráði, 1045-1066.



Þorfinnr (in 1064) and of earl Brúsi (in 1031), the year after the fall of king Ólafr, without any account of the intervening period, 1031-1064.

After this, in *Heimskringla*, there are very brief notices of the earls of Orkney, which in no way resemble *Orkneyinga*. Vigfusson was of opinion that Ari brought his *Æfi* down to the time of King Haraldr harðráði. Can it be that Ari had no information about the earls of Orkney after the agreement between Þorfinnr and Brúsi, in 1028, or did he purposely omit reference to earl Rögnvaldr Brúsason for some reason or other? Had it anything to do with the dispute between the joint kings of Norway, Magnús and Haraldr (1130-1134), regarding Kali's grant of the joint-earldom of Orkney, when he had been re-named Rögnvaldr after Rögnvaldr Brúsason; or, did Ari take sides in the dispute between earl Rögnvaldr and earl Páll—the earl who was kidnapped in 1136, and who was reported to have been blinded and ill-treated?

On the other hand, if it can be proved that the *Æfi*, quoted in *Orkneyinga*, is (1) *Ágrip*, circa 1190, which Vigfusson thought might have been partly copied from Ari,<sup>1</sup> or otherwise (2) *Heimskringla* itself, then we must date the editing of the first section of the saga after 1190, or otherwise after *Heimskringla*, 1220-30, unless the quotation of *Æfi* is the interpolation of a second or later editor. But one cannot imagine why *Jarla sögur* should have been thus selected for full treatment so long after Þorfinn's death, and the early sagas merely abridged. Moreover, if these two sections had been compiled and edited at the same time, we should have expected the editor to have cited Snorri Sturlusson throughout as to king Magnús hin góði and king Sveinn, and not *Æfi Noregs konunga*, in the same way as Snorri is cited as to the death of Erlingr Erlendsson.

## II. SECOND SECTION OF SAGA

The second section also contains only one complete saga, which is also placed at the end, viz. that of earl Rögnvaldr Kali, or hin helgi, 1116/36-1158, with incidental references to his joint-earls, Erlendr and Haraldr Maddaðarson, and brought down to the death of Sveinn Ásleifarson, 1171. This saga is likewise prefaced with a summary of the sagas of the preceding six earls, 1064-1136. The former occupies 129 and the latter only 33 pages.

<sup>1</sup> Proleg. *Sturlunga*, lxxxvii.; see also *Old-Lore Miscellany*, i. 66.

That part of the summary which relates to St. Magnús is an abridgment of the complete *Magnúss saga hins helga*, which is preserved. The life of St. Magnús is fully treated in the summary on account of its direct bearing on the succession to his share of the earldom of his nephew, earl Rögnvaldr Kali—the subject of the complete saga. Earl Rögnvaldr had vowed that, in the event of his succeeding in obtaining his uncle's share of the earldom, he would erect a cathedral and dedicate it to St. Magnús. The summary also refers to *\*Hákonar ok Magnúss kviðr*, and *\*Hákonar drápa*, which are not preserved. Also, *Flateyjarbók* mentions *\*Haraldar saga Maddaðarsonar*,<sup>1</sup> which is lost, unless it is preserved in the account given of him in *Orkneyinga þáttir* in *Flateyjarbók*.

*Rögnvalds saga hins helga*, 1116/36–1158, may have been composed by his request after his pilgrimage, and before his death (1153–1158), as a literary work,<sup>2</sup> by one of the many Icelandic skálds in his court; in the same way as king Magnús Hákonarson commissioned Sturla Þórðarson to write his saga in his lifetime. And, we must remember that, in 1148, it was held out to Rögnvaldr as a special inducement for him to undertake his famous pilgrimage to Jerusalem, that he would thereby have the opportunity of providing incidents for a saga all to himself. After his death the saga is carried on to the tragic end of Sveinn Ásleifarson, one of the last of the great víkingar, in 1171.

We have the following internal evidence as to the date of the editing of this second section of *Orkneyinga*. Living oral *kviðr* and *drápa* are referred to, in the abridgment of *Magnúss saga hins helga*, as to what took place *circa* 1110, and Snorri Sturluson is quoted, in opposition to others, as to the place of the death of Erlingr Erlendsson, and Snorri's version agrees with *Heimskringla*; so that the date of editing must be fixed after 1220/30, and after the date of the last edition of *Magnúss saga hins helga*, from which the references to *kviðr* and Snorri are carried over. The reference to Snorri, in *Magnúss saga hins helga* and in *Orkneyinga*, may, of course, have been inserted by a second or later editor, so that, as contended by Dr. Jon Stefánsson,<sup>3</sup> bishop Biarni may have been the first editor. In order to allow time in

<sup>1</sup> ii. 519.

<sup>2</sup> Vigfusson has called attention to the historical character of this saga, in his preface to the text.

<sup>3</sup> *Old-Lore Miscellany*, i. 43, 65.



which to include the ship incident, of 1098, in *Fundinn Noregr*, it seems probable that the editor of the combined two sections prefaced the whole *Orkneyinga* with that myth towards the end of the thirteenth century, to which date the oldest MS. fragments of the complete saga are ascribed.

In *Heimskringla*, after 1028, there is not a trace of a quotation from, or a knowledge of, the Orkney saga, from which it actually differs as to the place where Erlingr Erlendsson fell, a difference which is quoted in *Orkneyinga* on the authority of Snorri.

There is no evidence that the second section of *Orkneyinga* was known to, or quoted by, the editors of the Norwegian sagas in the beginning of the thirteenth century, while the citation of Snorri points to the date of its editing as being after Snorri's time.

It has been assumed in this paper that the citations, from sagas and Snorri, are the literary work of editors and are not part of the original oral story.

### III. COMPLETE SAGA

As regards the name of the whole composite saga : in the first half of the thirteenth century, *Ólafs saga hins helga* has a chapter on 'Upphaf Orkneyinga sagna.' About 1630, Magnus Olafsson, in his *Lexicon Runicum*, quoted from the whole saga as *Jarla saga*, 'Earls' saga,' and *Orkn[eyinga] saga*, 'Orcadians' saga,' and he also quoted, separately, *Rögnvalds Þáttir [hins helga]* in *Orkn[eyinga] saga*, although his other quotations from this *Þáttir* are cited as from *Jarla saga*. He may have had a separate copy of *Rögnvalds Þáttir* which gave him matter omitted in his copy of the complete saga. Biorn of Skardsá refers to *Orkneyia jarla saga*.<sup>1</sup>

In conclusion, the summaries of the early sagas, in these two sections of *Orkneyinga*, must have been literary works from the first, and the two sections must have been each a separate literary production before they were both combined in one literary work, *Orkneyinga Saga*, in the end of the thirteenth century ; having passed through the hands of three editors and further drastic re-editing in *Flateyjarbók*, which latter, alone, preserves more than one-half of the whole saga.

The references in *Orkneyinga* to *Magnúss saga hins góða*, *Æfi Noregs Konunga*, *Kviðr* and Snorri Sturluson are found in MSS. other than *Flateyjarbók* ; and the latter only repeats the references

<sup>1</sup> *Orkn.* (text), p. xii.

to Snorri and the *kviður*, and omits the others. That part of the saga which cites *Hákonar drápa* is alone preserved in *Flateyjarbók*.

A. W. JOHNSTON.

#### PRINTED TEXTS AND TRANSLATIONS.

*Flateyjarbók* (text), 3 vols., Christiania, 1860, 1862, 1868, edited by Guðbrandr Vigfusson, Oxford, and G. R. Unger, Christiania.

*Orkneyinga Saga*, Hafnia, 1780, edited by Jonas Jonæus, Isl., with a translation in Latin.

*Saga hins helga Magnúsar Eyja jarla* (contained in the preceding volume).

*The Orkneyinga Saga*, Edinburgh, 1873, translated from the Icelandic by Jon A. Hjaltalin and Gilbert Goudie, edited with notes and introduction by Joseph Anderson. (Translated from Jonæus text, *supra*, corrected and added to from *Flateyjarbók* text, *supra*.)

*Orkneyinga Saga and Magnus Saga* (text), Icelandic Sagas, vol. i. (Rolls Series), London, 1887, edited by Gudbrand Vigfusson, M.A.

*The Orkneyingers' Saga*, and *The Saga of St. Magnus*, Icelandic Sagas, vol. iii. (Rolls Series), London, 1894, translated by Sir G. W. Dasent, D.C.L. (This should only be consulted in conjunction with the text, as it is imperfect and incorrect in places, many words and passages being omitted altogether.)

*Orkneyinga Saga*, edited by S. Nordel, part i. Samfund til udgivelse af gammel nordisk litteratur. xl. (Denmark, 1914.)

For bibliography of the Saga, see *Islandica*, Ithaca, N.Y., 1910.



## Reviews of Books

**THE POTTERY FOUND AT SILCHESTER.** A descriptive account of the Pottery recovered during the excavations on the site of the Romano-British City of Calleva Atrebatum, at Silchester, Hants, and deposited in the Reading Museum. By Thomas May, F.S.A. (Scot.). Pp. xvii, 320, with 88 Plates. Imperial 8vo. Reading: E. Poynder & Son. £1 5s. net.

