

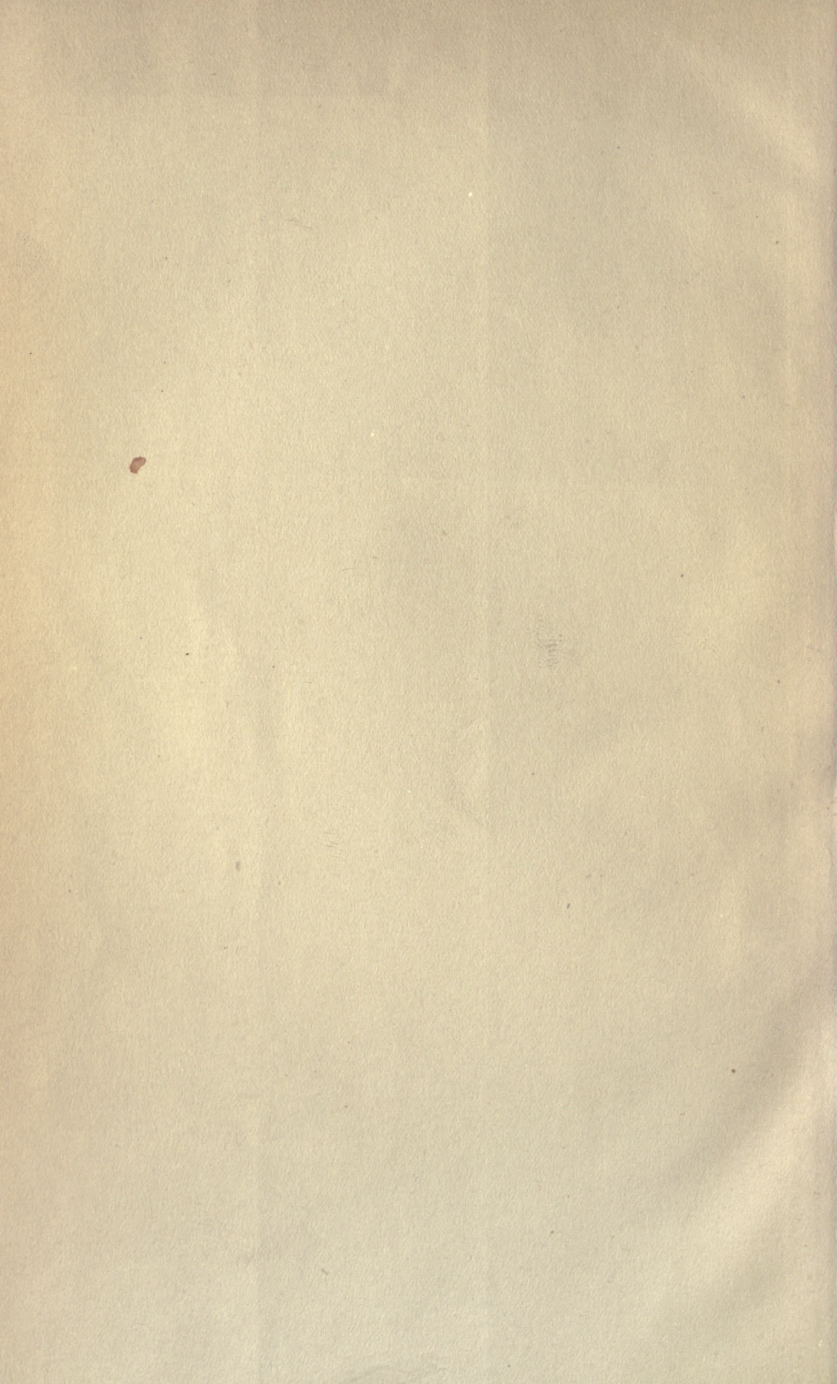
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The Influence of the Reformation on Social and Cultured Life in Scotland

IN Scotland, as in other countries, reformation was needed, urgently needed, in the sixteenth century. The church was enormously wealthy ; but very many of the multitudinous clergy were shamefully ignorant, hopelessly corrupt, and oppressors of the poor. I have no desire to deny or to minimise the good that was in the pre-Reformation Church of Scotland in its best days ; but before the middle of the sixteenth century the soul had gone out of it, the salt had lost its savour. To be convinced of this it is not necessary to dip into the poems of Dunbar or Lyndsay, or into the writings of the Reformers. In 1549, the Provincial Council of the church traced the many abuses, dissensions, and occasions of heresy mainly to 'corruption of morals, and profane lewdness of life in churchmen of almost all ranks, together with crass ignorance of literature and of all the liberal arts.'¹

As those who are eager for reform, either in Church or State, are prone to exaggerate the evils which they desire to eradicate, it might be thought that some allowance should be made in accepting as literally true that admission, and others of the pre-Reformation church, concerning the depravity and ignorance of the clergy. The most striking of those statutes, however, were enacted when the head of the Scottish hierarchy was a notorious sinner, and therefore unlikely to allow the blemishes

¹ Patrick's *Statutes of the Scottish Church*, p. 84.

of his church to be magnified in its official utterances. Moreover, the deplorable laxity of morals which pervaded the ranks of the clergy, from the cardinal to the curate, are writ large in the national records of the kingdom. But, bad as the pre-Reformation clergy of Scotland were, they were no worse than those of other countries, and the vilest of them were not so vile as some of the popes.

There must have been a considerable number of really good men in the priesthood, even in the worst period of the church, men of blameless life who tried to lead their flocks into the paths of righteousness. To their influence was doubtless largely due the adoption of the reforming statutes of the later provincial councils. When the great upheaval came, many if not most of those men threw in their lot with the Reformers, thoroughly convinced that the old church was too far gone to be either purified or vitalised. Even in the last half-century before the crash, there had been men of conspicuous virtue and zeal in the episcopal office. It would be unjust, as well as ungenerous, to forget such bishops as Elphinstone of Aberdeen and Reid of Orkney.

Not the least melancholy of the many melancholy features of that church was the aversion of many of its clergy to be reformed. Of this aversion there was a notable illustration in 1532. The Father-abbot and General Chapter of the Premonstratensian Order commissioned David, Abbot of Souleseat in Galloway, to go to the abbeys and priories of that order in Scotland, and to 'reforme the abbotis, prioris, and religious men, placis, kirkis, and landis, spiritually and temporaly, in hede and in memberis.' Abbot David may have had all the zeal and courage of Abbot Samson, but something more than these virtues was required. Dreading that, unless he had regal support, 'the saidis abbottis, prioris, and religious personis wald nocht obey, bot, be the contrary, resist and withstand to the sammyne,' he applied to the King, and James, although his own morals were far from immaculate, commanded his lieutenants, justices, wardens, sheriffs, earls, barons, stewarts, crowners, bailies of abbeys, and all his other lieges whom it concerned, to give Abbot David 'all help, supple, mantenance, and assistance,' and to concur with him so that he should be obeyed.¹

In 1558 the Protestants petitioned the Queen Regent that the lives of the clergy should be so reformed that, neither their ministry nor message should be contemned; and that they should

¹ *Register of the Privy Seal of Scotland*, ix. 131.

be compelled either to demit office, or to discharge their duties, so that 'the grave and godlie face of the Primitive Church' might be brought back, ignorance expelled, and true doctrine and good morals appear again.¹ The Reformed conception of the doctrine, worship, and government of the Primitive Church may be respectively found in the *Confession of Faith* of 1560, the *Book of Common Order*, and the *First Book of Discipline*.

In the *Confession* the distinctive doctrines of the Church of Rome are not only thrown overboard, but that church is described as 'the horrible harlot, the Kirk malignant.' The *Book of Common Order*, frequently called Knox's *Liturgy*, was practically a directory as its prayers were optional. It contains no litany, no responses, no burial service. It enjoined congregational singing, but did not once mention instrumental music; and, in its form of worship, nothing deemed meretricious was retained. The *First Book of Discipline* set forth the object of the Reformers, and the means by which they hoped to attain it. Briefly, the object was to repress vice, to encourage virtue, and to make the nation intelligent and prosperous. The chief means in view were faithful preaching, impartial discipline, and universal education.

Although, for lack of suitable men and lack of funds, the Reformed Church could not put these means fully into operation, they nevertheless had an important influence on the social and cultured life of Scotland, as well as on its morality and religion. As the present Historiographer Royal for Scotland has said: 'A community, deeply moved by the teaching of Knox and his fellow-reformers, passed under a discipline which was essentially opposed to slavish dependence on the will of a superior.' And 'to the Reformation . . . we must ascribe the immense service of awakening the Scottish nation to a conscious life and a sense of its own destinies.'²

Two years before our Parliament overthrew the Church of Rome, Knox addressed a letter to the *commonalty* of Scotland. In the course of it he said: 'Neither would I that ye should esteme the reformation and care of religion lesse to appertain to you, because ye are no kinges, rulers, judges, nobils, nor in auctoritie. Beloved brethren, ye are Goddes creatures, created and formed to his own image and similitude, for whose redemption was shed the most pretious blood of the onlie beloved Sonne of God. . . . Albeit

¹ Laing's *Knox*, i. 305, 306.

² Hume Brown's *Scotland in the Time of Queen Mary*, pp. 181, 208.

God hath put and ordered distinction and difference betwixt the King and subjects, betwixt the rulers and the commune people, in the regiment [*i.e.* the government] and administration of civile policies, yet in the hope of the life to come He hath made all equall.¹ In the very heat of the Reformation struggle, it is declared in one of the papers, which may safely be ascribed to Knox, that the votes and consent of the people are to be required in all great and weighty matters of the commonwealth.² This doctrine must have sounded dangerously democratic, even revolutionary, in those days.

On one occasion, when James V. was surrounded by a number of the nobles, and a great company of bishops and abbots, Sir David Lyndsay, it is said, humbly saluting the King, looked as if he intended to make an important request. James asked what he would have. Sir, he answered, I have long served your grace, and expect to be rewarded as others are. Now, your master-tailor is dead, and I desire your grace to bestow this benefice upon me. Why would you be my tailor? demanded the King, you can neither shape nor sew. That matters not, replied Lyndsay, you have given bishoprics and benefices to many standing here, though they can neither preach nor teach.³

The Lyon King's rebuke was not unmerited. The Provincial Council of 1551-52 confessed 'that the inferior clergy of this realm and the prelates have not, for the most part, attained such proficiency in the knowledge of the Holy Scriptures as to be able, by their own efforts, rightly to instruct the people in the Catholic faith and other things necessary to salvation, or to convert the erring.'⁴ It was because of this incapacity that the manual, known as Archbishop Hamilton's *Catechism*, was prepared, which was to be regularly and systematically read to the people by the rectors, vicars or curates 'vested in surplice and stole.' These ecclesiastical garments apparently possessed no special virtue, for although the *Catechism* was in their mother-tongue, the rectors, vicars, and curates were enjoined to prepare themselves with all zeal and assiduity for reading in public, 'by constant, frequent, and daily rehearsal of the lesson to be read, lest they expose themselves to the ridicule of their hearers, when, through want of preparation, they stammer and stumble in mid-course of reading.'⁵ As we have

¹ Laing's *Knox*, iv. 526, 527.

² *Ibid.* i. 411.

³ Laing's *Lyndsay*, iii. 230.

⁴ Patrick's *Statutes*, pp. 143, 144.

⁵ *Ibid.* p. 146.

already seen, too many of the pre-Reformation clergy were also handicapped by their morals. Men living in open sin could not be effective preachers of ethics.

Joseph Robertson computed that, in the city of Aberdeen alone, with a population not exceeding four thousand, there were between 110 and 150 endowed clergy of one class or another.¹ In that matter, as in so many others, the Reformed Church was at the other extreme. On the roll of the first General Assembly only forty-two names were entered, and of these only six are marked as ministers.² That was in 1560. As a temporary expedient, superintendents and readers were appointed. So late as 1596 there were still above four hundred parish churches 'destitute of the ministrie of the Word,' over and above those of Argyle and the Isles.³ In the *First Book of Discipline*, it was affirmed that it was as well, in some cases even better, to have no minister than to have an incompetent one; and it was also declared that true ministers were made, not by the clipping of crowns, the crossing of fingers, the blowing of a bishop or the laying on of his hands; but by the Spirit of God inwardly moving the heart to seek Christ's glory and the good of His Church, and by the nomination of the people, examination by the learned, and public admission.⁴

In morals the Reformers set a high standard for the people as well as for the preachers, and some writers have regarded the methods by which they tried to enforce it as little else than an organised tyranny over the social life of the country.

Matters of discipline were dealt with, in the first place, by the kirk-session. After presbyteries were established, difficult cases were referred to them. As there was no auricular confession, only sins that became known otherwise were dealt with. Whatever may have been the practice in much later times, there can be no doubt that, for a considerable period, the discipline enforced was as impartial as it was rigorous. In the light of the twentieth century, some of the punishments inflicted on penitent sinners seem harsh enough, some ludicrous. Several of them, however, were in use in very early times, and public satisfaction was not confined to the Early Church or the Reformed Churches. The Council of Trent decreed, in 1563, that, when anyone scandalised

¹ *History of the Reformation in Aberdeen*, pp. 7, 8.

² *Booke of the Universall Kirk*, i. 3, 4.

³ *Ibid.* iii. 876.

⁴ *Dunlop's Confessions*, 1722, ii. 530, 603.

others by transgressing publicly, 'upon him there must needs be publicly imposed a penance fitting the measure of his guilt, that so those whom, by his example, he has allured to evil manners, he may bring back to an upright life by the testimony of his amendment.' But, by that Council, power was given to the bishop to commute this kind of public penance into one that was secret when he deemed that to be more expedient.¹ The Reformed Church of Scotland did not adopt the pre-Reformation punishment of making male and female penitents march at the head of a procession in church, clad in nothing save their shirts.²

In pre-Reformation days, excommunication, or cursing as it was more appropriately and commonly called, was not only inflicted for transgressions of the moral law, but was utilised for teind-collecting, debt-collecting, and other purposes. The greater excommunication was couched in dreadful language, and, altogether apart from the civil penalties attached, must have struck terror into the hearts of those who believed in the spiritual power of the church. The Reformers did not abolish or give up excommunication, but tried to bring it into conformity with its scriptural basis in character, method, and end.

With his usual assurance, Buckle has said : 'According to the Presbyterian polity, which reached its height in the seventeenth century, the clergyman of the parish selected a certain number of laymen on whom he could depend, and who, under the name of elders, were his councillors, or rather the ministers of his authority. They, when assembled together, formed what was called the kirk-session, and this little court, which enforced the decisions uttered in the pulpit, was so supported by the superstitious reverence of the people, that it was far more powerful than any civil tribunal. By its aid the minister became supreme. For, whoever presumed to disobey him was excommunicated, was deprived of his property, and was believed to have incurred the penalty of eternal perdition.'³

This statement is utterly vitiated by its fundamental errors. The selection of the elders does not, according to the Presbyterian polity, lie with the minister. Nor are the elders his mere councillors, still less are they his tools, and people were not excommuni-

¹ Buckley's *Canons and Decrees of the Council of Trent*, p. 195.

² *Extracts from the Records of the Burgh of Stirling, 1519-1666*, p. 43 ; *Extracts from the Council Register of Aberdeen, 1398-1570*, p. 212.

³ *History of Civilization in England, 1873*, iii. 206, 207.

cated for simply disobeying him. So far were the excommunicated from being consigned to eternal perdition, that the prayer embodying the sentence contains an earnest petition that He, who came to save that which was lost, would look in mercy upon him now cast out, and so pierce his heart that he might be converted and again received into the bosom of the church. Moreover, in 1646, when, in the words of Buckle, the Presbyterian polity had 'reached its height,' Bishop Maxwell heaped contempt upon the kirk-session, because its power of jurisdiction lay radically and equally in all its members,¹ the minister, though moderator, having neither a casting nor a negative vote; and because it had not the power of imposing the greater excommunication, that being reserved for the presbytery.² It was those who remained under that sentence for forty days, and refused to be reconciled to the church and to submit to discipline, that Parliament, in January, 1572-73, resolved should be subjected to civil pains similar to those inflicted in the reign of James V. upon those who sustained 'the proces of cursing' beyond forty days. This and all other 'Acts enioyneing civil paines upon sentences of excommunication' were abolished in 1690.³

When the Latin Church found, in the case of kings or governors, that excommunication would not have the desired effect, it had recourse to interdict, as in the days of William the Lion, when, for his independence or obstinacy or perversity, not only his living subjects were deprived of the sacraments, but mass could not be said for the suffering souls in purgatory.⁴ And again, in the childhood of Queen Mary, when Cardinal Beaton was imprisoned, 'the mess and all uther devine service ceased in

¹ In the margin this point is put thus: 'The jurisdiction spirituall is radically in the lay-elders.'

² *The Burden of Issachar*, 1646, pp. 1, 2.—Presbyteries were not erected before 1581. Baillie averred that the greater excommunication was rarely inflicted in Scotland. 'I have lived,' he said, 'in one of the greatest cities of that land, and for forty-seven years, even from my birth to this day, that censure to my knowledge or hearing was never executed there in my days but twice; first upon one obstinate and very prophane Papist, and next on some horrible scandalous prelates' (*Review of Bramhall's Faire Warning*, 1649, p. 48). The kirk-session retained the power of the lesser excommunication, that is, of debarring from the sacraments. In 1669, Bishop Honeyman would not admit that discipline had been relaxed under Episcopacy. 'Do not church-meetings search after and punish scandals as formerly?' he petulantly asks (*Survey of Naphtali*, ii. 228).

³ *Acts of the Parliament of Scotland*, iii. 76*; ix. 199.

⁴ Hailes' *Annals of Scotland*, 1776, pp. 123, 125.

Edinburgh,' and all other parts of the diocese of St. Andrews, if not over the whole of Scotland.¹ Simple and devout Romanists felt this to be a terrible punishment; but nearly all those on whom it was inflicted had done nothing whatever to deserve it. These general censures, we are told, are not launched now, 'lest, if the contumacious were to condemn them with impunity, and so gain an apparent triumph, the faith of the common people, already weak and assailed from many quarters, might be still more shaken and impaired.'² And so, for relief from this lash, the lambs of the Roman obedience are indebted, not to the greater compassion of their chief shepherd, but to the defiant contumacy of his wayward sheep, if not to Protestant contempt.

Social life can have no stability where the bond of marriage is insecure or uncertain. Theoretically, in the Church of Rome, a marriage which has been consummated can only be dissolved by death; but that church, by unwarrantably extending the Levitical prohibitions against inter-marriage, created so many diriment impediments by which a marriage might afterwards be declared to have been null from the beginning, that, as the *First Book of Discipline* put it, 'the blessed ordinance of God' had been so condemned and weakened that the persons conjoined could never be assured of continuance therein, if the bishops and prelates list to dissolve the same.³ Barely a dozen years before the Reformation, an ecclesiastical judge, at the instance of a married woman, declared her marriage to have been null from the beginning, because her father had been godfather to her husband when he was baptised.⁴ That was canon law. In 1567, Parliament gave effect to the views of the Reformers by setting aside the unwarranted prohibitions.⁵

The rapacity of the pre-Reformation clergy was insatiable. Principal Lee and Dr. M'Crie, two capable Scottish historians, calculated that latterly about one-half of the wealth of the kingdom belonged to the church.⁶ Their calculation is borne out by a letter, which Cardinal Sermoneta addressed to the Pope in 1556. And in that letter it is stated that, although the clergy of Scotland far surpassed 'the laity in the wealth and abundance of

¹ Lesley's *History*, 1830, p. 171; *Diurnal of Occurrents*, p. 26.

² Addis and Arnold's *Catholic Dictionary*, 1884, p. 454.

³ Laing's *Knox*, ii. 245.

⁴ *Liber Officialis Sancti Andree*, p. 101.

⁵ *Acts of Parliament*, iii. 26.

⁶ Lee's *Lectures*, i. 41; M'Crie's *Knox*, 1855, p. 7.

their resources,' nevertheless, many of them, even prelates and those confirmed in church dignities, were 'not ashamed to busy themselves hiring farms and estates,' and were 'much occupied in trafficking with cattle, fish, hides and the like, to the dishonour of the clerical order, and even to the indignation and scandal of seculars.'¹ Trafficking in such circumstances was bad enough, but there was worse—the exaction of mortuary dues. The origin of these is not quite clear. It has been suggested that, to begin with, they were given in lieu of tithes and oblations, which the deceased, 'through ignorance or carelessness,' had failed to pay while alive.² In course of time, they were regarded by the clergy, not as gifts, but as dues, and were exacted as such in the thirteenth century, although they were still known in the sixteenth as corpse-presents. The wealthier the church became the more rigorously these dues seem to have been exacted. To the poor such an exaction was particularly galling, and Sir David Lyndsay, who scathingly exposed the merciless cupidity, alleges that the clergy detained the corpse at the kirk-style until sufficient security was given that the dues would be paid.³ James the Fifth tried, but tried in vain, to get the church to abolish the corpse-present.⁴ Sixteen years after his death, a Provincial Council decreed that it should be reduced for the poor, and abolished for the very poor.⁵

The same council also decreed that, in future the vicars should arrange in January with their parishioners, regarding 'the smaller teinds and certain other offerings,' so that at Pasch, or Easter, they might not 'seem to sell that most sacred sacrament . . . to the great scandal of Christians, in the eyes of the rude rabble at least, and indeed of every one who has been at church.'⁶

The partial surrender came too late. A month and a day after the council rose, the storm of the Reformation burst at Perth. The Reformed Church, of course, never claimed corpse-presents or Easter offerings. And the compilers of the *First Book of Discipline* condemned the cruelty of 'sum gentilmen,' who, they had heard, required from their tenants 'whatsoever before thay

¹ Pollen's *Papal Negotiations*, pp. 528, 530.

² Dowden's *Medieval Church in Scotland*, p. 190.

³ Laing's *Lyndsay*, ii. 102, 103; iii. 111, 112.

⁴ Robertson's *Statuta*, i. pp. cxxxvi, cxxxvii.

⁵ Patrick's *Statutes*, pp. 178, 179.

⁶ Patrick's *Statutes*, pp. 185, 186.

payit to the church.' The lords were warned that, if they permitted such cruelty, neither they nor the extortioners would escape God's heavy and fearful judgments. The lords agreed that such exactions should be 'clene discharged,' and never taken in time coming.¹

The compilers of the *First Book of Discipline* were not only anxious to relieve the poor labourers and cultivators of the ground, whose lives had been embittered by the old clergy, but pled pathetically for the widows, the fatherless, the aged, the impotent, the lame, and such honest persons as had fallen into decay and poverty. Sturdy beggars, on the other hand, they declared, ought to be compelled to work.² The laudable scheme for the relief of the deserving poor was inoperative, through the misappropriation of the teinds by the nobles; but the Reformed Church did its utmost to counteract that by pecuniary contributions and otherwise.

The doctrine of the brotherhood of man is assumed and emphasised in the *First Book of Discipline*. That book, it should be borne in mind, was drawn up in May, 1560, three months before the papal authority was cast off by Parliament, and was addressed to 'the Great Counsell of Scotland.' It reminds those rulers that the down-trodden 'lauboraris and manuraris [*i.e.* cultivators] of the ground' were their poor brethren.³ It declares that no father, whatever his rank or condition might be, should use his children according to his own fancy, but should be compelled to bring them up in learning and virtue;⁴ that to discipline all ranks within the realm must be subject, as well the rulers as the ruled, as well the preachers as the poorest in the church.⁵ And one of its objections to funeral sermons is, that ministers would either be mainly occupied in preaching such sermons, or would have respect to persons, preaching at the burial of the rich and honourable and keeping silence when the poor or despised departed, which with a safe conscience they could not do, seeing that before God there is no respect of persons, 'and that thair ministerie apperteaneth to all alike.'⁶

The Scottish Reformers have been denounced as gloomy and fanatical bigots, who frowned upon all innocent amusements.

¹ Laing's *Knox*, ii. 221, 222.

² *Ibid.* ii. 200, 201.

³ Laing's *Knox*, ii. 221.

⁴ Laing's *Knox*, ii. 211.

⁵ *Ibid.* ii. 233.

⁶ *Ibid.* ii. 251.

This notion, far from truthful, has been thus expressed by Professor Aytoun :

‘ ’Twas sin to smile, ’twas sin to laugh,
’Twas sin to sport or play.’

In support of his opinion, he cited the Act of Parliament forbidding the celebration of Robin Hood and Little John, the Abbot of Unreason, and the Queen of May. ‘What a genial age,’ he exclaimed, ‘it must have been when poor maid Marian was liable to “handling” and the pillory for the heinous offence of singing under the summer trees.’¹ In penning these words the professor of rhetoric overlooked the fact that this was a pre-Reformation Act of Parliament, having been passed during the regency of Mary of Guise, almost three years before Walter Mill was burned for heresy.²

The greatest of the Scottish Reformers had little leisure, but he occasionally indulged in ‘recreation and pastyme by exercise of the body.’³ He had a keen sense of humour, and it was so irrepressible that, to use his own words, he sometimes interlaced merriness with earnest matters, as in his racy account of the battle of the cross-bearers in Glasgow Cathedral.⁴

Although the authors of the *First Book of Discipline* judged it unseemly and intolerable that ministers should be boarded in common ale-houses or taverns,⁵ they were so far from insisting on total abstinence that they recommended that every minister should have yearly at least forty bolls of meal and twenty-six bolls of malt to keep his house in bread and drink.⁶ When John Durie and Archibald Stewart, not knowing how ill Knox was, called to see him nine days before he died, he dined with them, and causing a hogshead of wine which was in the cellar to be pierced, he willed the said Archibald to send for it while it lasted, for he himself would not tarry until it was done.⁷ When Archbishop Ussher

¹ *Bothwell: a Poem*, 1857, pp. 224, 225.

² *Acts of Parliament*, ii. 500.

³ Laing’s *Knox*, iii. 271.

⁴ *Ibid.* i. 145.

⁵ Laing’s *Knox*, ii. 236.

⁶ *Ibid.* ii. 198.—Some copies read *twenty bolls* of malt (*Dunlop’s Confessions*, ii. 534). Even twenty seems to be a liberal allowance; but it ought to be borne in mind that, in those days, tea, coffee, and cocoa were unknown in Scotland. In 1644, it was reckoned that from a boll of malt 15 gallons of ale or 20 of beer were obtained (*Acts of Parliament*, vi. part i. p. 243).

⁷ Richard Bannatyne’s *Memoriales*, p. 283.

visited Samuel Rutherford at Anwoth, the latter is said to have 'called for a drink, and made him welcome as a stranger.'¹

In his boyhood, James Melville was boarded with William Gray, the minister of Logie-Montrose, who not only taught him Latin and French and the Catechism, but also archery, golf, fencing, running, leaping, swimming, and wrestling.² Melville greatly delighted in music, and, when a student at St. Andrews, learned the gamut, plain-song, and many of the trebles of the Psalms. Instrumental music he loved passing well. Two or three of his fellow-students played on the virginals, one on the lute and githorn; and his regent had the pinalds. There, too, Melville had bow and arrows, club and balls; but not a purse for ketch-peel or tavern. While he was a regent in Glasgow University, he had far greater musical opportunities than ever, in the house of a gentleman who entertained most expert singers and players.³ Melville's father-in-law, John Durie, the renowned minister of Leith, was devoted to the corslet and hagbut.⁴ William Guthrie, the Covenanting minister of Fenwick in the middle of the seventeenth century, and the author of a book which has gone through nearly eighty editions, indulged in fishing, fowling, and curling, and had 'great pleasure in musick.'⁵

Knox said that, albeit he found no praise of dancing, either in the Scriptures or in profane writers, he did not utterly condemn it, providing those who used that exercise did not neglect their principal vocation for it, and did not indulge in it to displease God's people.⁶ Lady Murray, the elder daughter of George Baillie of Jerviswood, a Presbyterian of Covenanting stock, says that 'mirth and good humour and particularly dancing had always been one characteristic of the family.' She tells that, after her grandfather had reached four score, and his limbs were so weak that he could not walk down stairs, he desired to be carried down to the room where his children and grandchildren were dancing, that he might see them and beat time with his foot. He bade them dance as long as they could, as it was

¹ Wodrow's *Analecta*, iii. 133.

² Melville's *Autobiography and Diary*, Wodrow Society, pp. 16, 17.

³ *Ibid.* pp. 29, 30, 79.

⁴ Melville's *Autobiography and Diary*, p. 32.

⁵ *The Christian's Great Interest*, 1724, p. xxxi.