THE report of the Executive Committee of the Silchester Excavation Fund, issued in 1909, announced that the work of excavating and planning the area of the Romano-British town of Calleva Atrebatum, which had been in progress since 1890, had at length been completed. That during the season then current the outer defences and the ditch encircling the existing wall were to form the subject of investigation, and that it was proposed to defer until the following year the consideration of the general results deducible from the excavations and the reports on the pottery and other objects, now in the Reading Museum.

Seven years have passed, and we still await the publication of the general results of the Silchester excavations, while in Mr. May's volume we have the first of the promised reports on the objects found. It is unfortunate that the excavators at Silchester made it part of their plan of operations to reserve all critical notice of the smaller finds until they could be dealt with collectively when the whole site should have been excavated, and it is in no spirit of disparagement of Mr. May's labours if we express the opinion that the result of storing up such archaeological material to be dealt with after the lapse of years is almost certain to detract from its value. For the proper study of Roman pottery nothing is more necessary than exact knowledge of the relation which the material bears to the site on which it has been found. The stratification of finds, the position of potsherds in pits or ditches, the association of groups of vessels or of dishes with coins are each capable of yielding facts of the first importance in the history of the site, or of the chronology and sources of the ceramic supply. Even where such facts are noted as the work proceeds, there is always the risk if publication be too long delayed that details are forgotten, or the impression left upon the mind of the excavator loses its freshness.

Mr. May, so far as we are aware, took no part in the excavation at Silchester, and therefore for his information as to the circumstances under which the pottery was found has had to rely on others, but we find few traces in his work to show that such help was available. The scanty references in his volume which definitely connect the collection with

the site are simply reproduced from the annual reports published in *Archaeologia*. These reports give little assistance; they contain minute descriptions of architectural remains, and careful plans of buildings, but the authors do not seem to have realised the importance of their smaller finds, and especially of the pottery, as a means towards working out the history of Calleva. Had it been carefully studied and dealt with during the course of the excavations it would probably have materially assisted towards the general conclusions to be embodied in that final report which still awaits publication.

Mr. May has produced a catalogue of specimens typical of each variety of the ceramic remains found at Silchester. Each item is described with much care, and is illustrated in a series of excellent plates, which reproduce photographs of vessels and fragments, as well as outline drawings of selected types. Much labour has been bestowed in endeavouring to define the provenance and chronological position of the groups represented, and in the apparent absence of helpful records of the excavation the literature of Roman pottery both at home and on the Continent has been searched assiduously. There is an exhaustive list of potters' marks and a sufficient index. The volume, which thus introduces the Silchester collection to a wider public, will form a useful work of reference.

The mass of material dealt with is large, for Calleva Atrebatum must have contained a considerable population, and its existence as a town extended over not less than four centuries. It had its beginnings in pre-Roman times, represented in the collection by late Celtic vessels analogous to those found at Hengistbury Head. It probably did not long survive the close of the Roman occupation, and the painted vessels and ware with impressed decoration, which date from its closing period, can be paralleled from the forts on the Saxon shore. At Calleva, as on every other Roman site in Britain, the pottery furnishes us with evidence of the close relations with continental Europe subsisting in these early centuries. The Belgic Terra Nigra, which forms one-third of the whole collection, was imported in the earliest period. The Italian potters were represented by the ware of Arezzo, which probably made its appearance in the reign of Augustus. Beginning with the Claudian conquest came the traffic in Terra Sigillata from Southern Gaul, to be replaced later in the second century by the products of Lezoux, and finally, as trade gathered in the wake of the military settlements on the frontier, from the potteries of the Rhine. In the third century, when Terra Sigillata had passed out of fashion, dishes must still have come from the Rhine, such, for example, as the black beakers with bulging sides decorated in white, with scrolls and convivial inscriptions, while to a still later period belong the bowls of poor red ware, stamped with narrow bands of striated chequer pattern, which came from the region of the Marne.

To these must be added many of the mortaria and the great amphorae which carried the products of Spain or Southern Gaul.

But it is certain that much pottery was made in Britain. The pre-Roman types of dishes found at Glastonbury and Hengistbury Head prove the existence of a tradition which reveals itself in the shapes and decorations of many of the vessels belonging to the period of Romanization.



The excavation of Haltern has shown that already in the Augustan epoch the coarser vessels employed by the army were being manufactured on the Rhine, probably at Xanten, though the finer ware was brought from Italy. There can be little doubt that in the same way the industry in Britain received a considerable impetus from the needs of the Legions. At Silchester the potters had established kilns outside the North Gate. From the outlines of fragments found around these it is probable that as early as the Flavian period they were supplying a portion of the coarser ware used in the town. Other native wares represented at Silchester are the beakers, with their characteristic decoration in barbotine of galloping deer, with hounds in pursuit, produced at Castor, near Peterborough, and the dishes with their dark brown vitreous surface, which were made in the neighbourhood of Crockhill, in the New Forest, only some forty miles distant from the town. The potteries there seem to have been in operation down to the beginning of the fifth century. Lastly, there is a coarse ware found in considerable quantities, made of clay, black and stringy in texture, in which a quantity of pounded flint is incorporated, many of the vessels being formed without the aid of a wheel. This variety, which Mr. May terms British gritted ware, is believed to be of exclusively native manufacture.

The local potteries must have been widely disseminated. They doubtless existed in the neighbourhood of the larger settlements wherever suitable clay was obtainable. There are numerous traces of them in Britain. They have been found, as might be expected, in a city having the importance of Colchester, where obviously the native industry survived to be carried on during the Roman occupation. Mr. Acton's discoveries at Holt have revealed the pottery and tile works of the XXth Legion situated at an easy distance from its base at Chester. The little town of Corstopitum, lying in the shelter of the great wall, had its kiln as well as its pottery shop, while recently Mr. George Macdonald's highly successful efforts to recover the true line of the Antonine vallum have resulted in bringing to light a potter's kiln in the fort of Mumrills. With the exception of one or two easily recognised types which are represented at Silchester, we know very little of the output of local potteries in Britain. There is no evidence of the manufacture of Terra Sigillata in this country, but there must have been many local varieties of less decorative ware, and probably a good deal of imitation of continental forms. Across the channel the Belgic potters imitated the shapes and even the stamps of the dishes from Arrezzo. The makers of the East Gaulish Sigillata borrowed the designs employed at Lezoux and La Graufesenque. The Castor beakers with their hunting scenes are scarcely to be distinguished from similar vessels emanating from Cologne, and doubtless it was still more easy to reproduce the humbler vessels of daily life. A knowledge of the characteristics of local production, of the exact sources from which the northern garrisons drew their supplies, would be of the utmost importance. In the future, in which to many of us the collections from the Limes Forts and the museums on the Rhine are probably closed for ever, this aspect of study is well worthy of the attention of archaeologists.

JAMES CURLE.

A CATALOGUE OF ENGLISH COINS IN THE BRITISH MUSEUM: THE NORMAN KINGS. By George Cyril Brooke, B.A. 2 vols. Vol. I. pp. cclvi, with 62 Plates. Vol. II. pp. 462. Demy 8vo. London: Printed by Order of the Trustees. 1916.

NEARLY a quarter of a century has elapsed since the British Museum authorities last issued an instalment of the catalogue of their English coins. In the interval the officials of the Medal Room have certainly not been idle. They have pushed almost to completion their monumental description of the Greek series—an achievement of which British scholarship has good reason to be proud. They have dealt in the same thorough fashion with the issues of the Roman Republic, as well as with those of Byzantium, and of the Vandal and other kingdoms that were reared upon the ruins of the Western Empire. India, too, as was only right, has received a fair measure of attention. But the staff is a limited one, and consequently all this activity has had to be bought with a price. Great Britain, save for her medals, has been left severely alone. The necessity was regrettable, and adverse comment upon the policy adopted has not been wanting.

On the other hand, those who have felt most keenly that home products were being unduly neglected will probably be the first to admit that the long delay has had its compensations. Mr. Brooke's *Catalogue of the Coins of the Norman Kings* was eminently worth waiting for, and, while its excellence is the direct result of the personal qualities that have gone towards its production, it owes not a little of its value to the fact that it has been possible to take account of what has been accomplished in the last decade or two by zealous and competent enthusiasts like Major Carlyon-Britton and Mr. W. J. Andrew. The author has been wise enough to seek help in every quarter where it was likely to be found, and he is to be congratulated on his success in securing the co-operation of all who were in a position to produce fresh evidence, whether as collectors or as students.