⁶ Laing's *Knox*, ii. 333.

the best medicine he knew, exercising the body and cheering the mind.¹

The earliest *Register of St. Andrews Kirk-Session*, which covers the first forty years after the Reformation, shows that, while cards and dice were uncompromisingly opposed, such games as golfing, football, and throwing the hammer, were only objected to when indulged in on the Lord's day, or during the time of preaching on other days. Even the douce elders found golf and other outdoor pastimes so alluring that they neglected the meetings of the kirk-session.² In two of its chapters (the 13th and 18th), Archbishop Hamilton's *Catechism* had condemned dancing. In giving instructions for the proper observance of the Lord's day, it urged the people to forbear vice and sin on that day and all other days; but especially on that day to 'eschew all ydilnes, vaine talking, bakbyting, sclandering, blasphematioun of the name of God, and contentioun, and also all occasionis of syn, as dansyng, unnecessarie drinking, wantones, . . . carting and dysing, and specially carreling and wanton synging in the kirk, and all uthir vice quhilk commonly hes bein maist usit on the Sunday.'³

So early as 1424, Parliament had forbidden football, without assigning any reason; but it was in order to encourage wapin-schaws, for the defence of the kingdom, that both football and golf were condemned in 1457-58 and in 1471; and all other such 'unprofitable sports' in 1491.⁴

In the Reformation struggle, monasteries were ruthlessly wrecked, some churches were cast down, and many priceless works of art were destroyed. The extent of the damage, however, has been greatly exaggerated; and, moreover, much of it was due to the English in their invasions between 1544

¹ *Memoirs of George Baillie of Jerviswood and of Lady Grisell Baillie*, 1822, pp. 76, 77.—By the *Second Book of Discipline*, a minister or elder might be deposed for dancing (*Booke of the Universall Kirk*, ii. 499). In 1649, the General Assembly 'finding the scandall and abuse that arises thorow promiscuous dancing, do, therefore, inhibit and discharge the same,' and, in 1701, the General Assembly revived that Act (*Acts of the General Assembly*, Church Law Society edition, pp. 201, 311).

² *Register of St. Andrews Kirk-Session*, ii. p. xciv.

³ Hamilton's *Catechism*, 1884, p. 68.

⁴ *Acts of Parliament*, ii. 5, 48, 100, 226.—'Carding and dyceing and horse races' were placed under restrictions in 1621 (*Ibid.* iv. 613); and that Act was not repealed by the Statute Law Revision (Scotland) Act of 1906.

and 1548;¹ and on the eve of the Reformation it was acknowledged that many of the ecclesiastical buildings were falling into decay.²

Joseph Robertson has said : 'There is no reason to suppose that the number of stately parish churches in Scotland was ever considerable. . . . The abbeys possessed vast numbers of churches in all the corners of the land, and they grudged every penny of tithe which was diverted from their treasury to the uses of the parish. Even where the benefice continued free, and the land-owners were resident, the poverty which prevailed from the beginning of the fourteenth century must in general have prevented the erection of any very ambitious edifice.'³

It is quite certain from the *First Book of Discipline*, and from the Acts of the General Assembly, that the Reformers, so far from wishing churches as such to be destroyed, were anxious to have them repaired for the ease and comfort of the worshippers ; and the repeated remonstrances of the General Assembly, doubtless, saved a goodly number from untimely decay and worse. When Petrie wrote, in 1662, so many of the old churches were still standing that he maintained that no necessary one had been thrown down at the Reformation.⁴

Almost every one of our cathedrals was in use after the Reformation, and no confirmation has been found for Spottiswoode's story of a proposal to demolish Glasgow Cathedral, and to build several little churches with the materials. Father Innes, who has been surpassed in historical and antiquarian knowledge by none of his Scottish co-religionists, declared that 'the Catholic religion . . . was more strictly interdicted by new laws in Scotland than in any other country, and these laws more rigorously put in execution in Glasgow than in any other city of the kingdom.'⁵ Yet in ultra-Protestant Glasgow the Cathedral

¹ *Hamilton Papers*, ii. 369 ; *Bain's Calendar*, i. 19, 20, 116, 136 ; *Stevenson's Selections*, Maitland Club, pp. 4, 5 ; *Hayne's State Papers*, pp. 51, 54 ; *State Papers, Henry the Eighth*, v. 513-515, 518, 522 ; *Maxwell's Old Dundee prior to the Reformation*, p. 111.

² *Pollen's Papal Negotiations*, pp. 529, 530 ; *Patrick's Statutes*, p. 168.

³ *Scottish Abbeys and Cathedrals*, 1891, p. 84.

⁴ *Compendious History*, ii. 216.—Principal Baillie, who was born in 1602, had not heard of more than three or four churches in all Scotland having been thrown down (*Historical Vindication*, 1646, p. 40), but his information was no doubt defective.

⁵ *Miscellany of Spalding Club*, ii. 369.

is entire. Hill Burton was right in saying 'the Cathedral of St. Mungo owed its preservation to the wealth and liberality of the community of Glasgow,' and that 'the other churches which rivalled or excelled it—Elgin, St. Andrews, the Abbey Church of Arbroath and others—fell to pieces through poverty.'¹ I have little doubt that, if the city of St. Andrews had not possessed such a huge parish church the cathedral would have been preserved from decay, despite its serious structural weaknesses.

Only those who have had to do practically with buildings fully realise how much constant care and attention is required to keep them in good condition, and how speedily neglect spells havoc. Pugin was convinced that, if the old builders had possessed the modern means of obtaining and working iron, they would have availed themselves of it to a great extent. 'The want of proper ties,' he says, 'has occasioned most serious settlements, and even the destruction of some of the finest Christian edifices—the very weight and massiveness of the work causing it frequently to settle and give. And there is scarcely a tower of great dimensions erected during the middle ages, which it has not been necessary to tie together by iron chains and key wedges at a subsequent period. . . . In a cruciform church, . . . the lateral thrust of nave, transept, and choir arches, both of aisles and triforium, rest against the four great central pillars, which are only enabled to resist the pressure by the weight of the great tower resting on them. But this in many cases was insufficient, and, when they began to give, has hastened their destruction. Hence the inverted arches at Wells, and the screens at Salisbury and Canterbury, which have been added long subsequently to the erection of the original buildings, to confine the pillars from giving inwards. At Amiens they are tied by immense chains extending the whole length of the nave and choir.'²

Art is not everything. It can neither purify the heart nor cleanse the affections; and even its refining influence makes no impression on some. Men of the Prior Patrick Hepburn type could live in noble buildings, outwardly worship in magnificent churches with beautiful music and a most ornate ritual, and yet remain brutal in feeling, coarse in expression, depraved in life.

To art in itself the Reformers had no antipathy; but when they realised that certain classes of artistic objects, originally

¹ *History of Scotland*, 1876, vi. 222.

² *Apology for the Revival of Christian Architecture in England*, 1843, pp. 40, 41.

intended to promote the worship of the Most High, had become objects of worship, or were constantly associated with idolatry, they determined to make an end of them. In their abhorrence of altars, crucifixes, and images they were by no means singular. According to the *Anglican Homilies*, through the relative cultus of images, the whole of Christendom has been 'drowned in abominable idolatry . . . by the space of eight hundred years and more.'¹

The simplicity of worship adopted in Scotland at the Reformation was much less likely than a hyper-sensuous service to transfer the worshipper's thoughts from the object to the accessories. That worship may be perverted is only too certain. Writing from Rome in 1864, the unimpassioned Dean Alford said: 'Rome is essentially a pagan city. Her churches, numerous as the days of the year, rise everywhere around you. Bells are continually going; the commemoration of saints and martyrs is endless. Yet, with very rare exceptions indeed, the *worship of the people* in those churches has nothing in common with Christianity. . . . The Jewish Church had fallen far in the time of our Lord's ministry on earth. But the Romish Church has fallen further now. . . . Idolatry, gross as that of Nineveh or Greece, and grosser than that of Imperial Rome, has entered in and repossessed her people.'²

The order issued by three of the reforming lords for purifying Dunkeld Cathedral, in 1560, expressly enjoins those to whom the work was committed, to take down the images and to burn them openly in the burying-ground, to cast down the altars, and to 'purge the kyrk of all kynd of monuments of idolatrye'; but to take good heed that no damage was done to desks, doors, or windows.³ Similar orders were issued for the Glasgow churches.⁴ There is too much reason to believe that some of those who carried out such orders did, wilfully or otherwise, interpret widely the phrase 'all kynd of monuments of idolatrye'; and so artistic work, perfectly harmless even from the most rigidly Protestant point of view, suffered in consequence.

Despite the iconoclastic zeal of that period, and of the renewed outburst under the Covenanters in 1640, some of the detested

¹ *Homilies appointed to be read in churches in the time of Queen Elizabeth*, 1844, p. 216.

² Alford's *Letters from Abroad*, 1865, pp. 73, 74.

³ *Statistical Account of Scotland*, 1798, xx, 422.

⁴ Forbes' *Ninian and Kentigern*, 1874, pp. ciii, civ.

objects escaped observation. That the Covenanters were not moved by a spirit of indiscriminating zeal is proved, for example, by the decision of Kirkcaldy presbytery in 1644 :

‘Anent ane questioun, whidder it be lawful or not to demolishe the steiple of Leslie (whilk is ruinous) for reparation of the kirk whilk is also ruinous and newlie to be repaired : anser, not, bot let them repair the steiple also, seing it is ane old monument.’¹

In Dundee at the Reformation the ecclesiastical vestments were sold by auction.² In several towns they were burned. Of the Aberdeen ones that fell into Queen Mary’s hands, three of the fairest were presented by her to Bothwell ; and others were cut down in her presence to make a bed for the infant prince.³ To the mass-books no mercy was shown. They were relentlessly committed to the flames wherever they could be seized ;⁴ and other mss., which would have been highly prized now, shared the same fate. Judging from what has survived, many art treasures must have perished in the fire. While keenly regretting the loss of these books, it seems to me that it would be unfair to lay the blame entirely, or even chiefly, on those who burned them. The church of which they were members had been supreme in the land for full four centuries, and had not only outlived its usefulness, but, through its corruption and tyranny, had turned the respect of the people into contempt, their affection into hatred—a hatred so bitter that it found vent on the objects which they and their forefathers had long venerated. The Reformers did not know, but, in some places at least, they were only paying back the Roman Catholics in their own coin. The twelfth-century builders of St. Andrews Cathedral smashed up beautiful Celtic cross-slabs, in order to use them as common rubble. Their action from every point of view was deplorable. It cannot be urged on their behalf that they regarded these monuments as idolatrous. Nay, one would have thought that the symbol of the cross, which they professed to hold sacred, would have deterred them from such vandalism, prompted, apparently, by ill-will to that church which they were anxious

¹ Stevenson’s *Presbytrie Booke of Kirkcaldie*, 1900, p. 271.

² Maxwell’s *Old Dundee prior to the Reformation*, pp. 171, 172.

³ Robertson’s *Inventaires de la Royne Descosse*, p. 53.

⁴ *Ibid.* p. 187 ; Keith’s *History*, iii. 8 ; *Diurnal of Occurrents*, p. 340. The Reformers may have kept one or two mass-books for controversial purposes. They promptly produced one in their discussion with the Principal of King’s College (Laing’s *Knox*, ii. 139, 140).

to supplant. There is every reason to believe that these Celtic slabs were native workmanship, whereas much of what was destroyed by the Reformers was probably foreign.

Many valuables escaped destruction by timely removal. James Betoun, Archbishop of Glasgow, and one of Queen Mary's most faithful friends, carried over to France 'a great mass of the ancient muniments and registers of his diocese, together with much of the plate and jewels of his church.'¹ That Flemish masterpiece of fifteenth-century painting, the diptych of Trinity Kirk, Edinburgh, was in all likelihood saved by being carried to England with other plunder by Hertford in 1544.

The number of books destroyed at the Reformation has, I think, like the number of churches, been greatly exaggerated. Arbroath Abbey was one of the largest, most important, and wealthiest of the Scottish monasteries; and yet in 1517, nearly seventy years after the invention of printing, its library contained little more than two hundred volumes.²

Sir Walter Scott cannot be regarded as a Presbyterian fanatic, yet in his opinion, 'though many fine buildings were destroyed in Scotland, in the first fury of the Reformation, it is better that the country should have lost these ornaments, than that they should have been preserved entire, with the retention of the corrupt and superstitious doctrines which had been taught in them.'³ As for England, Pugin, who was an ardent Roman Catholic, declared that, 'after the most patient investigation,' he had been 'compelled to adopt the conclusion, that the most fearful acts of destruction and spoliation were committed by men, who had not only been educated in the ancient faith, but who were contented externally to profess its doctrines.'⁴ And he mentions that during the eighteenth century 'the Catholic chapter of Amiens Cathedral removed much of the magnificent glass of the nave, and replaced it by white panes, to improve the effect; and the modern Catholic ecclesiastics in France and Belgium have not only taken out the stained glass but the mullions and tracery also, by way of lighting the church.'⁵ And so, some of the vandals of the sixteenth, eighteenth, and nineteenth centuries were Romanists.

¹ *Registrum Episcopatus Glasguensis*, i. p. i.

² Theiner's *Monumenta*, p. 526.

³ *History of Scotland*, 1836, i. 266.

⁴ *Treatise on Chancel Screens*, 1851, p. 6.

⁵ *Apology for the Revival of Christian Architecture*, 1843, p. 29.

In Scotland the Reformation practically put a stop to religious sculpture and painting. Not only were the images of the Madonna and other saints destroyed, but the demand for new ones was extinguished. Possibly some of the artists of the period were as unreasonably wroth as the silversmiths of Ephesus when they thought that their craft was in danger. The merit of pre-Reformation Scottish art is hard to ascertain now. Mr. Rae MacDonald informs me that the art of seal-designing and engraving declined in Scotland soon after the death of Alexander III., and has been getting gradually worse and worse ever since. There was a slight revival about the reign of Robert the Second, but it was more in elaboration than in elegance or dignity of design. There is reason to believe that the designers lived in this country, although they may not have been natives.

A change for the worse is observable in ecclesiastic architecture during the century immediately preceding the Reformation. Drs. MacGibbon and Ross have said that 'there can scarcely be any question as to the gradual deterioration of ecclesiastical architecture which occurred generally throughout Scotland during the latter half of the fifteenth and the first half of the sixteenth centuries, and it is certainly surprising to find some exceptionally good work in a few structures of that period.' And they have pointed out that immediately after the Reformation, *i.e.* 'during the latter half of the sixteenth and the greater part of the seventeenth century a number of churches were erected [in Scotland] which show some attempt to maintain or revive the style of earlier times.' But 'most of the churches of the seventeenth century are either very poor imitations of Gothic work or tasteless examples of plain walls, while a few contain the germs of what might have been wrought into a picturesque style, founded on the domestic architecture of the period.'¹

In castellated architecture the Scottish baronial was developed in the sixteenth and seventeenth centuries, and in such residences as Hunting-Tower, Earlshall, and Pinkie House the pictorial art was not altogether neglected.

The transference of the Royal Court to England, at the union of the crowns in 1603, would not be helpful to artists who remained in Scotland, nor would the poverty of the

¹ *The Ecclesiastical Architecture of Scotland*, iii. pp. vi. 534. Writing, in 1843, of ecclesiastical architecture in England, Pugin said that there had been a gradual decay in style for four centuries (*Apology for the Revival of Christian Architecture*, p. 1).

country. It was at that period, however, that George Jameson flourished.

The educational scheme propounded in the *First Book of Discipline* was a wondrously enlightened one for the period. For centuries there had been schools scattered over the country; and the Education Act of 1496 implies that grammar schools were then within reach of the well-to-do classes.¹ On the eve of the Reformation there was a very flourishing grammar school in Perth;² but its condition was apparently exceptional, for Ninian Winzet, who had taught at Linlithgow for ten years, and who stoutly opposed Knox, marvelled greatly that in past times, when religion and science had been so liberally endowed, so little had been done for the grammar schools 'that in mony townis thair is not sa mekle providit thairto as a common house, and in nane almaist of al ane sufficient life to ane techear.'³ The Act of 1496, which was a compulsory Act, related only to the eldest sons and heirs of barons and freeholders of substance. But by the scheme of the Reformers rich and poor alike were to be 'compelled to bring up thair children in learnyng and virtue.' Every parish was to have a schoolmaster. In towns of any reputation, the master was to be able to teach grammar and Latin. Notable towns were to have a college, in which the arts might be learned, at least logic, rhetoric, and the tongues. To the children of the poor, education was to be free. Indeed, for a time they were to be 'supported and sustenit' at the expense of the church. The sons both of rich and poor who proved apt to learn were to be charged to continue their studies, so that the commonwealth might have some comfort by them; and a certain time was to be devoted to that study in which they intended 'cheafie to travell for the proffit of the commounwealth.' Thus, experts and specialists would have been reared. Those who did not proceed to the higher branches were to be sent to some handicraft or other profitable exercise. As may be readily imagined, this education was not to be purely secular, but permeated by Christian teaching.⁴ An elaborate scheme for remodelling the universities was also submitted. The schools were to be maintained by the teinds; and the universities endowed with the temporality of the church, so far as necessary

¹ *Acts of Parliament*, ii. 238.

² Row's *History*, Wodrow Society, pp. 7, 8.

³ *Certane Tractatis*, Maitland Club, p. 26.

⁴ Laing's *Knox*, ii. 209-212.

for their ordinary expenses. To the rulers of the nation this scheme was commended by its authors in these memorable words :

‘Not doubting but, if God shall grant quietnesse and give your wisdomes grace to set forward letters in the sort prescribed, ye shall leave wisdom and learning to your posterity, a treasure more to be esteemed than any earthly treasures ye are able to amasse for them, which without wisdom are more able to be their ruin and confusion than their help and comfort.’¹

Unfortunately, the nobles were much less anxious to encourage learning than to appropriate to their own use the wealth of the disestablished church ; but an ideal had been set up, and a stimulus had been given, which were not fruitless.

In writing seven years ago of this rejected scheme, the late Dr. John Kerr said :

‘Its marvellous wisdom, comprehensiveness, and unity of plan have been the admiration of educationists during the three and a half centuries which have since run their course ; its consummation is to-day the goal which they are striving to reach, and which seems nearer attainment than at any previous epoch . . . Had Parliament been more patriotic, and the barons less greedy, Scotland would, in its educational system and position, have been, even more than it is, the envy of other nations.’²

Before the Reformation, Glasgow University ‘seems to have fallen into decay’ ; at Aberdeen ‘the design of the University and the great hopes of its founder and first teachers seemed about to be frustrated’ ;³ and at St. Andrews, there is some reason to think that slackness had crept in. Matters were not improved by the diminution of the revenues, nor by the confusions and trouble which prevailed for a period.⁴ During the six years, however (1574-1580), that Andrew Melville spent in Glasgow a great transformation was effected there by his scholarship and enthusiasm. ‘His aim evidently was to take advantage of the sudden zeal for education, and to instruct teachers who might spread and continue its blessing.’⁵ Arbuthnot became Principal of

¹ Dunlop’s *Confessions*, ii. 561. This passage has been omitted by Spottiswoode, although he professes, in his *History* (i. 331), to have inserted the *First Book of Discipline* ‘word by word.’

² Kerr’s *Scottish Education*, 1910, pp. 76, 79.

³ Cosmo Innes’ *Sketches of Early Scotch History*, pp. 223, 276.

⁴ M’Crie’s *Melville*, 1824, ii. 448.

⁵ Cosmo Innes’ *Sketches of Early Scotch History*, p. 226.

King's College, Aberdeen, in 1569; and, according to Archbishop Spottiswoode, 'by his diligent teaching and dexterous government, he not only revived the study of good letters, but gained many from the superstitions whereunto they were given.'¹ Melville's transference to St. Andrews stirred up the oldest of the Scottish Universities. Soon afterwards, Edinburgh University was founded; and, in the next decade, Marischal College, Aberdeen.

The General Assembly, in March, 1574-75, resolved that henceforth, except in very special cases, only those should be admitted to the ministry who have 'understanding in the Latine tongue, and are able to interpret the comentares wrytin in the same language and speake congruous Latine.'² The Covenanters were the lineal successors of the Reformers, and when they were supreme, a probationer (then known as an *expectant*), before being admitted to a charge, was examined by the presbytery 'of his skill in the languages, Latine, Greeke and Hebrew, in his interpreting of Scripture, in the controversies of religion, in his gift of exhortation, in the holy and ecclesiasticall historie and chronologie,' as well as 'of his life and manner of conversation.'³

Of Alexander Henderson, the famous leader of the Covenanters, Principal Sir Alexander Grant has said: 'In the brief period of his rectorship Henderson gave an immense stimulus to the College of Edinburgh. He was the ablest educationist and the man of clearest insight of all who had had to do with the College since its foundation. He saw what was wanted, and had the energy and the tact necessary for securing it. It would have been an inestimable advantage for the universities of Scotland if his life could have been prolonged for twenty years.'⁴

Principal Lee, whose intimate knowledge of the post-Reformation history of the Church of Scotland was unexcelled, if not unrivalled, bears as emphatic testimony: 'It is very often alleged that the Covenanters were men of so little taste and learning that they discountenanced and discouraged all elegant and classical study; but this is really a groundless misrepresentation. Through their influence large additions were made by the Parliament to the funds of the universities, and while the complement of teachers was thus enlarged, their salaries were greatly increased. As an

¹ Spottiswoode's *History*, ii. 319. ² *Booke of the Universall Kirk*, i. 322.

³ *The Platforme of the Presbyterian Government*, 1644, p. 2.

⁴ Grant's *University of Edinburgh*, 1884, i. 208, 209.

encouragement to literature, the presbyteries of the church universally raised contributions for the support of bursars. . . . Year after year the General Assembly pressed for the erection of grammar-schools in greater numbers, and their commissioners who visited the universities made great efforts for elevating the standard of education. The General Assembly, in 1645, passed an Act, requiring "that, for the remedy of the great decay of poesy, and of ability to make verse, and in respect of the common ignorance of prosody, no schoolmaster be admitted to teach a grammar-school in burghs, or other considerable place, but such as, after examination, shall be found skilful in the Latin tongue, not only for prose, but also for verse." Many of the other regulations in the Acts of that year evince an anxiety for greater proficiency in learning than had ever been attained before.¹

Sir Walter was not altogether warranted in making the Earl of Angus exclaim :

‘ Thanks to St. Bothan, son of mine,
Save Gawain, ne’er could pen a line.’

Nevertheless, many of the middle class, and some of the upper, were unable to write. In 1530 the Countess of Marischal could not sign her name.² In the same year, eight out of thirty-five of the leading men in Aberdeen could not write their own names.³ In 1554 there were men in Parliament who were as incapable.⁴ Of eighteen individuals who in 1560 described themselves as the ‘maist part of the honestest men’ of Aberdour, ten required to have the pen led by a notary ;⁵ and in 1566 the Countess of Huntly was as incompetent as the ten.⁶ Similar illiterates may be found in the seventeenth century, but, so far as my experience goes, they are very much rarer. More than four

¹ Lee’s *University of Edinburgh*, 1884, pp. 56-58.—Here, by way of contrast, is the opinion of one whose knowledge of the matter is not to be compared with Principal Lee’s : ‘ From the days of Knox to the Revolution Settlement (1688) there is no getting past the fact that the cold pietism of the then prevailing teaching of the kirk froze up learning, culture and taste for letters in Scotland ’ (*The Book of Buchan*, 1910, p. 377).

² *Spalding Club Miscellany*, iv. 142.

³ *Abredoniae Utriusque Descriptio*, pp. 69, 70.

⁴ *Acts of Parliament*, ii. 604.

⁵ *Register of St. Andrews Kirk-Session*, i. 55, 56.

⁶ *Stuart’s Lost Chapter*, p. 100.

thousand signatures are adhibited to the copy of the National Covenant preserved in the Edinburgh Municipal Museum. Of that number only about nine hundred were written by notaries, and these included craftsmen of various kinds, and many—simply designated 'workman'—who were probably unskilled labourers. In a copy in the Church of Scotland Library, only nine names out of nearly two hundred were written by notaries. A copy in the New College Library has about eight hundred signatures, and of these few if any appear to be notarial. The copy in Glasgow Corporation Gallery has about a hundred and sixty signatures, all autographs. On a copy of the Solemn League and Covenant, signed at Glasgow in 1648, there are about 240 names, and of these barely a third were written by the notaries. The late Rev. Henry Grey Graham made the astounding statement that in Fife, in 1715, 'one in three men could sign their names, and only one woman in twelve.'¹ The authority given for this is 'Campbell's *Balmerino and its Abbey*, p. 236.' On turning to that excellent book, one finds that what Dr. Campbell really says is: 'Between 1716 and 1748, of men who were called on to sign their names in presence of the session, one in every three could *not* do so; while of women, eleven out of every twelve were unable to write.' And so the illiterate men in that country parish were 33 per cent., not 66. In burghs it would be lower. Even for a rural parish, it was very bad that of the women who appeared before the kirk-session only one in twelve could sign her name. Nevertheless, it was a great improvement on the pre-Reformation days, when out of fifty Cistercian nuns only one could sign her name.²

Mental progress was well-nigh impossible under the domination of the Roman Church claiming to be infallible, and punishing by fire the rejection of its teaching. The Scottish Reformers expressly disclaimed infallibility, and maintained that even general councils might err and had erred in matters of great weight and importance. The Bible, they affirmed, was sufficient to make the man of God perfect, and derived its authority, not from the church or men or angels, but from God, and to His Spirit its interpre-

¹ *Social Life of Scotland*, 1899, ii. 155.

² Of these nuns, ten were at Elcho on the 2nd of March, 1539-40 (*Spalding Club Miscellany*, iv. 33, 34), twenty-two were at North Berwick on the 12th of August, 1544 (*Carte Monialium de Northberwic*, pp. 59, 60), and eighteen were at Haddington on the 28th of July, 1545 (*Palace of History Catalogue*, i. p. 400).

tation belonged.¹ Nearly a century later, the principle which underlies that statement was embodied by the Westminster Divines in the memorable words—‘God alone is lord of the conscience.’² Neither the Reformers nor the Westminster Divines may have realised the far-reaching import of such a principle, but they were on the right path.

The penalties of the Act of Parliament for suppressing the mass were excessively severe,³ but they were rarely inflicted. Only two Roman Catholics are known with certainty to have been put to death in Scotland for their religion, and they were both hanged at Glasgow—a priest in 1574 for saying mass, and a Jesuit in 1615 for his opinions. On the other hand, during the thirty-two years preceding the abolition of the papal jurisdiction, twenty Protestants were executed for their religion by burning, hanging, and drowning. The Reformers not only held that the mass was idolatry, but that idolatry should be punished by death. It was not under the Act of 1560 that, after the middle of the seventeenth century, ‘a sturdie beggar, who had been a most wicked and avowed atheist,’ was hanged at Dumfries;⁴ or that, shortly before the close of that century, Thomas Aikenhead, a student, was pitilessly hanged for blasphemy. Protestants now profoundly regret that any man was ever put to death either for the mass or for his opinions, and deplore as bitterly the prosecutions and executions for witchcraft which grievously stain our annals; but Rome expresses no contrition for sending untold multitudes to the stake, or for its religious rejoicings over the massacre of St. Bartholomew.

When the Scottish Parliament, in March, 1542-43, permitted the lieges to possess and to read a good and true translation of the Bible in the vernacular, either English or Scots, the Archbishop of Glasgow, for himself and in name and behalf of all the prelates in Parliament, dissented from the Act, and intimated their opposition until a provincial council of all the clergy in the realm had advised and concluded whether it was necessary or not that the scriptures should ‘be had in vulgar tounge to be usit

¹ Laing’s *Knox*, ii. 96, 111, 112, 184.

² *Westminster Confession*, chap. 20.

³ For saying, hearing or being present at mass the penalties were confiscation of goods, and corporal punishment at the discretion of the magistrate for the first offence, banishment for the second, and death for the third (*Acts of Parliament*, ii. 535). Parliament had previously decreed that no one should impugn the Pope’s authority under pain of death and confiscation of goods (*Ibid.* ii. 370).

⁴ Laing’s *Baillie*, iii. 436.

among the Quenis lieges.’¹ This was nearly a century after the invention of printing. The unreformed Church was afraid to put even its own catechism—Archbishop Hamilton’s—freely into the hands of the laity. Rectors, vicars, and curates were forbidden to lend their copies to laymen without the sanction of the bishop, and the bishop was only to lend copies to ‘some few laymen worthy, grave, of good faith, and prudent, and chiefly to those who shall seem to desire them for the sake rather of instruction than of any kind of curiosity.’²

No Roman Catholic version of the New Testament in English was printed until 1582; and full twenty-seven years more elapsed ere it was followed by the Old Testament. The translators of that version of the New Testament heartily approved of the order taken by the deputies of the Council of Trent, and ‘confirmed by supreme authority, that the Holy Scriptures, though truly and catholically translated into vulgar tongues, yet may not be indifferently readde of all men, nor of any other than such as have expresse licence thereunto of their lawful ordinaries [*i.e.* bishops], with good testimonie from their curates or confessors, that they be humble, discrete, and devout persons, and like to take much good, and no harme thereby.’ It was fitting that these translators should look back wistfully as they did to the time when poor ploughmen could, in labouring the ground, ‘sing the hymnes and psalmes either in knowen or unknowen languages, as they heard them in the Holy Church, though they could neither reade nor know the sense, meaning and mysteries of the same.’³

During the sitting of the Vatican Council, Lord Acton wrote thus from Rome: ‘The 700,000 inhabitants of the present Roman States are represented by 62 bishops. . . . It is true the 62 bishops of this chosen land and people have not succeeded in restoring the most moderate standard of morality in their little towns and villages; there are still whole communities and districts notoriously in league with brigands—but the Council has no call to trouble itself with matters of that sort. . . . Here in Rome you may find a lottery dream-book in almost every house, but never a New Testament, and extremely seldom any religious book at all. It seems as though it were a recognised principle that, the more

¹ *Acts of Parliament*, ii. 415.

² Patrick’s *Statutes*, pp. 145, 146.