The book is thus much more than a mere register of the contents of the British Museum trays. It is a comprehensive treatise on the coinage of the period, and contains matter that is of real significance for the historian, no less than for the numismatist. By the exercise of an infinite capacity for taking pains, Mr. Brooke has been able to grapple successfully with many of the obscure problems by which he was confronted, while his methods are so sound that, even when he fails to reach a solution, he never fails to clear the ground thoroughly and to lay secure foundations. No more solid contribution has ever been made to the study of English numismatics. An admirable illustration of the scientific skill with which the lines of attack have been selected, and of the patient care with which they have been followed up, is furnished by the discussion of the fundamental question as to the proper chronological arrangements of the various 'types.' The testimony of finds, of overstruck coins, of mules, and of lettering is exhaustively reviewed so as to lead up to a series of conclusions that are practically irresistible. The irregular issues, which mainly belong to the turbulent reign of Stephen, are handled with equal judgment, albeit with less definite result. And Mr. Brooke is conspicuously fair-minded. In



moving about in this doubtful region he always endeavours to do full justice to the views of others, nor does he refrain from drawing attention to possible weaknesses in his own theories. He is much more concerned to get at the truth than to establish a reputation for omniscience.

The volumes are handsomely printed, a new fount of type having been specially cut for the inscriptions. In the setting forth of details the convenience of students has been consulted at every point. The fact that the indexes alone cover fifty pages speaks for itself. There is an 'Epigraphical Table,' and sixty-two capital collotype plates, representing somewhere about a thousand coins. The latter include not only British Museum specimens, but also all noteworthy examples from other collections, the Hunterian Museum contributing its quota. The proofs have been vigilantly read, but there is a slip on page clxxxix; the Christian name of the author of *The Foundations of England* is James, not William.

GEORGE MACDONALD.

AN AMERICAN GARLAND, being a Collection of Ballads relating to America, 1563-1759. Edited, with Introduction and Notes, by C. H. Firth, M.A., Regius Professor of Modern History in the University of Oxford. Pp. xlvii, 91. Demy 8vo. Oxford: B. H. Blackwell. 1915. 3s. 6d. net.

PROFESSOR FIRTH has done a useful piece of work in editing this volume. The ballads, which belong to the printed, not the traditional kind, have been selected from several different collections, including one in the possession of the editor. They illustrate successive stages in the history of America, as it was reflected in contemporary opinion and report in England, and communicated by the writers of popular verse. The first stage was that of dawning knowledge, when the Elizabethan world was becoming aware of mysterious and romantic lands beyond the Atlantic. Its ballads deal with voyages of exploration, like that of the worthy Captain Thomas Stutely in 1563. There followed a period in which adventure and dazzling dreams of gold gave place to schemes of colonisation, and it began first to be perceived that a new and great country would arise, to be peopled by the descendants of English settlers. The work of plantation had been seriously begun in 1610, when *Newes from Virginia* celebrated the voyages of Gates and Somers, and the governorship of De la Ware:

And to the adventurers thus he writes,  
Be not dismayed at all,  
For scandall cannot doe us wrong,  
God will not let us fall.  
Let England knowe our willingnesse,  
For that our worke is good,  
*Wee hope to plant a nation,  
Where none before hath stood.*

A new and unforeseen aspect of colonisation opened in the reign of Charles I., when the settlements beyond the Atlantic became a place of refuge for the Puritans. Professor Firth gives five ballads relating to this aspect of colonial history, which are all hostile to the Puritan emigrants:

the popular muse, as might have been expected, was on the other side. A later stage in the settlement of America appears in the enforced migration of convicts, and unfortunate persons who had been kidnapped, which did not entirely cease till the American Revolution, when Botany Bay succeeded as a penal settlement. The editor has also included contemporary ballads on the fall of Quebec and the death of General Wolfe; but closes without illustrating the ballad literature of the time of Washington. Selections from that literature, which in itself is copious, have been published in Frank Moore's *Songs and Ballads of the American Revolution*, issued in 1856, and now out of print. A new edition of it would be desirable as a supplement to the present book.

J. S. SMART.

THE ARCHITECTURE OF ANCIENT EGYPT: A HISTORICAL OUTLINE. By Edward Bell, M.A., F.S.A. Pp. xx, 255. With many Illustrations and Maps and Plans. Crown 8vo. London: G. Bell & Sons, Ltd. 1915. 6s. net.

WE learn from the Preface that 'this volume was begun as the first instalment of an attempt to trace, for the information of unlearned or general readers, the architectural tradition from its remoter origins to the time when it became generally recognized as part of Roman civilization.' In so far as these remoter origins are represented by the buildings of ancient Egypt, which the present work deals with, the author's attempt is an eminently successful one.

The 'development' of an architectural style in Egypt, if such a word may be used with reference to the almost monotonous repetition of the one or two motives which served during a period of perhaps 5000 years to constitute the art in that most conservative land, is clearly and simply described in its historical sequence. From the Mastabas and Pyramids of the Old Kingdom, the origins of which Mr. Bell places at about 4000 B.C., the sequence is followed through the rock-cut temples of the Twelfth to the Seventeenth Dynasties to the work of the great Pharaohs in the temples of Karnack and Luxor. In turn the period of Persian dominion is dealt with, followed by the reinstatement of the kingdom by Alexander the Great and the elaborated reconstruction of the earlier motives under the Ptolemies till the final passing of the tradition under the sway of all-conquering Rome about the beginning of the Christian era. The book is free from all unnecessary technicalities, and is written generally in a pleasant and readable style; though from one so well qualified as is the author by intimate personal knowledge to appreciate the stupendous results achieved in the culminating period, a more generous enthusiasm of description might have been indulged in, an endeavour to convey to his readers the cumulative effect of these mighty buildings in what Professor Blomfield well calls the impression of their 'eternal strength, their tremendous and even terrific mystery.'

From the words of the Preface already quoted one is left in some dubiety as to whether it is Mr. Bell's intention to follow up the present volume with others dealing with the arts of Greece and Rome. We trust that the success of the present one will be such as to encourage him to proceed. For such a series, midway between the technical treatise and the guide-



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book, there is ample scope towards the spread of a more general knowledge and appreciation of architecture. In such case, however, his 'general reader' should be furnished with a better definition of that art than that here given as the 'art of building in an ornate, stately or otherwise excellent manner.' This definition is not only insufficient but misleading. Building is in itself a craft, a technical process, however ornate, stately or excellent in execution, and but furnishes the means by which the art of architecture expresses itself in its ultimate appeal, in common with all the arts, to the imagination. Senmut, the architect of Hatshepsut's temple, was, as is evident from Mr. Bell's own pages, not a builder but a director or designer of buildings; so also were Mnesicles and Ictinus during the Periclean age in Greece, such were the practitioners of the art in all its great periods, and the original term ἀρχιτέκτων may with more felicity be rendered the primal or master artist than, as our author puts it, the 'chief builder.'

The volume is very fully illustrated with plans, sketches and photographs from various sources which, with the authorities on which the text is based, are duly acknowledged; it has two useful maps and several appendices, though we rather question the utility of the inclusion among these of a lengthy and somewhat out-of-date essay by Lepsius. In addition to the index, which might have been more comprehensive, there is in the final chapter an excellent summary; also an introductory table of the principal Dynastic Kings of Egypt. In any future edition this last should be extended so as to include the types of buildings and principal examples of those erected during the respective periods or kingdoms, as such an outline would be of great assistance as a guide or sign-post to the reader making his first approach to the subject.

ALEXANDER N. PATERSON.

**EAST AND WEST THROUGH FIFTEEN CENTURIES**, being a General History from B.C. 44 to A.D. 1453. In Four Volumes. Volumes I. and II. by Brigadier-General George F. Young, C.B. Vol. I. xxvi, 605; Vol. II. xii, 595. With numerous Illustrations and Maps. Demy 8vo. London: Longmans, Green & Co. 1916. 36s. net.

THIS is an interesting and important historical work dealing with the past history and future possibilities of nearly all the nations involved in the present world-wide war. Through extensive investigation, great labour and thoughtful study, the author has gathered together in a simple, concise, and readable form the results of the work of past historians and present-day critics. He claims for his work four special features: (1) That history has been treated by him as a whole, combining both its secular and religious aspects, as religion lies at the root of three-fourths of the events recorded in secular history; (2) that the zenith of the power of the Roman Empire was in the time of Constantine the Great, and just before A.D. 395, and not in the second century, as maintained by Gibbon and others; (3) that as a military man he has dealt largely with military matters, and has arrived at conclusions frequently differing from earlier writers; and (4) that he offers views regarding many persons, subjects, and events differing from most accepted authorities. Thus, for instance, he differs from them in regard to the date of the letters of Ignatius, and presents the life and

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work of the Emperors Tiberius, Marcus Aurelius, Constantine the Great, Gratian, and others in a comparatively new light.