³ *Rhemes New Testament*, 1582, preface, sig. a iii.

ignorant a people, the greater must be the share their hierarchy have in the government of the church.'¹

At the present day 'all versions [of the Scriptures] in the vernacular, even by Catholics, are altogether prohibited, unless approved by the Holy See, or published, under the vigilant care of the bishops, with annotations taken from the Fathers of the Church and learned Catholic writers.' And 'all versions of the Holy Bible, in any vernacular language, made by non-Catholics are prohibited, and especially those published by the Bible Societies.' 'Nevertheless these versions are permitted to students of theological or biblical science,' provided that 'the dogmas of Catholic faith are not impugned in the prolegomena or annotations.'²

Other churches have also tried to control the printing press, and the civil magistrate has also fettered it unduly; but for stubborn persistence the Latin Church stands unrivalled. Galileo's *Dialogo* was placed on the *Index Librorum Prohibitorum* in 1634, and appeared in issue after issue down at least to the one published in Rome in 1819, but was dropped out of the one published there in 1835. It was therefore on the *Index* for two centuries. In at least one issue of the *Index*, all books are prohibited which teach that the earth moves and that the sun does not. In the issue printed at the Vatican Press, in the year of grace 1900, are still found such honoured names as Francis Bacon, John Milton, Archbishop Ussher, Joseph Addison and Oliver Goldsmith.³ There, too, are the names of the recently deceased Lord Acton, Döllinger, and Andrew Lang. Among the well-known books which it forbids are Bingham's *Antiquities*,

¹ Quirinus' *Letters from Rome on the Council*, 1870, pp. 140-142.—A few years earlier, Döllinger, then an honoured ornament of the Latin Church, in speaking of the flight of Pius IX. to Gaeta, said, by way of explaining the facility with which 'the papal power in the whole country' was overthrown: 'The utter incapacity of a population, of whom ninety-nine in every hundred had never, either before or after the Revolution, taken a book or newspaper in their hands, made the task attempted to be performed by the Triumvirate and their adherents much more easy of accomplishment' (Döllinger's *The Church and the Churches*, 1862, p. 416).

² *The Great Encyclical Letters of Pope Leo XIII.*, 1903, pp. 412, 413; *Index Librorum Prohibitorum*, Romae, Typis Vaticanis, 1900, p. 8.

³ The work of Bacon prohibited is *De Dignitate et Augmentis Scientiarum*, and that of Goldsmith is *An Abridged History of England*. Each of these two entries is modified by the words *donec corrigatur*. The date given for the decree against the former is 24th July, 1668, but in other eight editions of the *Index*, in my possession, six of which were printed in Rome, the date given is 3rd April, 1669.

Locke's *Essay* and his *Reasonableness of Christianity*, Hallam's *Constitutional History of England* and his *Europe during the Middle Ages*, Principal Robertson's *Charles the Fifth*, and Whately's *Logic*. It is pitiful to think that in the twentieth century millions of our fellow-beings are prohibited from reading and keeping such books without a dispensation. A Jesuit father explains that this *Index* of 1900 'is to be the authentic one for the whole Church'; and that 'it is to be binding on all the faithful of the universe, regardless of race or language, nationality or country, education, learning or station in life.'¹ He also explains that, 'according to the theologians, the reading of a forbidden book, or of a considerable part of it, *is* a mortal sin.'² As I understand the matter, that means, that if such readers die without confessing the sin and obtaining absolution, they will go, not to purgatory, but to hell. Those who knowingly read, without the authority of the Holy See, 'the books of apostates and heretics defending heresy,' 'incur *ipso facto* excommunication reserved in a special manner to the Roman Pontiff.'³

Literature was very helpful in Scotland, as elsewhere, to the Reformation. What the Reformation did in return for literature in this country, I hope to discuss at another time. Here at present I have only space for a brief quotation from Carlyle:

'In the history of Scotland, . . . I can find properly but one epoch . . . this Reformation by Knox. . . . It was not a smooth business: but it was welcome surely and cheap at that price, had it been far rougher. On the whole cheap at any price, as life is. The people began to live: they needed first of all to do that, at what cost and costs soever. Scotch literature and thought, Scotch industry: James Watt, David Hume, Walter Scott, Robert Burns: I find Knox and the Reformation acting in the heart's core of every one of these persons and phenomena: I find that without the Reformation they would not have been.'⁴

What a country may become under the exclusive and absolute domination of the Papacy was thus set forth by Macaulay when in Rome: 'The States of the Pope are, I suppose, the worst governed in the civilised world; and the imbecility of the police, the venality of the public servants, the desolation of the country, and the wretchedness of the people, force themselves on the

¹ F. S. Bettén's *Roman Index of Forbidden Books*, 1909, p. 3.

² *Ibid.* p. 43.

³ *Great Encyclical Letters of Pope Leo XIII.*, p. 420.

⁴ *Heroes, Hero Worship, and the Heroic in History*, pp. 170, 171.

observation of the most heedless traveller.’¹ Gregory XVI. was then Pope. Writing from the Eternal City a quarter of a century later, when Pius IX. bore sway, Dean Alford was not more complimentary: ‘It is not too much to say that the present moral and religious state of Rome is a foul blot on modern Christendom, and hardly to be paralleled even among the darkest passages in the history of our race. . . . Nothing will ever reform Rome, short of the entire extinction of the temporal power of the priesthood. Better any secular misgovernment than the present hideous blasphemy against God and man: better any measure of earthly injustice than the assertion of celestial right and perpetration of infernal wrong.’²

D. HAY FLEMING.

¹ Trevelyan’s *Life and Letters of Lord Macaulay*, 1876, ii. 34.

² Alford’s *Letters from Abroad*, 1865, pp. 133, 134.

On the Foundation of the College of Justice

A PART altogether from the constitutional and legal significance of the College of Justice, the historical circumstances connected with the attempt to establish it in 1532 are both interesting and important. Although we must await the time and the man for an account of the matter in its judicial aspect,¹ it is not difficult for an inquirer, even if he has little skill in the law, to see that provision for the hearing of civil causes had long been inadequate. James IV. sought to establish what was called the 'Daily Council' in Edinburgh, at first, apparently, to relieve the congestion brought about by the limited time at the disposal of the old 'Session,' and then, on second thoughts, with the idea of permanent substitution,² and he encouraged the lords to assiduity by the frequency of his own attendance. The mere fact, however, that the Council lacked clear subdivision and articulation in respect of functions and personnel is sufficient to explain why the change was not a cure. After Flodden, meetings of Council were naturally much occupied with public business of an administrative and diplomatic character; so that when James V. assumed his royal authority we are not surprised to hear of new attempts to regulate the 'Session,' as the Court was called with special reference to its civil jurisdiction. In March of 1526-7 no fewer than thirty-two members were appointed from the most influential representatives of the spiritual and temporal estates, with Dunbar, Archbishop of Glasgow, in the president's chair. There was a serious accumulation of suits; and steps had to be taken to deal with the troublesome crowd which habitually thronged the council-house, obstructing business by 'inopportune solicitation and crying.'³ A paper which may belong to this year⁴ ordered a list to be posted 'in large letters'

¹ The forthcoming *Acta Dominorum Concilii*, vol. ii., edited by G. Neilson and H. Paton, will add greatly to our knowledge.

² *Acts of Parl.* ii. 241, 249.

³ *Acta Dom. Con.* March 13, 1526-7.

⁴ *Royal Letters* (Court of Session), Reg. House.

of those appointed by the King for the Session, who were directed to attend. The list gave publicity to the names, and was designed to prevent lords and other influential persons from sitting upon cases when they had not been nominated.

In 1528, after the fall of Angus, twenty-one lords were named to be continually on the Session for civil justice.¹ A few months later we read of 'great disorder' owing to the calling of cases by 'tikkatis' and the importunities of great men. The 'tikkatis' and such-like new-fangled devices were not to be allowed to interfere with the strict order represented by the 'table.'² The Session, again, was liable to be interrupted by the demands of other branches of the public business. One entry states that the Justice Ayres and the Exchequer Courts necessitate an adjournment from March till October.³ Under February 13, 1530-1, we find the King signing a number of ordinances in which he complains of lords 'ingyrand thaim indifferently' to exercise votes upon civil causes and of the resulting confusion. He admits that prelates and temporal lords can scarcely be expected to attend as if they had no other work to do. They may be present at their pleasure; but fourteen members must remain with the Chancellor, and must not think of departing without license.

It is evident, as has been said, that the functions of the Council were not defined with sufficient clearness in respect of the members who were entitled or called upon to sit. This is admirably illustrated in the recorded admission of Colvile of Ochiltre by the lords 'to be ane with thame in all sessiounis, chekkeris, generale counsaes, and utheris quhatsumevir.'⁴ On one occasion the lords, sitting at Linlithgow because of plague in Edinburgh, are acting as auditors of Exchequer. They are told that they must attend exclusively to this business till it is finished, in spite of all solicitations to hear civil causes.⁵

If matters of finance were frequently before the Lords of Council in these years, it was because the problem was becoming very serious, and was destined, indeed, to have an important bearing upon the plan of founding a College of Justice. The regency of Albany was an expensive luxury; and he was not

¹ *A.D.C.* Nov. 15, 1528.

² *Ibid.* Feb. 23, 1528-9.

³ *Ibid.* March 6, 1528-9.

⁴ *Ibid.* March 10, 1528-9. This admission is important as evidence of corporate feeling.

⁵ *Ibid.* July 21, 1530.

the only man who made profit during the King's minority. Twelve or fifteen years after Flodden, accounts of the royal revenue were far from satisfactory. In 1528 the Comptroller showed a deficit of £2094; which had grown to £5485 by 1531. The Treasurer was £3704 out in 1526, and did not produce a final balance of his accounts till 1532, when he was able to show the less formidable deficit of £1396. Douglas of Kilspindie, Treasurer under Angus, had to meet large expenditure on the palaces and was £3654 down. On July 11, 1527, it was decided in Council that yearly pensions and fees out of the property or casualty of the Crown should be annulled: on August 7 the lords determined that all gifts should be subjected to careful scrutiny. Steps were taken to prevent leakage at the Crawford mines, to which a resident inspector was sent.¹ Particular attention, also, began to be directed to the mint as a source of profit. So pressing was the need for money that on November 9, 1528, we read of escheats actually granted before culprits were convicted. Three 'compositors' were chosen, whose duty it was to assist the Treasurer in dealing with casualties.² James himself was one of the obstacles to economy. He informed the lords that, if the pensions given in his minority stood, he could not provide himself with necessities; yet he was constantly signing writs brought to him by interested persons or favourites; and the auditors were reminded that they must keep a sharp eye upon things.³ On several occasions the King wrote—or was made to write—to the Lords of Council, forbidding them to honour papers under his hand which had not been approved and countersigned by the responsible officials.

Any crisis involving even a moderate expenditure on military preparation only rendered the financial outlook more hopeless. The Master of the Artillery had the utmost difficulty in getting the Treasurer to provide what he considered necessary for the attack on Tantallon.⁴ Argyle handed in an account for munitions; and a former Treasurer, who, not having accounted fully for his intromissions, was conveniently assumed to be a debtor, was directed to pay. At the same time the lords assured the earl that failure to move owing to lack of supply would not be considered his fault.⁵ In 1529-1530 Barton of Over Barnton was both Comptroller and Treasurer, an experiment which resulted in

¹ *A.D.C.* Aug. 24, 1527.

² *Ibid.* April 19, 1528.

³ Cf. *Ibid.* Aug. 10, 1528.

⁴ *Ibid.* Sept. 2 and 15, 1528.

⁵ *Ibid.* Jan. 3, 1528-9.

the registration of a bond whereby James undertook to refund to him £6779 in annual instalments of £1000.¹ To carry out the expedition against the Isles in 1531 it was necessary to call upon the churchmen for a 'gratitude' of £5000.

From this depressing state of affairs the European situation was about to offer the prospect of relief. When Charles V. united Germany, Spain, Naples, and the Netherlands under his sway, a conflict with France could not be long delayed. Henry VIII., with an eye to the French crown, joined the Emperor; but, after the latter's dangerous triumph at Pavia in 1525, England entered into treaty with Francis. Efforts to support the enemies of Charles in Italy were ineffective; and the sack of Rome in 1527 left him supreme in the peninsula, with Clement VII. at his mercy. In 1529 Francis made a peace with the Emperor which lasted until 1536.

Meanwhile, it will be remembered, Henry's project of divorce from Katharine of Aragon had been perplexing the already distracted Pope. To oblige the English King and foster his alliance with France was a policy suggested by the desire to escape from the Emperor's clutches; yet, for obvious reasons, the marriage question did not offer the most attractive opportunity for a display of favour. Clement sought refuge in delay. In 1528 Campeggio, whose suitability was not impaired because he suffered from gout, was associated with Wolsey to hear the case in England. Proceedings began in 1529, and then Charles compelled the Pope to revoke the commission. It was not long before Henry embarked upon the course which was to lead towards the definite breach with Rome.

In Scotland, after Flodden, Albany was more concerned with the schemes of France than with the interests of the country he governed; and if any one represented national policy it was the Chancellor James Betoun, Archbishop of Glasgow. More prudent and less showy than his nephew the Cardinal, he adhered firmly to the alliance with the French, while he as firmly declined to be made their tool. The final departure of Albany and the changed relations of England with France after Pavia created a troublesome situation. The dangers of open warfare gave place to intrigue. Angus, notoriously in the interest of Henry, overthrew Betoun, and was in turn overthrown when the young King escaped from his control. James gave the great seal to his preceptor, Gavin Dunbar, who had obtained Glasgow upon the promotion of

¹ *Ibid.* Feb. 23, 1530-1.

Betoun to St. Andrews; and a treaty for five years was concluded with Henry in 1528.

Under ordinary circumstances the downfall of Angus would have involved the predominance of the French party; but Francis was at present the ally of Henry, and had no mind for complications. Yet the past few years had shown the Scots the perils of isolation; and now the Douglasses were retiring to England and would inevitably give trouble. Amid the debates Charles V. intervened, seizing the opportunity offered by the fall of Angus. The Scots were seeking new friends, and the Emperor was able to bring considerable pressure to bear upon them owing to their commercial interests in the Low Countries and the imminent lapse of the old agreement concluded by James I. Something, it seemed, might be made out of Charles, and a treaty with him might lead to a pressure on the Pope which he was in no case to resist. There had been talk, too, of an English or a French marriage for James. Why not negotiate for the hand of a lady elsewhere, who would bring a handsome dowry and be so connected as to encourage papal benevolence?

About midsummer of 1529 a Scottish ambassador was in Brussels, speaking of a marriage between James and the Emperor's sister, the Dowager of Hungary, who was interesting as prospective ruler of the Netherlands. It was hinted that France seemed to prefer English friendship to Scottish, and that the Emperor might find it to his advantage to consider the matter.¹ James went so far as to send an envoy to report upon the attractions of the suggested bride.² Francis, on the other hand, by way of thwarting an alliance with the Emperor, spoke of Katharine de' Medici, Duchess of Urbino and niece of Clement VII.³ This lady, second cousin of Albany, was also niece of Albany's wife, Anne de la Tour, who on her death in 1524 had transmitted to Katharine the comté d'Auvergne. Albany was naturally involved in any negotiation for her marriage; and both in 1530 and 1531 we find him advocating the proposal, either because it suited his own plans at the time or because it was useful to the diplomacy of Francis, who really desired, and later achieved, Katharine's union with his son, afterwards Henry II.⁴ The Scots took the suggestion seriously, more

¹ *Letters and Papers (Henry VIII.)*, iv. 5687.

² *Ibid.* App. 239.

³ *Ibid.* 5790.

⁴ *State Papers (Spanish)*, Oct. 10, 1530; Aug. 31, 1531 (No. 1176).

especially because, apart from other diplomatic advantages, it would bring them into close touch with the Pope, and the lady herself would be richly endowed.¹ It was no mere coincidence that Albany was travelling to Rome with the avowed purpose of advocating the marriage while the Lords of Council in Edinburgh, having seen a communication from Clement, were considering the King's answer and a mandate empowering the Duke to represent him in deliberations upon the welfare of Christendom.² It is very significant that James declined to put his instructions in writing, so secret were they; and sent his secretary, Erskine of Haltoun, to convey them in person.³ The Lords of Council were not certain that Albany ought to have full powers to conclude the match with Katharine. They cautiously stipulated that the lady should be brought to France before James was committed, and that, if she was not allowed to leave Italy, there must be a definite report as to what she would bring to her husband.⁴

Erskine was at Rome in the spring of 1530-1. There he dined with Mai, the Imperial ambassador, an old fellow-student at Pavia, and gave out that Scotland, having been tricked by the French, desired an alliance with the Emperor, upon whom, as was evident, the whole world would depend. Mai told Charles that Erskine, according to common report, had a great share in the government, and was a very wise man.⁵ The Scots obtained the treaty with Charles which conserved their commercial interests in the Low Countries.⁶ No marriage was arranged; and Erskine returned home, leaving Albany to represent the Scottish King. The Emperor would be informed that, if the treaty was to have military significance, money and munitions must be forthcoming. Clement would be reminded of the serious outbreak of heresy during the last few years, of the loyal sentiments of James, and of the fact that the churchmen might well be expected to subscribe to the cause. If the Pope hesitated, Charles might help him to a decision; for both had now to reckon with the Protestant league of Schmalkald.

Albany, probably under the secret instructions communicated by Erskine, asked for a large and permanent ecclesiastical subsidy. Clement was taken aback, and on July 9 remitted the proposal

¹ Cf. *Ibid.* iv. (2), p. 848.

² *A.D.C.* Nov. 8, 1530.

³ Theiner.

⁴ *A.D.C.* Nov. 9, 1530.

⁵ *Letters and Papers (Henry VIII.)*, v. 125; full text in *State Papers (Spanish)*.

⁶ *A.D.C.* May 2, 1531.

to the Scottish prelates for their consideration.¹ About a week later he issued a bull which would give James something to relieve his poverty. It was always his policy, the Pope said, to maintain for churchmen their immunity from secular exaction; but need was pressing, and the times were disastrous. If lay resources were inadequate and the faith were involved, he must ask the clergy to bear their burden. The coasts of Scotland lay exposed to attack: the royal finances were at a low ebb: it would be an act of piety to order a subsidy for munitions and defence. He therefore, *motu proprio*, imposed a tax of three tithes on all ecclesiastical fruits to be levied during the next three years. Dunbar, the Chancellor, and Stewart, the Treasurer, were named as collectors.²

These churchmen doubtless knew that the Pope was to be asked to impose an ecclesiastical tax, but it is not likely that the next step was fully expected. The Scottish prelates were allowed no time to report. On September 13 another bull was issued, relating that Albany had represented the King's desire to establish a College for the ministration of Civil Justice, half of its membership to consist of dignified churchmen. But James had no money to spend; and the Pope should direct the prelates, whose interest in civil order was not less than that of others, to contribute a permanent subsidy. Clement therefore ordained that, so long as James and his successors remained loyal to Rome and the faith, the prelates—that is, the holders of benefices down to and including priories—should furnish annually a sum of 10,000 ducats *auri de camera*. The executors were Dunbar of Glasgow, Stewart of Moray, Albany's half-brother, and Wemyss of Galloway and the Chapel Royal.³

The first bull might be received with equanimity: the second aroused indignation. James could easily find a use for a sum equivalent to £10,000 Scots, but it was exorbitant for the avowed purpose. Even in 1564, when the pound Scots, as compared with the pound sterling, had fallen from 5s. to 3s. 4d., a total of £3000 was considered adequate to pay the judges. The prelates must have regarded Clement's action as arbitrary and founded upon a misrepresentation.

¹ Theiner, July 9, 1531.

² Process in Reg. Ho. (Papal Bulls). The present account modifies or corrects certain particulars in *Archbishops of St. Andrews*, iii. 216 ff.

³ Bull printed in *Acts of Sederunt* and in Keith (lacking date), i. app.

We hear of no opposition to the 'three teinds.' The process for the diocese of Lismore survives, drawn up by Mr. John Lauder, formerly a secretary of Archbishop Forman, afterwards secretary to Cardinal Betoun, and at present working for Dunbar in the diocese of Glasgow. It is dated at Dunbar's house in Edinburgh, February 29, 1531-2, and has a schedule of assessment attached. This schedule indicates that both the 'three teinds' and the 'great tax' fell upon the prelates, and that some adjustment was necessary. If the *Diurnal of Occurrents* is right, as it probably is, in saying that the 'three teinds' were paid only by benefices above £20, this must have been arranged in Scotland: no definite limit was stated in the bull.

The basis of calculation was Bagimond's valuation of 1275, always known technically as the *verus valor*—which it was not—and jealously maintained as favourable to the clergy in relation to Rome, while sufficiently representative of *comparative* values to serve when the spiritual estate voted round sums. The figures¹ are too intricate to discuss here; but it may be stated with fair accuracy that the general tithe involved a payment of 2s. in the pound of assessed value, while the prelates had to find an additional 3s. 3d. in the pound to raise the sum imposed upon them by the second bull. Arbroath, the highest on Bagimond's roll, owed yearly £1060 Scots or £265 sterling; after the tithe lapsed, it would continue to owe £660 Scots or £165 sterling. No wonder there was some searching of hearts.

On May 17, 1532, came the Act of Parliament, which has been imperfectly understood by historians, and deserves examination. The article submitted to the house reiterated the suggestion that there should be fourteen judges, already made by the King on February 13, 1530-1;² but the Court was to have its own president in the chair, not the Chancellor. As the result of parliamentary discussion, however, the Chancellor, if present, was ordained to preside;³ and the King might add three or four members from his 'gret counsell.' The continuity of the jurisdiction with that of the Session was expressly affirmed, and for the next fourteen months dates were set down which would keep the Court sitting for some forty-five weeks. But the College of Justice was not founded; indeed, persons were named to sit during the period to intervene till the institution should take place, which would be 'at mare lasare'—and which,

¹ See Treasurer's Account of 1533.

² *A.D.C.*

³ Dunbar had been chairman in 1526-7, before he was Chancellor.

as Scotstarvet observed in the next century, 'was never yet done.'¹

There is, however, a previous article, which must be read in connexion with this one. After emphatic reference to the loyalty of the Scottish Crown to Rome, it was stated that Popes had been gracious to Scotland, Clement VII. most gracious of all. In recognition of this, James would maintain the authority, liberty, and freedom of the See of Rome and Holy Kirk, and never countenance anything in the contrary or hold his lieges bound to obey, saving Acts founded upon privileges granted by the Pope or established by usage. All this with an Imperial Ambassador in the country, a Nuncio urging activity against heretics, and the prelates in high dudgeon, is illuminating. Clement and Charles—the latter had just sent to James the order of the Golden Fleece²—looked for tangible results; the churchmen, anxious enough to have heresy put down, regarded the financial transaction as an unprecedented encroachment upon their liberties.

Immediately after the Parliament there were the desired proceedings against the Lutherans. In September, however, Northumberland informed Henry that only three of the prelates had 'ther hartes and favours to the King,' of whom two were Dunbar, the Chancellor, and Stewart, the Treasurer. Archbishop James Betoun with the rest had obtained a new bull modifying the grant of money so that the King had 'clerely renounced for ever the said pensiou of ten thousand crowns unto the spiritualitie.' Northumberland also stated that James compounded for £4000 sterling to be paid in four years. These figures we have no means of checking; but it is evident that the churchmen had procured some modification. Buchanan says that Dunbar of Aberdeen (uncle of the Chancellor) appealed to the Pope; and Dunbar died in March, 1531-2. In a letter of June 16, 1532, James addressed the Lords of Council in terms which did not attempt to conceal the fact that the College of Justice was not by any means the only purpose of the taxation granted by Clement, but which at the same time implied that some kind of arrangement had been reached. The subject was the old one of papers rashly signed for 'inoportune sollistaris.' 'Our prelatiis givis us certane contributioun to be expendit and varit to our necessaris and honor regal . . . quhilk our mynd is nocht to waist nor spend in any sort bot as efferis to our Kinglie honor and for

¹ *Sc. Hist. Rev.* xi. 183.

² Letter among treaties in Reg. Ho.

necessite of the samyne.¹ Again, there is a mysterious writ, signed by James, which belongs to this year, though the day and the month are not entered.² It looks like a decision reached by the King in Council, and runs as follows :

Oure soverane lord havand in frequent memore the greit proffeit and weil that is to follow throu continual administratioun of justice to all his liegis, inherand to his purpos ellis conceyvit in that behalf for the institution of ane college of litturate men of knowlege and experience to decide all civil actionis betuix parteis pleyand and to mak the samyne perpetuall, has tharfor ellis chosin ane nomer the tane half spirituall and the tother half temporal be avis of his thre estatis in parliament, and becaus the saidis personis man onderlie greit and daylie travel and laboris in the exercitioun of thair personis ingynis and wittis and man tharfor haif necessair waygis for thar honorable sustentatioun be yeir, quhairfor the hail prelatiis of the realme has gevin and grantit ane yeirliie pensoun of xliiii^e li. usuall money of this realme of divers kirkis assignit tharto to be erekit and perpetuallie fundit to the sustentatioun of the said college and litterat men to be comonlie distribuit amangis thame ; and tharfor our said soverane lord of his liberalite, for the exaltatioun and manteinance of justice to the hie glorie and honour first of god almychty and syne of his kinglie name and for the comone weil of the realme, ordanis ane letter to be maid onder his grete seil of the gift grant and assignatioun maid be his hienes of all feis and proffeitis that sall happin to cum of his seilis that is to say of his grete seil, his privie seil and his litil signet, to be comonlie distribuit amangis the personis chosin and at all tymes to be chosin beand of the said college efter the forme and tenor of the articlis and constitutionis to be maid and devisit therupoun and ordanis the said letter to be extendit in the best and maist honest forme that cane be devisit. Subscrivit be our soverane lord at Edinburgh the day of the yeir of god i^m v^e and xxxii yeris.

JAMES R.

We have here the first mention of the sum which was finally appropriated to the maintenance of the Lords of Session. What intrigue was behind this particular design cannot be detected ; but there is something more than a sense of humour in the suggestion that the King should present the profits of the great and the privy seal, which were in the keeping of Gavin Dunbar and David Betoun, to be distributed among the new judges.

If additional indication of the resistance offered by the majority of the prelates were sought, it might be found in a letter to the Pope on February 26, 1531-2, in which James, bent upon

¹ *Acts of Sederunt*.

² *A.D.G.S.* xxix. 97 : bound up with papers of much later date, and pointed out to the writer by Mr. William Angus.

exploiting the wealth of the church, petitioned for dispensation in favour of three illegitimate sons.¹ Within a few years he was able to place the boys comfortably in Holyrood, the Priory of St. Andrews, Kelso, and Melrose. In September, on the other hand, there was a transaction which must have been designed to placate the clergy. The reservations ordained by Clement involved much expensive litigation at Rome. At Albany's intercession the King obtained permission to depute churchmen to hear ecclesiastical suits in the first instance, even if they related to benefices, though it was stipulated that the right of appeal to the Curia should be free.²

Meanwhile Clement, at the height of his controversy with Henry, was cultivating France. The English King, irritated by Scottish diplomacy and encouraged by the news of trouble between James and his prelates, began to adopt a threatening attitude. If war broke out, it was likely that the purposes of Charles and the Pope would be served; for Francis would scarcely desert his old ally at a real crisis. Archbishop Betoun might well dread that the policy he had maintained during the ten years after Flodden was about to be wrecked. Besides, he was now somewhat difficult, not sweetened by the ascendancy of Dunbar, with whom he had a long-standing quarrel;³ and he was the leader of the opposition to the tax imposed by collusion between the King and Clement. Moreover, James could not but reflect that the young Earl of Arran was next heir to the crown after Albany, and was the son of Betoun's niece.

Suddenly, in 1533, the archbishop was placed under restraint and charged with treason. What he had done remains obscure. The gravamen of the charge appears to have been secret dealing with England.⁴ If he strove to prevent war, his aim was satisfied. There was much irregular fighting on the Borders; but Henry, finding himself isolated, was prepared to negotiate.⁵ David Betoun had already gone as ambassador to France: James had made his profits out of the diplomatic situation; and the churchmen could turn their attention to the heretics and the question of the 'great tax.'

¹ Theiner.

² *Archbishops of St. Andrews*, iii. 221; this is interesting alongside of Henry's Act of Appeals in 1533.

³ *Ibid.* 212.

⁴ *Ibid.* 224-32.

⁵ Truce, Oct. 1, 1533: peace, May 11, 1534.

It is probable that the archbishop's misfortunes did not improve relations with the majority of the prelates. Payments of the tax, at first satisfactory, began to drag lamentably. A special contribution for footmen on the Borders was so badly supported that James used threatening language.¹ In 1534 parliamentary business was at a standstill. A hint of what was going forward occurs in a memorandum of the Lords of Council that the King should be asked to take strong measures against heretics, destroy heretical books at the ports, intercept undesirables, and forbid sermons on controversial topics.² Any bargain over the tax must, it would appear, commit James to an indubitable championship of the faith.