The author devotes a good many pages to Marcus Aurelius, and, contrary to most authorities who seek to exalt this pagan philosopher and Emperor, he maintains that he was a conspicuous failure in the three divisions under which his achievements might be grouped. In war he was unable to defend the Empire from the ravages of barbarians. In peace he failed to introduce any measures for the benefit of his subjects, while his financial administration was defective. Lastly, his treatment of Christians was a great blot upon his character, for he was the first Emperor who ordered the massacre of all Christians, men, women, and children. Regarding Constantine the Great, the author endeavours to show that, while not becoming a Christian himself until late in life, his removal of all restrictions upon Christians and the issue of his edict exhorting his subjects to embrace Christianity were the results of conviction, and gave expression to the feelings of the nations under his rule. Gratian, who was assassinated when only twenty-four years of age, is shown by the author to have been successful in war and peace, the beloved of his people, and an ideal in character and behaviour. His only fault seems to have been his true or 'uncompromising Christianity.' Here again we think General Young has rightly exposed Gibbon's perversity. These two volumes cover the history of a period of about 800 years, to the death of the Emperor Leo in the East and Charles Martel in the West. The work practically embraces the history of the whole of the countries now engaged in war, from Ireland on the West to Persia on the extreme East, covering the rise and fall of the Roman Empire, the development of the Western nations, the rise of Mahomedanism and its overflowing scourge from East to West, and finally the revival of the Roman or Latin powers in the West. Good maps and beautiful illustrations, obtained from many sources, greatly help the reader to grasp the material presented for his consideration. A carefully prepared index and a useful bibliography of works of reference enhance the value of the volumes, making them in every way a work of reference of good value. Some blunders and unauthenticated statements have crept into the text of these attractive volumes. The author calls the book of Revelation the book of 'Revelations,' and asserts that Barnabas was the author of the Epistle to the Hebrews.

CHARLES S. ROMANES.

THE GROWTH OF A SCOTTISH BURGH : A STUDY IN THE EARLY HISTORY OF DUMFRIES. By G. W. Shirley. Crown 8vo. Pp. 52. With Five Plans. Dumfries, 1915.

THIS reprint from the local Antiquarian Society's *Transactions* is a distinctly original effort of archaeological reconstruction made by a student of unusual capacity and intimate knowledge both of the topography and the records of a historic town. Mr. Shirley, the burgh librarian, has attempted to piece together the evidences of the structural evolution of Dumfries, correlating its development of lines of street and its early public buildings with the movement of national as well as burghal history. Few, if any, similar essays of this class have been made for other Scottish towns, and the



experiment is to be welcomed, not only for its contribution to historical method, but for its solid foundations to a scientific interpretation of the annals, the geography and the economics. The focal point he finds at a small ford (near the Mechanics' Institute) of the Mill Burn, beside which was a greater ford across the river Nith. From this point the town grew out first south-east towards St. Michael's Church and in the direction of the Castle, and then north towards the present Midsteeple and the old church of the Greyfriars in the salient of the river, from the front of which the so-called Dervorgilla's bridge was thrown across. The various motes he groups into a general and rather elaborate defensive scheme, the ingenious argument for which leaves a good deal of room for debate.

The twelfth to fourteenth century history of the castle is well brought out in contrast with the fifteenth century private fortified house known as the New Wark. He has fresh arguments about the famous Bridge and additional material about the Friars, but the *tout ensemble* of his propositions would require the discussion of local circumstances and records. A suggestive note is struck by his concluding protest against the unplanned building of the present town, deploring the failure to take advantage of many fine opportunities of site. Mr. Shirley is now serving in the Army Medical Corps in France. We trust the day is not distant when the history of the Nithside burgh may be further advanced by further studies from Mr. Shirley as penetrating as the present suggestive and closely vouched essay.

GEO. NEILSON.

ARCHAIC SCULPTURINGS. Notes on Art, Philosophy and Religion in Britain 2000 B.C. to 900 A.D. By Ludovic MacLellan Mann. Pp. 52, with 21 illustrations. 8vo. Edinburgh : Wm. Hodge & Co. 1915. 2s. 6d. net.

SYMBOLS on ancient monuments have inspired many interpreters, but none who have soared higher than Mr. Mann into the mystic atmosphere of the Pictish universe. If we follow we shall discern on the rocks below astonishing 'concepts in mysticism, religion, art, geometry, and astronomy.'

A better assured example of Mr. Mann's capacity as an archaeologist working on very early periods is his *Report on the Relics* from the cave and vitrified fort at Dunagoil, Bute, appearing in and reprinted among other *Preliminary Reports* from the Transactions of Buteshire Natural History Society. He has excellently classified the finds, including (besides discs, whorls, and other implements of bone) smoothers and pounders, etc., of stone, and, most interesting of all, a triangular and a cup-shaped crucible, the former with remains of bronze slag still adhering to the inner wall. He regards the date of the cave as centering upon A.D. 500, and that of the fort as between B.C. 300 and A.D. 75.

The thirty-third volume (Section C) of the *Proceedings of the Royal Irish Academy* (Dublin : Hodges, Figgis & Co., Ltd.) contains some valuable papers of archaeological interest. Mr. Thomas J. Westropp, who has made a special study of the ancient Forts of Ireland, contributes a good article on 'Certain Typical Earthworks and Ring Walls in County

Limerick' similar to his studies on the ring-forts and fortified headlands in other counties. Some recent archaeological discoveries in Ulster are discussed by Mr. F. J. Bigger, and notes on certain Irish inscriptions are supplied by Professor Macalister. Of more general interest are the papers of Mr. Dudley Westropp on 'Irish Money Weights and Foreign Coin Current in Ireland,' and of Mr. M'Clintock Dix on 'The Printing Press in Belfast in the Seventeenth Century,' a sequel to similar studies for the cities of Cork, Kilkenny, and Waterford in previous volumes. All the articles of the section are carefully written and well illustrated.

The *English Historical Review* for April begins an elaborate 'History of the Col de Tenda,' by Rev. W. A. B. Coolidge, in which the part played by that pass across the Alps since the eleventh century is chronologically traced through many interesting episodes of war and travel. Marie Antoinette's correspondence in 1791 with Barnave and others (edited in 1913 by Heidenstam) is subjected by Miss E. D. Bradby to close and adverse criticism. Prof. Haskins draws up a view of the sources for the reign of Robert I. of Normandy, A.D. 1027-1035, including a list of charters. Dr. J. H. Round finds new proof that the Grand Assize (associated with Glanvill) was early known as the assize of Windsor, and he suggests the council held there in 1179 as probably fixing the date. Mr. A. G. Little offers fresh and most valuable data for the origins of the *LANERCOST CHRONICLE*, to which it is clear a chronicle of Friar Richard of Durham was a contributory. We shall await with interest Dr. James Wilson's interpretation of the new evidence by which Mr. Little has considerably transformed the problem of composition. Mr. Harold Temperley, in 'A Note on Inner and Outer Cabinets,' usefully and critically supplements for the eighteenth century the questions recently discussed regarding the evolution of Cabinet government. He strengthens the case for his contention that from 1700 until 1760 there was an inner knot of Ministers possessing and developing power not shared by the Cabinet as a whole.

The *General Index* to volumes XXI.-XXX., 1906-1915, edited by Reginald L. Poole (pp. 75, price 3s. 6d. net), will be warmly welcomed for its aids to the utilisation of the rich store of history housed in the *English Historical Review*. The index consists chiefly of proper names, so that subjects when not names scarcely receive their due. But what index could render justice to such a repertory? Editor and publishers alike may be assured of the grateful appreciation their quarterly wins from all workers in history and research.

*The Athenæum*, which has recently become a shilling monthly, preserves, although of course much enlarged in contents, essentially the all familiar format. We trust it will in the new monthly guise re-attain and maintain the place of special authority which as a great weekly it held so long. An important side product of this now historic journal is its series of 'Subject Indexes to Periodicals,' which must be of first-class value for all working purposes. The indexes already issued each cover one subject for the year



1915, including Science and Technology (2s. 6d.), Education (1s.), Theology and Philosophy (1s. 6d.), Language and Literature (1s. 6d. net), Economic and Political Sciences and Law (1s.), and Fine Arts and Archaeology (1s. 6d). Special attention must be called to the index of History, Geography, Anthropology, and Folk-Lore (1s. 6d.), which is most helpful. There is to be a separate index to Legal Periodicals. The whole scheme of bibliographical synthesis represented by those indexes, which are a project of the Library Association, merits support as well as commendation.

*Notes and Queries for Somerset and Dorset* for March gives the attractive prelude to a supplement by Mr. J. S. Udal of 'Dorset Dialect Words,' to be edited in future issues. This little magazine is an invaluable repository of record, inscriptions, and heraldic lore of both its shires. An interior picture of Taunton Castle shows the appropriate use of the Great Hall as a county museum.

The latest 'Bulletin' of history from Queen's University, Kingston, Canada, is on *The Chronicles of Thomas Sprott*, by Walter Sage. We cannot honestly praise this essay, which betrays a grievous lack of medieval equipment. The bibliography is proof enough of this.

The *American Historical Review* for April is notable were it only for the report it contains of the annual meeting of the American Historical Association at Washington last December. Judging by the summary of discussions, this historical conference must have attained an exceptional level, for its themes were eminently suggestive propositions. An important subject was the project of a national archive building in Washington on a becoming scale for monuments housed at present, it seems, under 'shocking conditions.' Economic causes of ancient wars, Medieval colonization, Nationalism how far a product of democracy, Diplomacy and politics, Franklin as a political force in the French revolution, U.S. contribution to the origin of warfare by submarine and monitor, Acquisition recently of the ownership of the *Review* by the Association—these all gave scope for a well-balanced critical general report by the managing editor of the *Review*, Professor J. F. Jameson.