We can reconstruct from the confirmatory bull the general character of the agreement which was ultimately reached. Instead of £10,000 there was to be a yearly sum of £1400—in practice it worked out to £1423 18s.—payable not by the prelates but out of benefices in their patronage, as soon as these fell vacant. The money was to be distributed among the Lords of Session in proportion to their attendances.³ It was further stipulated that the President should be a prelate. This arrangement was communicated to Paul III., who was now Pope. First of all, and doubtless as part of the understanding, on March 7 of 1534-5 he issued bulls which would increase the royal revenues. In 1487 Innocent VIII. granted to the Scottish King a period of eight months during which he might nominate for any vacant prelacy. The effect of this concordat was that the Crown, which enjoyed the temporalities until the bulls of provision were presented, could derive a handsome casualty. Albany, after a struggle, had succeeded in obtaining express renewal of the privilege from Leo X. Now the eight months were extended to a year, and the casualty of the temporalities was granted for that period.⁴ A few days later, on March 10, came the new bull for the College of Justice, incorporating and confirming the agreement.

There is one interesting clause which is not stated to be part of that agreement. The Pope ratifies all gifts to the College, present and to come, and particularly benefices of royal foundation and patronage which may be assigned, with the King's consent, so as to bring in an additional sum of £200 sterling, or £800

¹ *A.D.C.S.* June 17, 1533.

² *Ibid.* May 8, 1534.

³ A few salaries were paid during the first year: *Treasurer's Accounts*, vi. 153-4.

⁴ *Rentale S. Andree*, x.-xii.: one bull in Keith, i. app.: the other mentioned in *A.D.C.S.* Feb. 23, 1537-8.

Scots. This would give a total of £2200 Scots and would be sufficient to pay to fourteen Senators 200 merks each, with £200 to the President—the scale of yearly remuneration which was at first contemplated.¹

On June 12, 1535, the Lords of the Articles, having the power of Parliament, passed Acts anent the liberty and privileges of the Kirk, the prosecution of heretics, the enforcement of the process of cursing, and the summoning of a Provincial Council of the clergy for the following March. It is significant that no Provincial Council had met since 1470, on the eve of the erection of St. Andrews to metropolitan dignity.² The bull of Paul III. had arrived and was the result of agreement; yet it was the churchmen's contention that their consent must be formally given.³ James Betoun was the proper person to summon the Council; but he did not attend the Parliament. Very likely he held that according to the famous charter of the Scottish Church, the bull of Clement III. in 1188, Parliament had no business to dictate; that he had no authority from Rome; and that this was one of the consequences flowing from the King's opposition to his application for powers *a latere* only a few years before, as well as from the exemption granted to Archbishop Dunbar.⁴ No doubt he was smarting under his recent treatment, and was making no effort to be agreeable. James, however, wrote 'consoling letters'⁵ which induced him to act. On January 17, 1535-6, some weeks before the date of meeting, four mandates were produced before the Lords of Council assigning benefices for the sustentation of the College: one was by the archbishop himself and two by his nephews, the abbots of Arbroath and Dunfermline.⁶

The Council began on March 11; and on March 16, in the refectory of the Blackfriars at Edinburgh, Master John Lauder, at the request of the King and the members of the College of Justice, intimated the process on the bull of Paul III.⁷ The process was now almost a year old. A speedy settlement, one might suppose, would have enabled the prelates to free themselves all the sooner from the 'great tax.' The permissive character of the addendum regarding the assignation of benefices

¹ *Treasurer's Accounts*, vi. 153-4.

² Robertson's *Statuta*, i. 109. ³ *Ibid.* 136: *Archbishops of St. Andrews*, iii. 236.

⁴ *Ibid.* 212-3.

⁵ *Statuta*, i. 248.

⁶ *A.D.C.S.*

⁷ Process in Reg. Ho.

in the royal patronage may have been a cause of trouble, and may have been interpreted as a breach of the understanding. Northumberland's language in September, 1532, implied that the tax was not to be permanent, and that the Pope had already conceded the point. But debate arose as to whether the income was to begin as the assigned benefices fell vacant or whether the prelates were to become liable in the meantime for an equivalent sum. In addition there was a wrangle over the Provincial Council. At all events the endowment was now authorised; and on March 18 Alexander Myln, Abbot of Cambuskenneth, and President, produced the bull conservatorial¹ and took instrument upon the acceptance of the conservators, whose duty it would be to defend the privileges of the College, so far as these emanated from the Pope, and to act as judges in ecclesiastical causes affecting its members.

It was the bull of Paul III. which chiefly conferred such collegiate status as was enjoyed, recognising, as it did, the right of the President and Senators to collect the revenue, and including under the jurisdiction of the conservators the various clerks, notaries, and advocates actually attached to the court. The action of the State was much less definite. The condition that the President should be a prelate was mentioned in the petition upon which the Pope proceeded; but it does not appear in any other document which has come down to us. James in 1532 confirmed statutes for the conduct of business and exempted the judges from burdens; but there was no formal constitution.² It was some years, even, before the papal bull was confirmed.³ The Lords of Council and Session, in fact, went on very much as the Lords of Council had done. They included the Chancellor and the extraordinary members provided by the Act of 1532. As a result there was much less breach of continuity with the old Lords of Council than is generally supposed. Scotstarvet put it well when he said the chief difference was that the judges were now 'more certane': they were paid to sit. Yet the ordinary members of Session still participated in what we may call 'privy council' work. The main significance of the 'foundation' lay in the endowment, which marked an important stage in the development of a civil court but did not create

¹ *Acts of Sederunt*: where the bull is printed.

² See the interesting discussion in Scotstarvet's 'Trew Relation' (*Sc. Hist. Rev.* xi. 172).

³ *Acts of Parl.* ii. 370.

it. In the meantime, indeed, it seemed as if the origin and circumstances of the endowment tended as much to stunt as to stimulate growth.

The papal bull did not provide for the period which must elapse before the assigned benefices fell vacant. It was for this reason that 'his grace gart certane convine ane Generale Consale of clargy of this realme, in the quhilk it was grantit be the prelatiis beand present and haifand power tharto that all the saidis prelatiis suld content and pay to the collectour to be chosin, ilk man eftir the raitt and quantite of the benefece assignit be tham, and uthir wayis as thai war oblist.' Some 'fulfillit thar promitt'; but in 1541 neither Arbroath nor St. Andrews archbishopric had contributed a penny.¹ If it was urged that James had never ratified the Pope's confirmation, that defect was now remedied;² and in Mary's Parliament of December, 1543, there was another ratification intended to give force to the demand that arrears should be paid and the annual contribution be forthcoming punctually.³ Senators in 1546 recalled their 'great, urgent and continual labours,' and lamented 'termes bigane.'⁴ Later, the Regent Arran said they were too few to do justice.⁵ Members, again, were receiving payments direct, and not by way of distribution; and the Privy Council, which began to have its separate register in 1545, complained that people brought cases to them which ought to go to the Session.⁶

The year 1553 marks an important stage in the development. There had been an attempt to clear up finance;⁷ and now the 'Books of Sederunt' became a record distinct from the 'Acts and Decrees,' while we have also our first systematic accounts rendered by the collector. Money matters, indeed, showed little improvement. Distribution by attendances was observed; but for this year only about half of the £1400 was in hand, and by 1557 there was still £118 due. Small payments were made as the money dribbled in from time to time. At the Reformation, the outlying arrears amounted to £1100. Yet the College of Justice, now more clearly distinguished from the Privy Council, was exhibiting *esprit de corps*. In 1555 the Senators objected to the number of supernumeraries who dropped in to sederunts, presumably when they had their own axes to grind.⁸ In 1564

¹ *Statuta*, i. 136. ² *Acts of Parl.* ii. 370. ³ Cf. *Acts of Parl.* ed. 1597.

⁴ *A.D.C.S.* Sept. 3: cf. *Reg of Privy Council*, i. 55-7.

⁵ *A.D.C.S.* Feb. 17, 1547-8.

⁶ *A.D.C.S.* Feb. 24, March 7, 1548-9.

⁷ *Acts of Sederunt*, 51-2.

⁸ *Ibid.* 55.

Mary granted an additional £1600 from the quots of testaments confirmed in the Commissary Courts;¹ but the prelaties, even in the hands of laymen, were always behindhand with their contributions.

One reason for the obstruction may be conjectured. The condition that the President should be a prelate doubtless proceeded from the churchmen, and was prompted by the same fear as induced the Parliament of 1532 to provide for 'extraordinary' members. The proposal of James had obvious dangers in the eyes of both temporal and spiritual lords. The body of paid judges would be drawn from men of professional skill but of lower standing than themselves. There might be some increase in efficiency: there was at the same time a menace to the social and ecclesiastical order.

As to the 'great tax,' it was clear that it had been designed mainly for the benefit of the treasury. The objects upon which the money was spent were frankly set down in the accounts; and only about £1000 from the first year's revenue was devoted to paying Lords of Session. As soon as the Provincial Council accepted the papal confirmation, the Treasurer ceased to charge himself with either the 'great tax' or the 'three teinds.' There was peace with England: the pressure of debt had been relieved: palaces and a prospective marriage demanded new outlays. The task of collecting arrears was devolved upon the Master of Works. We hear of 'executiounis of cursing, sequestratiounis, poiding and arrestmentis.' In 1540 the Abbot of Melrose had paid his final instalment.² Strangely enough, the Chancellor and the Treasurer, who had shared, wittingly or unwittingly, in the inception of the enterprise, were among the last important defaulters.³

It is very unfortunate that we have no adequate account of the Provincial Council which settled the question of the tax for the College. Angus, writing from Berwick, told his brother that James asked the clergy to abolish the mortuary dues and to accept in lieu of teind a sum equal in each case to the rent a man paid his landlord; threatening, otherwise, to compel them to feu their temporal lands at a duty not higher than the present tack rental. 'The kyrkmen of Schotland was never sa evyll content.'⁴ The foundation of the College of Justice was devised to be a popular

¹ *Ibid.* April 13.

² *A.D.C.S.* July 24.

³ See Accounts of Master of Works (Reg. Ho.), vols. iv.-viii.

⁴ *Statuta*, i, 137.

as well as a profitable stroke. The prelates had ventured to thwart the King; and now, surveying Henry's performances and already invited to confer with his uncle, he was combining popular arts with an element of revenge. James is often represented as clinging to the churchmen for support against the temporal lords; but of this period of his career it is more true to say that the churchmen had to cling to him. No historian has recorded who it was that hit upon the happy idea of using the foreign and domestic situation in order to squeeze money out of the ecclesiastics. There was the mysterious figure of the Secretary, Erskine of Haltoun: Albany, a man of experience: there were the laymen to whom the King was in debt: even some churchmen, like Glasgow and Aberdeen, may have been moved by considerations of private as well as public finance. However that may be, the fears of Clement VII. were used to the full; and the Scottish prelates, alarmed by heresies and later by events in England, had in the meantime to temper their indignation with discretion. One incidental result of the 'great tax,' foreseen or unforeseen, was to be of importance in the immediate future. Under its pressure the churchmen considered themselves entitled to raise ready money by feuing their lands. The practice, once begun, grew in their hands and was one of the economic factors which operated to the weakening of ecclesiastical control.¹

R. K. HANNAY.

¹ *Rentale S. Andree*, xxiii. ff.

The Palace of Birsay in Orkney

THE plan of Birsay Palace in Orkney, herewith reproduced, is from a drawing in a parcel of ancient Orkney MSS. in the General Register House. Dr. Anderson, editor of Low's *Tour in Orkney and Shetland*, has published there a drawing of the Palace which he thinks may have been executed by the Rev. George Low and which he dates *circa* 1774, when Low became minister of the united parishes of Birsay and Harray. The present drawing is much older than that published by Dr. Anderson. The most striking feature of this plan is that in order to shew the four sides they are presented as lying flat, the outer walls facing the sky.

In the later plan the building is roofless—here it is perfect, and, as evidence that it was taken when still inhabited, there is a representation on the west side of peat stacks and on the east side of distinct enclosures called 'The Plant Yard,' 'The Keall Yard,' 'The Herb Yard,' 'The Floure Yard,' and the 'Bow Butts' (for practice of archery), and on the south side 'the Boulling green and the gardener's cottage.' What is known in this plan as 'the minister's house' has become in the later plan 'the old manse.'

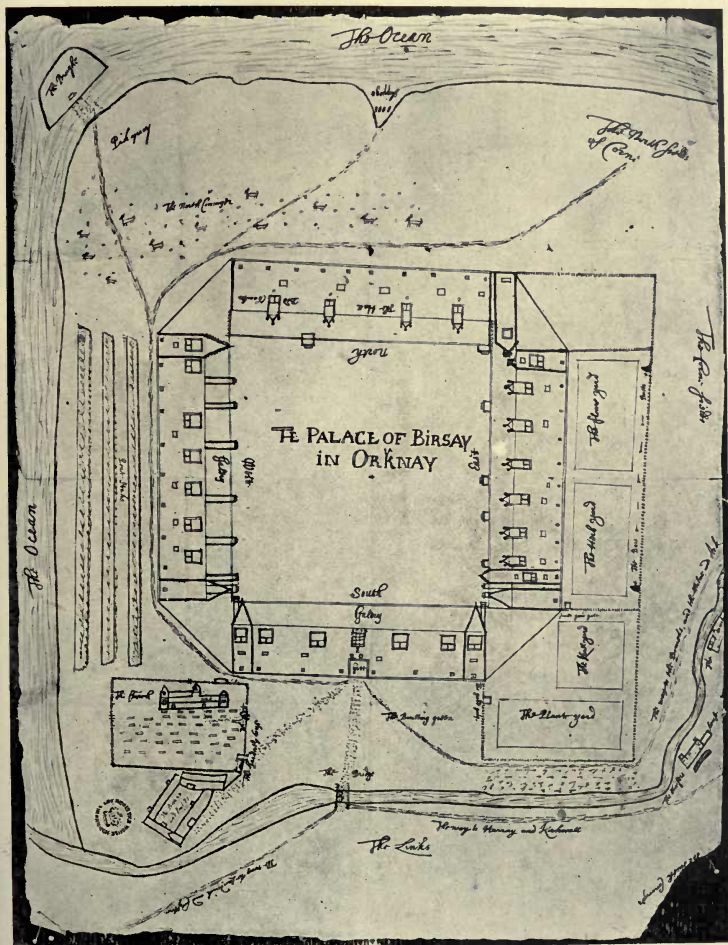
Birsay in the Orkneys appears in the *Orkneyingers Saga* as the seat of Earl Thorfinn, the most powerful in the long list of Earls of Orkney. For this reason Birsay has and always will have a unique interest for the Orcadian. A Scots visitor to Orkney is interested in Thorfinn as he who (while a Norse Earl holding the Orkney and Shetland Isles from the King of Norway) was, as this Saga informs us, of the Scots blood-royal, his mother being a daughter of Malcolm II. 'Thorfinn was with the Scot King five winters old when his father Sigurd fell. Then the Scot King gave Thorfinn, his daughter's son, Caithness and Sutherland, with the title of Earl and set up men to rule the land with him.' Earl Thorfinn's contribution as a factor in Scottish history is unfortunately limited in the vivid