Keenly interesting is Mr. Herbert D. Foster's article on the 'Political Theories of Calvinists before the Puritan Exodus to America.' It represents much reading, and by its marshalled body of facts appears to surpass any previous exposition of what may be called applied Calvinism in secular politics. Calvin's doctrine that in every realm the three estates had a duty as protectors of liberty 'by the ordinance of God' proved itself a dynamic tenet in Europe, our own country leading the way in its application. Very curious and subtle channels of its propagation were the rubrics of Calvinistic versions of Scripture, especially of Beza's Latin text of the New Testament. Beza was assistant and successor to Calvin, and his democratic doctrine went beyond Calvin's. Mr. Foster's study is a valuable perspective view. Mr. Lynn Thorndyke concludes an examination of Roger Bacon, from which the famous friar emerges shorn of some plumes of the originality

assigned to him by scholars hitherto unaware of the extent to which his books were a mosaic of his time. His latest critic doubts his alleged condemnation for either magic or astrology. In a review by Professor Cheyney there is a pregnant hint that it is difficult to infer any special direction in recent English historical study as regards the Middle Ages. Mr. C. H. Van Tyne adduces fresh reasons for holding that the compelling inducement the French had to support the insurgent States was their conviction that war with Britain was inevitable, and that the West Indian islands of France and Spain might be taken through an alliance with the States. The Americans were recognized as holding the balance of power, and France decided that it was better to join America betimes rather than risk the sequels of a peace between Britain and her Colonies.

*The Iowa Journal of History and Politics* for April continues 'The Indian Agent,' which instructively exhibits the difficulties the U.S. Government have had in getting fair play for the Indian.

In the *Revue Historique* (March-April) M. Leon Homo commences an article on 'Flaminius and the Roman Policy in Greece, 198-194 B.C.' A very important paper is a posthumous lecture by Gabriel Monod, in which that distinguished historian traced the course of the Reformation in the sixteenth century, with particular reference to the Council of Trent and the counter-reform. The vehement influence and policy of Caraffa (made Pope as Paul IV. in 1555) appears as the decisive force of repression, while Jesuit energy was the chief agency of the counter-reform. The Council itself, at its three stages, 1545-47, 1551-52, 1562-63, if it fixed doctrine so rigidly as to shackle intellectual freedom, helped to bring about a Catholic Renaissance. In his final summation of consequences, M. Monod contrasted the Catholic with the Protestant system, the immutable dogma and absolutism of the Papacy on the one hand with the endless variety and liberty of Protestantism, both for creed and organisation. Both, he concludes, 'elevating the moral ideal and teaching virtue to men, deserve to be studied and judged with respectful sympathy.'

In the number for May-June M. Leon Homo completes his study of Flaminius, whose Greek enthusiasm he exhibits as shrewd Roman policy. M. Morel-Fatis edits an indignant, defensive, autobiographic memoir of the Spanish revolutionary Andrés Maria de Guzman, guillotined with other Dantonists in 1794. Mindful of the heroic element in our ally's history, M. Émile Haumant tells in glowing terms part of the story of Karageorge, the Serb leader and ultimately victim. An able but chilly review estimates the claims, and the actually very limited measure of success, of the medieval Germans in the matter of sea power.



## Communications

NOTES FROM A SEVENTEENTH CENTURY HOUSEHOLD BOOK. The following notes are from a scroll Household Book for the years 1652-1653, kept by the steward of John Hay, first Earl of Tweeddale. Tweeddale joined the Covenanting party on the outbreak of hostilities, but he leaned to the moderate side. Although Neidpath Castle, his Tweeddale residence, held out for long against the English Republicans, he afterwards acquiesced to the new order, and was returned member of Parliament for Haddingtonshire in Cromwell's Conventions. The family history (written 1687) says he had to flee from one part of the country to another at the beginning of the Republican regime, and the Household Book mentions journeys to Aberdeenshire, Dunfermline, Peebles, and Berwick, but does not manifest any evidence of undue haste in his comings and goings.

C. CLELAND HARVEY.

### TWEEDDALE HOUSEHOLD BOOK, 1652-1653.

1652.

Setrday 23 July : Item to the foutman for thre dayis wagis when he went to the bathens<sup>1</sup> and the bornes £1 4 0 : Item to John Deins when he went to neoubotel<sup>2</sup> with Sir John bird 4s.

Thoursday 28 July : Item to aen soger 6s.

29 July : Pair of silk stockens £7 0 0.

30 July : Peck and a half of horse corn £1 4 0 : Cols and candel 4s :  
3 dozen pens 9s.

Monday 2 August : Item for mending of the louk of the chartour chist  
£4 16 0.

3 August : Horses and the Cordiner in Shirahall mentioned.

4 August : Five horses come with my Ladie.

Sunday 8 August : Item to the bedral<sup>3</sup> of the Tron kirk £1 4 0 ; Ittem  
for the pour 4s.

10 August : My Lord's cloas brought from Nidpeth :<sup>4</sup> foutman sent to  
Senjohnistoun.<sup>5</sup>

<sup>1</sup> Bothans : the Haddingtonshire seat of the Tweeddale family. It is now known as Yester, the name having been transferred from the old castle further up the glen, which was burned in the middle of the sixteenth century.

<sup>2</sup> Newbottle, now Newbattle, the seat of the Kers of Lothian.    <sup>3</sup> Bedral = beadle.

<sup>4</sup> Neidpath Castle, at Peebles, was the Hays' Tweeddale seat.

<sup>5</sup> Senjohnistoun = Perth.

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- 12 August : To my Lady £100 : Quire of pepar 6s : Tobacko pyepis 1s.  
 Sunday 15 August : Bedral of West chourch £1 0 0.  
 18 August : Stick of wackes 4s.  
 21 August : Footman sent to the Bothans.  
 Sunday 22 August : For the chourch of Pibels 6s.  
 25 August : Two horses sent for the Doctor.  
 Wednesday 25 August : My Lord went to Edinburgh and stayed till  
 Saturday the 28 August.  
 Fryday (27 Aug) in Leith : Horseshoes to the Crown nag 6s : to My  
 Lady Drumferlins man 6s : Shoe to the Mare 6s. : 4 ells of harn for  
 a shirt £1 8 0.  
 28 August : Rosemary 6s.  
 Monday 30 August 1652 : Ittem to the bedral in the bothans £2 16 0 :  
 Ittem for the mort cloath £3 : Ittem to the lad that went for it 12s.  
 Tuesday 31 August : My Lord went to Edinburgh and stayed till Friday  
 3 Sept.  
 Wednesday 1 September : My Lords part of Dinner with My Lord  
 Calendar in James Keinirs £5 9 0.  
 Thoursday 2 Sept : Dinner £4 15 4 : Supper £1 10 0.  
 Fryday 3 Sept : Chopin of Chanery £1 16 0 : Pound of Scouger candie  
 £3 12 0 : 2 papers of prines 6s.  
 13 September : My Lord went to Dowmfermlin :<sup>1</sup> Ferry charges at  
 Quens ferie £3 3 0.  
 14 September : Six quarters of ribans to be shoustrings 13s. 6d. : two pairs  
 of Gloves at 10s.  
 16 Sept : Dined in the Clarks of Dowmferlin £1 14 0 : Chopen of sack  
 £1 0 0.  
 Fryday 17 September : to denar in elspet fosteris : Item for a fryed chicken  
 12s. : Itt. for a shouder of mouton 15s. : Itt. for 3 breid 6s. ; Itt. for  
 3 pyents of eal 8s.  
 Setriday 18 September : Dinner : Fryid chicken 12s. : rost of mouton 12s. :  
 a foul 10s. : dish of eags 1s. : 4 breid 8s. : 4 pints eal 10s. : mouctken  
 of sack 10s.  
 18 September : Went to Balcaras.  
 20 September : Left drinkmonie to the hous (of Balcaras) £5 18 0 : to the  
 Nours £5 18s od : Groume 12s. : Poor 10s.  
 Supper that night in Dunfermlin : Rost mouton 18s. : two pair pigens  
 10s. ; 3 breid 6s. : 3 pints eal 8s.  
 26 September : To breckfast : Item for a pyent eal and a Loaf 4s. 8d : To  
 Denar : Item for a dish of skink 12s. : Itt. a pis of beif 18s. : for 3  
 breid 6s. : 3 pyents of eal 8s. : Souper : Rost mouton 18s. : hen 18s.  
 27 September : Dinner : broath, beif, a hen, dish of stoks, bread, ale, and  
 sack : an ounc of scouger candie 11s.  
 29 September : a Nitmoug 1s. 4d.  
 30 September : Oysters to dinner 14s.

<sup>1</sup>Dunfermlin. The Hays acquired an interest in Dunfermlin through having stood caution for Tweeddale's brother-in-law, the Earl of Dunfermlin, who assigned his estates to them for relief of this cautionary.



## A Seventeenth Century Household Book 415

4 October : Breakfast, dish of eggs and butter ; washing the cloas 2 tymes  
£2 6 0 ; shoeing at Fywie,<sup>1</sup> 4s. ; Ale to the horses at the kirk of  
Monekeboch 3s.

Sunday 17 October : for the church of Aberdin 12s. ; smal money for the  
pour 6s.

Wednesday 20 Oct. : Boatmen at Inshyre 7s. ; Dinner at Kinross, trouts  
6s. ; at Brig of Erne later.

21 Oct. : Supper and breakfast at Dunfermline.

29 Oct. : Poor of Haddington ; Cordiner of Bothans.

4 November : at Bothans.

5 November : to a shoger at Neidpath.

9 November : Went from Neidpath to Edinburgh and remained till  
13 Novr.

12 November : Shared dinner with my Lord Callindar.

Sunday, 14 November : To the church of Bothans<sup>2</sup> 4s.

16 November : to two sogers 6s.

24 November : Went from Shirahall to Edinburgh and stayed a night.

29 November : Went to Edinburgh and stayed till 3 Decr. ; whytens to  
supper.

30 November : Dinner, stewed mouton, rost bief, rost mouton, a hen,  
oysters, bread, ale, sack, wyne, apples, and cheese ; Supper, wyne, ale,  
bread, and raisins.

2nd Dec<sup>r</sup> : Collops to supper.

3rd Dec<sup>r</sup> : Dinner, rost mutton with oysters etc.

8th Dec<sup>r</sup> : My Lord went to Edinburgh and stayed till the 9th.

15th Dec<sup>r</sup> : My Lord again in Edinburgh till the 18th.

17th Dec<sup>r</sup> : Dinner, piece of Beef with Cabich, Roust of beef, a Hen,  
Bread, Ale, Apples and Cheese.

18th Dec<sup>r</sup> : 2 ounces of wax cost 12s. ; 4 pounds of candell £1 0 0 ;  
3 loads of coal £1 19 0 ; and a stand of cownters & a kes to hold them  
14s.

Thursday 21 Dec<sup>r</sup> : Your Lo. went to Edinburgh from the bothans and  
stayed till Saturday 25 Dec<sup>r</sup>.

Setirday 25 Dec<sup>r</sup> : Dinner, Item for dish of skink 10s., for weill rost 18s.,  
4 breid 4s., and 3 pyents of ale 6s. ; hank of silk to my Ladie 3s 4d.

2 Janry. : For the church 6s. ; to Lord Callender's man 12s.

3 Janry. : At Bothans, to tuo shogers 6s.

Thursday 4th Janry. : Went to Edinburgh stayed till Saturday the 8th.

8th Janry. : Pair of spurs £1 16 0, 2 pounds of candell 10s.

Monday 10th Janry. : Supper, 2 pints of ale 4s., mutckin of sack 10s.,  
3 nutmegs 4s., an ounce of sugar 3s.

<sup>1</sup> Fyvie. The Earl of Dunfermline's seat in Aberdeenshire, which probably  
belonged to the Hays by this date.

<sup>2</sup> The choir and transept of Bothans Kirk still stand beside the seat of the  
Marquess of Tweeddale, which is now called Yester. At the beginning of the  
eighteenth century the present parish kirk was built in the village of Gifford,  
the old kirk turned into a burial place, and the ancient hamlet of Bothans swept  
away.

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- 15th Janry.: Breakfast, ale and a loaf; Dinner, Skink, roast mutton, whittings, collops, bread, and ale.  
 28th Janry.: In Bothans.  
 4th Febr: Went to Berwick and stayed there till 6th Febr.  
 10th Febr: To the poor at Haddington. My Lord went to Edinburgh and stayed till the 12th.  
 11th Febr: Dined with the Master of Moray.  
 14th Febr: Went to Edinburgh and stayed till the 18th.  
 15th Febr: For dressing of the knock £3 0 0.  
 22nd Febr: Went to Edinburgh and stayed till the 26th.  
 23rd Febr: Dined with Ormistouin.  
 24th Febr: Dinner, Broth, Veal, Bacon, Ale, and Bread. For binding a book £2 0 0.  
 1st March: Went to Edinburgh and stayed a night.  
 9th March: At Tranent.  
 10th March: At Bothans.  
 16th March: Went from Dalkeith<sup>1</sup> to Edinburgh.  
 18th March: At Dalkeith.  
 19th May: a pound of powder cost £3 12 0.  
 6th April: My Lord went to Edinburgh and stayed till the 8th.  
 17th April: At Peebles.  
 21st April: At Edinburgh, a Lam Leg to supper; to my Ladie Douglas nurse £5 0 0.  
 8th May: at Peebles.  
 10th May: Went to Edinburgh from Peebles.  
 13th May: 4 dozen pens 12s., making of the resignation to my Ladie £6 0 0, horses one night at Dalkeith.  
 Sunday 14 May: Church of Barro<sup>2</sup> 6s.  
 6th June: Went to Edinburgh and stayed till the 11th.  
 9th June: Dined with Sir William Scott.  
 15 June: went to Newbottle.  
 17th June: Tip to nurse in Tinegame (Tynningham).<sup>3</sup>  
 20th June: Went to Edinburgh and stayed till the 25th.  
 3rd July: At Fala.  
 4th July: At Newbotle and Edinburgh.  
 13 July: Went to Edinburgh and stayed till the 16th.  
 20th July: Went to Edinburgh and stayed till the 24th.  
 23 July: Pound of butter cost 4s. 8d.  
 24 July: 2s. paid for a pound of Ginger.  
 26th July: Went to Edinburgh and stayed till the 30th.  
 27 July: Pound of fresh butter cost 4s. 8d.  
 30th July: Dinner, two dish of Mackrels, soden of Mutton, pair of Chickens, Bread, Ale, and Wine.  
 1st to 6th August and 24th to 27th August stayed in Edinburgh.

<sup>1</sup> Dalkeith was the headquarters of the Republican government.

<sup>2</sup> Barro is a small parish adjoining Yester, to which part of it was annexed when this parish was abrogated.

<sup>3</sup> Tynningham, in Haddingtonshire, is the seat of the Earl of Haddington.



- 24th August : to supper a dish of nipes cost 10s.  
 26th August : Dinner, Broth, Roast Mutton, pair of Chickens, dish of Herring, Bread, Beer, and Wine.  
 27th August : Razor cost £2 8 0, 2 Soap balls 4s.  
 9th to 10th Sept. and 14th to 17th stayed in Edinburgh.  
 9th Sept. : Herring to Dinner.  
 15 Sept. : 3 pair of shoes to Lord John and Lady Jean 16s. per pair.  
 17th Sept. : To a soldier at Barro Church 12s.  
 21st to 24th and 26th to 31st Sept. stayed in Edinburgh.  
 27 Sept. ; Dinner, Broth, sodens of Mutton, Roast Beef, Pair of Rabbits, Bread, Ale, and Wine.  
 5th to 8th and 11th to 13th October, stayed in Edinburgh.  
 13th Oct. : Dinner, Fish, *Gaperats*, Soden of Mutton, Roast Duck, Bread, and Beer.  
 9th Nov<sup>r</sup> : 2 pounds of Raisins at 8s. : At Leith.  
 14th Nov<sup>r</sup> : At Dunfermline.  
 15th Nov<sup>r</sup> : Footman sent to Castle Campbell.<sup>1</sup>  
 20th Nov<sup>r</sup> : Weems Church.  
 21st Nov<sup>r</sup> : Tips for the house of Weems £6 : At Kirkcaldie.  
 22nd Nov<sup>r</sup> : At Dunfermline.  
 23rd Nov<sup>r</sup> : Went to Edinburgh.  
 29th Nov. to 3rd Dec<sup>r</sup> : In Edinburgh.

THE PRIVY SEAL OF JAMES V. Mr. Stevenson in his recent book on *Heraldry in Scotland* states (p. 397) that James V. took unicorns as his supporters in his Privy Seal, *i.e.* that the Royal Arms on that seal had two unicorns as supporters. Neither Laing nor the British Museum Catalogue gives any example of the seal. The Royal Arms on the Privy Seals of James I., James II., James IV., Mary, and James VI. till 1603, examples of which they give, all had two lions as supporters, and it seems rather remarkable that James V. should have departed from this rule. Mr. Stevenson gives no authority ; and, unless James had two seals, is his statement correct ? A document in my custody, dated 8 May, 1531, has appended to it the Privy Seal, which is the same as that used by James II., James IV., and Queen Mary in 1543. The supporters are two lions.

C. CLELAND HARVEY.

CHARLES CLELAND HARVEY. Among our contributors, from whom communications appear in the present number, Lieutenant Charles Cleland Harvey has been added to the list of those who have fallen in the war—a young man of very attractive character and of rare promise of archaeological distinction. An architect on the staff of Sir J. J. Burnet, he joined the army after the war broke out, and received a commission as lieutenant in the 7th Argyll and Sutherland Highlanders. He had been serving in France for a considerable time, and was severely wounded on

<sup>1</sup> Castle Campbell, near Dollar, was then one of the seats of the Marquess of Argyll.

27th March, and after an operation died on 3rd April, aged 34. He was a keen and well-equipped antiquary, who had made good his position in heraldry, genealogy, and charter study. He had before the war made considerable progress with the *Yester Inventory of Writs* for the Scottish Record Society. He rendered devoted service to Provand's Lordship both architecturally and in the schemes to preserve the old house. The corps of younger antiquaries with independent standpoints and special technique is much the poorer by the loss of Cleland Harvey, whose work and memory endure.

THE SCOTS COLLEGE IN PARIS. Nine years ago there appeared in this Review (*S.H.R.* iv. 399) an article by Miss V. M. Montague, in which the vicissitudes of this ancient foundation were outlined. The subject has received more recent treatment at the hands of M. G. Daumet in the *Mémoires de la Société de l'Histoire de Paris et de l'Île-de-France*, vols. xxxvii. and xxxix., 1910 and 1912, and printed, for private circulation, as a *tirage à part*, in 1912, under the title, *Notices sur les établissements religieux Anglais, Ecossais et Irlandais fondés à Paris avant la Révolution*. The references given by M. Daumet to MS. and printed sources give exceptional value to his study, particularly in connection with the history of the College during the eighteenth century and at the period of the French Revolution. DAVID BAIRD SMITH.

THE DUKE OF CLARENCE AND 'SIR GAWAYNE AND THE GRENE KNYGHT.' Lionel, son of Edward III., married Elizabeth, daughter of William de Burgh, Earl of Ulster; Lionel, then Earl of Ulster, became, by charter, Duke of Clarence in 1362, and died in 1368. He was the first Duke; the title was, at his death, extinct till 1412, when Thomas, son of Henry IV., became Duke.

Professor (afterwards Bishop) Stubbs was of opinion that the title of Clarence 'bore some reference to the ancient honour of Clare.' Clare, in Suffolk, was a market town in 1086, when it appears under the lands of Richard, son of Earl Gislebert, in Domesday Book; this Richard fitz Gilbert was apparently the ancestor of Gilbert de Clare, Earl of Clare, who became Earl of Gloucester in 1226. The latter was the grandfather of another Gilbert, who was also Earl of Gloucester, and who died in 1295. The daughter, Elizabeth, of the latter Gilbert, was the wife of John de Burgh, father of William, Earl of Ulster, whose daughter, also Elizabeth, was married to Lionel, afterwards Duke of Clarence. On the death of her brother Gilbert (slain at Bannockburn in 1314), the first Elizabeth was one of the three coheireses of the possessions of the Earls of Gloucester and Hertford. Her granddaughter, who was married to Lionel, was the heiress of William de Burgh, who was dead before his daughter's marriage took place in 1342. Apparently King Edward thought the match a desirable one. According to Brady's *History* (seemingly on the authority of Sandford's *Geneal. Hist.*), William de Burgh was lord of Clare (in Ireland). Spenser, the poet, in his *Present State of Ireland*, alludes to Clare Castle and to 'Mortimers landes' in connection with George, Duke of Clarence,



## ‘Sir Gawayne and the Grene Knyght’ 419

brother of Edward IV. I do not know whether Clare in Ireland took its name from the Clares by reason of John de Burgh's marriage, nor even if the territorial name existed there so early as 1362. At any rate, there is a strong case for the title Clarence (date 1362) coming from the name Clare, which related to a market town in Suffolk, the Honour connected therewith, the surname and Earldom, and possibly to a district in Ireland.

From whence did the author of *Sir Gawayne and the Grene Knyght* acquire the Duke of Clarence whom he names as one of Arthur's men?

‘Sir Doddinaual de Sauage, the duk of Clarence, Launcelot & Lyonel, & Lucan the gode’ (ll. 552-3). Was the Duke taken from the third Edward's son or from a legendary source? If the latter, it would seem that King Edward took the name of his son's title from fiction; this would be a bold hypothesis. If the former, it appears clear that the poem, in its present form, is not earlier than 1362, whether the poet merely copied the Duke or added him to what he founded on. Whether ‘the duk of Clarence’ came from history or legend, it seems to me more likely that the present poem was not published whilst Lionel was Duke of Clarence; on general grounds the period 1368-1412, the time when there was no Duke, appears to be a probable one for the poem as it stands.

Madden (*Syr Gawayne*, p. 313, Bann. Club, 1839) identifies ‘the duk of Clarence’ with ‘Galachin, son of Neutres, king of Garlot, by a sister of Arthur, and cousin of Dodinal,’ stating that the ‘duchy was given to him by Arthur, after his marriage with Guenever.’ However, whilst referring on the same page (313) to the *Roman de Merlin* and the *Roman de Lancelot*, Madden does not give the source of the statement concerning the gift of the Duchy, so that it is not clear that his authority for the fictitious title is earlier than the date, 1362, of the historical one.

The names of the Dukedoms conferred on the other sons of Edward III. who were made Dukes are Cornwall, Lancaster, Gloucester, and York. Until it is demonstrated that the Dukedom of Clarence is named in legend prior to Lionel's title, it seems to be reasonable to hold that the present poem of *Sir Gawayne and the Grene Knyght* is, at least, not earlier than 1362.

A. H. INMAN.

Mr. Inman is to be congratulated on raising what seems to me a first-class point for the meaning as well as the date of *Sir Gawayne*, and the importance is the greater because it virtually affects at least one other of the alliterative poems. For my own part I am disposed to agree that the name ‘Duk of Clarence’ means a date not much earlier, if earlier at all, than 1362, but I think that it decisively confirms the historical expositions submitted by me in my *Huchown of the Aule Ryale*, in the *Antiquary* for August, 1902, and in the *Athenæum* of 15th November and 6th December, 1902, and 30th May, 1903, while I readily confess (1) that it probably brings my date for the *Awntyrs* from circa 1359 down to circa 1362, and (2) that it deepens my corrected impression (*Athenæum*, 30th May, 1903) that the Gawayne of the *Awntyrs* was Prince Lionel. The interconnection of the two poems is much strengthened, and the historical bearing of Mr. Inman's query intensified by the following references (now

clearly identifiable as allusions to Prince Lionel) in the *Awntyrs*, the wonderful historicity of the second part of which I have always reckoned as my happiest discovery. How admirably Mr. Inman's point fits in will be clear from what happens in the concord of the great duel between Galleroun (*i.e.* Sir Robert Erskine) and Gawayne when King Arthur (*i.e.* Edward III.), in line 668, as part of the pacification, grants to Gawayne certain lands and castles, baronies and boroughs :

Eke Ulstur halle to hafe and to holde ;

and follows that up in line 672 by raising him to a new stage of nobility :

I shall dighte the[e] a Duke, and dubbe the[e] with honde.

When Prince Lionel went over to Ireland in 1361 he was still only Earl of Ulster, a title originally his in right of his wife. The *Scalacronica*, for instance, p. 200, styles him 'Lionel count de Hulster del heritage sa femme et fitz du Roy de Engleterre.' Why the Scottish champion in the romance duel should do battle for his Scottish lands with a usurping Gawayne of Ulster, who was to be dubbed a duke, is at once made clear by what Knyghton, the chronicler, states about Edward Balliol's surrender or transfer of his claims to the Scottish Crown in 1356: 'Die Epiphaniae Edwardus Baliol qui clamavit jus coronae Scotiæ donavit totum jus suum Leonello filio regis Angliæ Edwardi.' While in Balliol's deed giving up the kingdom to Edward III. Lionel is not mentioned, it is well known that in the intrigues of 1358-1363 the proposal was that a son of Edward III. should be accepted as heir of the childless David II. Wyntoun (ed. *Amours*, bk. VIII. lines 7173-6), tells of King David's 'motion' to that effect :

He movvit and said he walde that ane  
Off the Kynge Edwardis sonnys war tane  
To be kynge in to his stede  
Off Scotland eftir that he war dede.

The final form of the abortive proposal was for a son, not heir apparent, of Edward 'l'un des filz du Roi d'Engleterre qui n'est pas heir apparant d'Engleterre' (*Acts Parl. Scotland*, i. p. 495). These citations give secure base to the historical interpretation of Gawayne as romantic equivalent of Lionel as English claimant to the Scottish lands in the *Awntyrs of Arthur*. When the dukedom is thus so true to fact in the *Awntyrs*, its historicity in *Sir Gawayne* appears to be a presumption scarcely resistible, and to be very plainly a contemporary touch. Finally I apologise for having at the outset forgotten that Mr. Isaac Jackson three years ago in *Englische Studien* dealt cogently with the very point now raised again by Mr. Inman. (See *S.H.R.* xi. 448.)

GEO. NEILSON.

**THE APPIN MURDER MYSTERY.** The alleged murder in May, 1752, of Captain Colin Campbell of Glenure, the Government factor on the forfeited estate of Stewart of Ardshiel, was utilized by R. L. Stevenson for a dramatic episode in his *Kidnapped*. The murder was presumed to have been committed by Allan Breac Stewart (the 'Alan Breck' of Stevenson's novel); and a cousin of his, James Stewart of Acharn, was



arrested as an accessory, tried for murder, condemned, and executed. There has always been a 'mystery' about the affair, the common theory being that a 'third man' was concerned in it, who was the actual murderer. Mr. Andrew Lang dealt with the story in his *Historical Mysteries*, indicating that he knew the secret but could not tell it. Mr. David N. Mackay, writer, Glasgow, published a little work on the subject, *The Appin Murder*, five years ago, in which he exculpated both Allan Breac Stewart and James Stewart, and said the true story of the murder is known to at least one family, who have preserved the secret inviolate.

In a recent communication to the Notes and Queries section of the *Aberdeen Weekly Journal* (14th April, 1916), Mr. A. M. Mackintosh, Nairn, expresses doubts as to whether there really was a murder. His doubts are based on a long MS. account of the career of Robert Mackintosh, of the Dalmunzie family, who was one of the counsel for James Stewart, this MS. having been written in 1840 by a nephew (born in 1774) of Robert Mackintosh, who had been well acquainted with his uncle, and was in close and frequent correspondence with that relative down to the time of his death in 1805.

According to this account, Allan Breac Stewart, 'in a statement made at some unknown period after the events of 1752,' acknowledged that he had unexpectedly encountered Glenure in a wood, and had thereupon expostulated with him as to the evictions he was threatening to carry out. Glenure, without answering, made a snatch at Allan's gun, which Allan endeavoured to retain, and in the scuffle that ensued the gun went off and shot Glenure through the body. Allan, fearful of the consequences to himself—either of being charged with murdering Glenure or with being a deserter—plunged into the thicket and escaped, and he never knew of the proceedings against James Stewart till it was too late for him to be of any use in saving his life. Mr. A. M. Mackintosh says it would be satisfactory to know when and in what circumstances Allan's statement was made. This account of Glenure's death appears to have gained 'very general credence.' Mr. Robert Mackintosh once told his nephew that 'it turned out that there was no murder at all,' and on being asked by his nephew if the account just given was well established, his reply was: 'There cannot be a doubt of its truth.'

This conversation must date from some period before 1805. Mr. A. M. Mackintosh thinks that from Mr. Robert Mackintosh's words it may perhaps be assumed that the statement had appeared in print, and one object of his communication is to trace, if possible, the form or vehicle in which it was made public.

ROBERT ANDERSON.

THE HOSPITALLERS IN SCOTLAND (*S.H.R.* ix. 65). M. Joseph Delaville le Roulx, whose death at the age of fifty-six at his country seat near Tours in 1911 left a blank not easily filled in the ranks of French historians and antiquaries, possessed, as is well known, an unrivalled knowledge of the early history and muniments of the Knights of St. John of Jerusalem. The monumental work *Cartulaire Général des Hospitaliers*, in four folio volumes, covering the period from A.D. 1100 to 1310, appeared

from 1894 to 1906, under his editorship, with an illuminating introduction from his pen. In 1904 he published what is the standard history of the Order in the Holy Land and in Cyprus. As far back as 1885 the Knights had attracted M. le Roulx, as is witnessed by the essay *De prima origine Hospitaliorum Hierosolymitanorum*, published in that year.

In the autumn of 1909 M. le Roulx called the writer's attention to the value for the Scottish history of the Order of the archives preserved at Malta. In a note he says: 'Je suis en effet occupé en ce moment à étudier l'histoire de la commanderie d'Ecosse.' His interest did not flag, and in the spring of 1911, when at his suggestion there had been obtained from the records at Malta a photograph of two pages relating to the Scottish preceptory and estates of the Order, he wrote several times on the subject.

The following letters must be read with reference to the document printed in *S.H.R.* vol. ix. pp. 65-68.<sup>1</sup>

*From M. le Roulx to Mr. John Edwards.*

'Je m'empresse de vous remercier de votre aimable lettre et des renseignements qu'elle contient, mais je continue à ne pas comprendre le double calcul contenue dans l'acte :

1° Calcul en écus—

Torphichen -	-	-	71 écus.
Balanrodach -	-	-	39 „
Droits pour Leighton -	-	-	289 „
			399 ou 400 écus.

2° Calcul en francs—

Torphichen -	-	-	260 francs.
Balanrodach -	-	-	140 „
Droits -	-	-	Neant.
			400 francs.

Si dans ce calcul en francs vous ajoutez les droits appartenant à Leighton qui étaient 2 fois  $\frac{1}{2}$  plus considérables que le revenue des terres, il faut outre ajouter pour ces droits mille francs ce qui donne un total de 1400 francs pour le 2° calcul. Je me demande comment 400 écus peuvent être égaux à 1400 francs.

Il me semble que vous n'avez pas envisagé la question sous ce point de vue.

J. DELAVILLE LE ROULX.

PARIS, I. IV. 1911.'

<sup>1</sup> An error in the translation (*S.H.R.* ix, p. 67, line 38) falls to be noted. For *preceptor* read *likewise*. The word 'pariter' was originally read as 'preceptori.' It is very much contracted, appearing in the manuscript as 'prt.' The error was corrected in the Latin transcript, but *per incuriam* was retained in the translation. It is also the foundation of the erroneous statement upon page 59 that 'in the deed Thomas Goodwin, who gets Balanrodach, is called preceptor.' The sentence in which these words occur should be deleted.



*From Mr. John Edwards to M. le Roulx.*

'The deed raises questions of valuation and apportionment which are difficult to answer, but I think that the position of matters becomes clearer if one keeps in mind that a sum of about 400 francs (livres) net was looked upon as the proper yearly revenue from the Scottish estates—the priory of Scotland.'

In 1338 the English Hospitallers stated that the Scottish preceptory (including the estates) 'solebat tempore pacis reddere per annum cc marcas,' and that the possessions of the Templars in the same country 'solebant tempore Templariorum et tempore pacis solvere de responsionibus ccc marcas.'... Total, 500 marks.

This sum of 500 marks appears to have formed a basis for future estimates of value, and in 1412, in his petition to Benedict XIII. Anti-pope, Leighton values 'the preceptory or priory of the hospital of Torfichyne' at £500.

Before that date (in 1375) it had been leased for ten years at a yearly rent of 400 gold florins of Florence to Robert Mercer.

From *The Knights Hospitallers in England* (Camden Society, 1857), one sees how accounts were made up in 1338. The gross income was always given fully, and then under various headings the cost of running the establishment of each preceptory was deducted and the balance was the 'summa valoris.' This was remitted to headquarters.

In the deed before us the 'summa valoris' was fixed at 400 (399) scuta, and the agreement to be come to was really a settlement of the just proportion payable by each of the three brethren.

The calculation of values in francs,—Torphichen 260, Balantrodach 140,—is to be looked upon as a gross valuation which makes no allowance for the expense of living, upkeep, etc. (reprise), and this valuation is one which does not include 'alia emolumenta et introitus' assigned to Leighton. These latter are not valued in gross, as they are indefinite and fluctuating from year to year. We may take it that Leighton made what he considered a good bargain at 289 écus. He was on the spot, and presumably, being an Aberdonian, quite able to look after himself. He had no preceptory to keep up, and no 'supervenientes' to entertain.

These observations may possibly seem not entirely satisfactory, but they are the best explanation which I can give of the somewhat peculiar arrangement embodied in the 'bulla.'

JOHN EDWARDS.

GLASGOW, 13 April, 1911.

**CANON CAPES.** The Bishop of Hereford has written a *Memoir of Canon William W. Capes*, Canon Residentiary of Hereford Cathedral (Hereford: Wilson & Phillips, 1916). Canon Capes had made his reputation as a scholar, historian and man of letters, before he was installed as Canon at Hereford in his seventy-first year. At once he began his invaluable work on the long-neglected archives of the Cathedral, which date from A.D. 1275, and come down almost continuously to the present

time. He rescued many of them from destruction by damp, and by careful arrangement transformed a vast mass of miscellaneous papers into material available for historical research; at his own expense he issued to the Cantilupe Society a transcript of some of the most valuable documents possessed by the Chapter. At the time of his death he had more than half completed the work of cataloguing the MSS. of the Cathedral. The Chapter could not offer a better tribute to the memory of this accomplished scholar than by seeing that this work of his later years is completed, but the men who could do the work are few in number.

KING ROBERT THE BRUCE (*S.H.R.* xiii. 307). With regard to the absence of King Robert the Bruce from his infant son's marriage at Berwick on Sunday, 17th July, 1328, the statement that 'the King's presence at the wedding... *must be presumed*' is open to question. The charter to Richard Wyteworde, monk of Coldingham, granted at Berwick on Saturday, 16th July, is not a conclusive proof of Bruce's presence at the wedding within the church of the Holy Trinity on the 17th. As implementing the *Treaty of Northampton*, this wedding was the crowning diplomatic triumph of Bruce's reign, and Barbour, writing his *Brus* within half a century of the event, and with access to many of the guests, could have had small inducement, either as patriot or artist, to ring the changes, as he does, upon the King's absence. Pending further proof, the balance of evidence seems in favour of the statement of 'the rarely erring Barbour,' that a *malaise*, presumably incipient leprosy, the beginning of Bruce's *lang seknes*, which ended in death early in the following June,

. . . 'tuk him sa sar

That he on na wis micht be thar.'

As to the Coldingham charter, among its eleven witnesses occur the names of Randolph and Douglas, appointed to act as Bruce's deputies along with his Chancellor, Walter de Twynham, Abbot of Arbroath. Is it not conceivable that the Royal seal may have been affixed in the King's absence?

JAMES F. LEISHMAN.

*Incomplete*





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