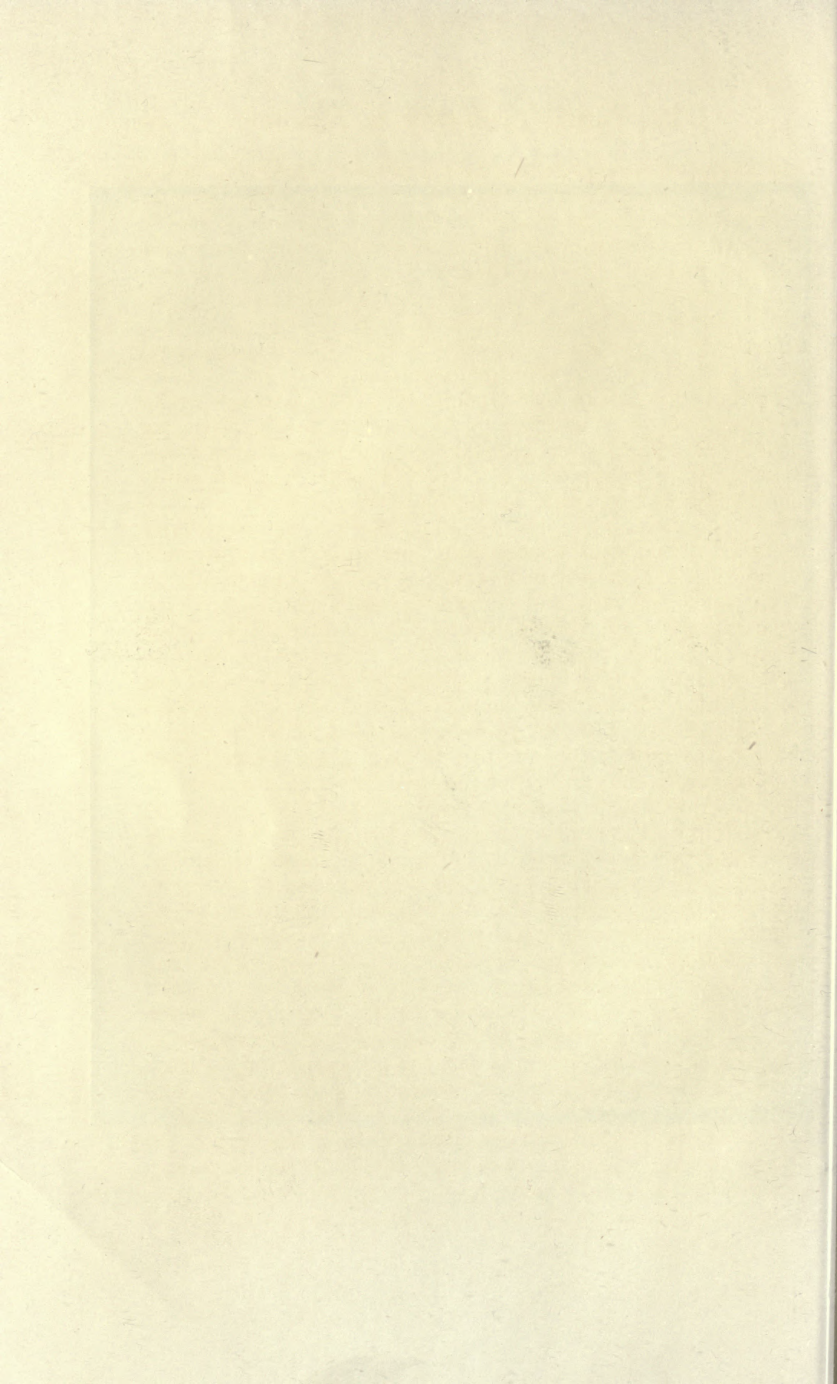
narrative of the Saga, this dealing altogether with the Norse history.

When King Olaf of Norway in 1023 asked Earl Thorfinn to become his man, the *Scot* Earl replied 'And if ye, lord, think that ye need my help against other chiefs, then ye have won it fully; but it is not in my power to yield you homage, for I am already the Scot King's earl and bound to do him service.' But when his three half-brothers Summerled, Einar, and Brusi who had a share of the Earldom were dead, Thorfinn succeeded to the entire Norse earldom of Earl Sigurd. Rognvald, Brusi's son, had been long absent in Russia, and on his return Thorfinn consented to share the earldom with him. They afterwards quarrelled and fought. Earl Rognvald was slain and Thorfinn again became sole earl and continued so until his death. The Scot King Karl Hound's son (the Duncan of Shakespeare's tragedy of *Macbeth*), who succeeded Malcolm II., wished to deprive Earl Thorfinn of his Scots' earldom but in the attempt was twice defeated by him, first in a sea fight off Deerness in Orkney and later in a land battle at Turfness, south of Broadfirth (the Moray Firth), with the result that Thorfinn's power in Scotland instead of being destroyed was greatly increased, so that latterly he 'owned nine (Scots) earldoms.' Munch supposes that Thorfinn was the chief support of Macbeth upon the throne. Dr. Anderson thinks that when Macbeth visited Rome, he had Earl Thorfinn (who certainly did visit Rome) as his companion.

Sir Archibald Lawrie has conjectured that Corstorphine, near Edinburgh, is so named from a cross erected there by Thorfinn. While Mr. William Watt, in his *History of Aberdeenshire*, assigns the origin of the Torphins in that county to the same Earl, whose power seems to have been felt all over Scotland. At the time when Hardicanute ruled England and Denmark, in 1041, the Earl having then Earl Rognvald as his companion in arms appears more powerful than any chief in the British Isles. In his later years he turned his attention to legal administration in his extensive domains. The portrait drawn with some skill by the Saga writer is a strong likeness: 'He was the tallest and strongest of men, ugly, blackhaired, sharp featured and big-nosed, and with somewhat scowling brows.' In the terse words of Bishop Thomas Tulloch (c. 1443) '*strenuissimus erat in campis.*'

Thorfinn at his death in 1064 was buried at Christ Church, Birsay, which he had founded as the See of his Norse Earldom.





The Palace of Birsay, situated on the seashore, looks out on the Atlantic. Placed in such a remote corner of the British Empire it is a surprise to the visitor to Orkney. Between Marwick Head and the Broch of Birsay it kept watch in early times over the adjacent sea and the mainland of Orkney. Had the Palace been inhabited on 5th June, 1916, we would probably have known more than we do of the sinking of H.M.S. *Hampshire*, which, with Lord Kitchener on board, went down immediately opposite Birsay's historical palace and church.

What sort of Palace Earl Thorfinn possessed at Birsay we do not know; it may not have been so fully developed in its dispositions as the present building, but it was probably as large, for the Saga writer informs us: 'Earl Thorfinn did that noble deed in the Orkneys that he furnished all his bodyguard and many other powerful men all the winter through, both with meat and drink, so that no man needed to go into inn or boarding-house; just as it is the custom with kings or earls in other lands to furnish their bodyguard and guests with meat and drink at Yule.' Regarding the site of the Cathedral Church founded at Birsay by Earl Thorfinn, Dr. Craven says: 'There are no remains of the ancient Christ Church of Birsay, although parts of the present parish church shew considerable antiquity, and a tablet erected about one hundred years ago professes to all who read that the present structure occupies the site of the older. Close by, however, to the east some have thought that the walls of an older church and even of an apse could be traced.' It is probable that Earl Thorfinn's Palace stood on the site of the present palace, and that the juxtaposition¹ of palace and church date from his time. Bishop Tulloch, already cited, says: 'Sed verum est et in veritate attestamur ex relatione fidedignorum antecessorum et progenitorum nostrorum quod principulus et precipuus mansus sive manerium Dominorum Comitum Orcadie fuit diversis temporibus igne combustus et ad nihilum redactus et funditus destructus.' The bishop's words must be read in the sense intended. He was speaking of lost muniments of the Earldom, and his language does not necessarily imply that *no* fragmentary remains of the manor places of the earlier earls survived, but simply that their destruction had been so far complete that archives stored in them had no chance of being preserved. It is therefore not impossible that Birsay Palace, as shown in the present plan, embraces at the north-east corner some remains

¹ Cf. the *Orkneyingers Saga*, p. 117, for a similar juxtaposition at Orphir.

of Earl Thorfinn's Palace. The north-east corner is different from and evidently older than the rest of the structure. The present plan makes provision for this difference, as the wall at the north-east corner is further extended than at the other three corners.

Above the Palace Gate in the plan now shown are the letters ^RE^O and, higher up, the date 1574. The Palace, as renewed at this date, stands for a most dramatic episode in the history of Scotland. Robert Stewart in 1565 obtained from his half-sister Mary Queen of Scots, a feu-charter of Orkney and Shetland. Lord Darnley on 15th May, 1565, took oaths at Stirling (1) as a knight, (2) as an earl to be 'leil' and true 'to his Sovereign Lady her realm.' Lord Darnley at the same function created fourteen knights. First among these was 'Sir Robert Stewarde of Straighdone.' Eleven days later came the feu-charter, 'Insuper Regina voluit quod unica sasina apud Castrum de Kirkwall suscipienda pro omnibus staret.' Sir Robert Stewart was an illegitimate son of James V., and as such had no claim to the throne of Scotland, but like others in the same position he was created a knight and put into possession of lands becoming his lineage. When Queen Mary subsequently married Bothwell she gave him the lordship of Orkney and Shetland with the title of Duke of Orkney, revoking her previous gift of the islands to Sir Robert Stewart. Angered no doubt by the attempt to deprive him of his lands, which he did not relinquish, he made a counter-attack by claiming the throne of Scotland. It was at this time that he supported the pretended claim by the erection of a palace at Birsay, resembling the Royal Palace at Linlithgow and placing upon it his assumed title of King of Scotland. Wallace, *Description of Orkney*, 1693, says: 'Earl Robert Stewart built or repaired the Palace of *Birsa*, the chief Residence of the Earls of Orkney, having this inscription above the gate, 'Dominus Robertus Steuartus, Filius Jacobi Quinti Rex Scotorum, hoc opus instruxit.' Brand, who visited the Palace in 1700, saw the inscription: 'When we entered the Palace gate we saw above it that inscription so much talked of, and reputed treasonable by King James VI.: Robertus Steuartus Filius Jacobi 5^{ti} Rex Scotorum hoc Ædificium instruxit.' There is a divergence in the inscription as given by Wallace and Brand, but the two treasonable words occur in both.¹ The designation has sometimes been regarded merely as a mistake in the Latinity (*rex* instead of *regis*) but it more probably reflected

¹ The stone bearing the inscription has disappeared.

the mind of Sir Robert Stewart. In this plot Sir Robert was no doubt aided by his lady Jean Kennedy, eldest daughter of Gilbert, 3rd Earl of Cassillis, who possibly possessed some of the Kennedy spirit and temper reflected in the well-known rhyme :

‘Frae Wigton to the toon O’ Ayr
Portpatrick to the Cruives O’ Cree
Nae man need think for to bide there
Unless he coort wi Kennedy.’

Certainly Sir Robert notably acted in that spirit, as in 1575 the following with many other charges of high treason were lodged in high quarters against him : ‘stopping of all ferries and commanding by proclamation that none should be suffered to pass ‘but’ his letter of licence and passport, in such sort that neither merchant nor countryman might pass or repass into Orkney and Zetland ‘but’ his licence and writ obtained by means of bribes. This act is ‘kepit’ to this hour, that no complaints may pass to these parts.’ . . .

On his own hyperborean perch Sir Robert may have crowed pretty loudly, not dreaming that James VI. or his representatives though far away would hear at last.

In 1581 Sir Robert, after running the gauntlet, discreetly submitted to the more humble style and title ‘Earl of Orkney and Lord of Zetland’ being conferred on him by the real King of Scotland. The treasonable inscription was upon the Palace wall when Robert Stewart, the Earl’s grandson, headed a rebellion in Orkney in 1614 at the instigation of Earl Patrick, his father, who erected the Earl’s Palace in Kirkwall. The Palace of Birsay was the first rendezvous of the rebellion. It was also the scene of some court proceedings taken against the rebels by the King’s Lieutenant, George Earl of Caithness, himself a lineal descendant of the ancient race of Orkney Earls.

Ten years later an instance of what is not altogether unknown—disputes between heritors and clergy following upon a new grant of the islands by the King—led to a highly significant legal formality being solemnly enacted within the gate of the Palace of Birsay. The transaction is thus recorded in legal form : ‘Instrument of Protestation dated 4 November 1624 whereby in presence of notaries and witnesses specified George Bishop of Orkney protested that neither the Instrument of Sasine presently taken by him as attorney for ‘the right honorable and very good Lord’ Sir George Hay of Kinfauns knight, Lord High Chancellor of the Kingdom of Scotland of the lands and yles of Orkney and

Zetland, granted by the King's Majesty to his Lordship, nor yet the said reverend father's being attorney or witness to the giving of the said sasine 'sould nawayis be hurtfull to him or his successoris, nor to the ministers of Orknay and Zetland or thair successors anent any benefice perteining to thame be virtew of the contract of excambion past betuix his Ma^{tie} and the lait Bischop.'

This transaction 'done within the yet of the place of Birsay in Orkney immediately at the geving of the sasine' is important as illustrating the unique, prolonged and intricate interrelationships of the dignities and estates of the Earldom of Orkney on the one hand and the Bishopric of Orkney on the other which had been disentangled by the Act of Excambion of 1614, only to be again rendered equivocal, in the time of Bishop Graham.

The Palace is to-day a ruin ; but in 1624, when this protest was made, it was probably in excellent repair. Perhaps it was in retaliation for the Bishop's protestation, that the Lord Chancellor of Scotland in placing his arms over the great west door of St. Magnus Cathedral in Kirkwall, larcenously added the pastoral staff.

THOMAS MILLER.

The Race of the Trough

Sliochd 'n Amar.

THE traditionary story of the posterity of the Trough is found in most books dealing with the history of Strathspey and the Grants, and is well known. It tells how the Gordons under Lord Huntly combined with the Grants of Strathspey in making a raid on Deeside, in which that district was desolated and most of its inhabitants were slaughtered; how a number of children made homeless orphans in the raid were taken by Huntly to his castle, where they were fed together, like swine, out of a long trough constructed for the purpose; and how the laird of Grant, visiting Huntly some time afterwards and seeing the orphans 'slabbing at their trough,' was so struck with pity that he proposed to share in their maintenance and was allowed to take half of them to Strathspey, where they were adopted into the Clan Grant, their posterity being distinguished by the title *Sliochd 'n Amar*—the Race of the Trough.

Such are the main incidents as related in various 'popular' accounts which have appeared in print, the most recent of which are those in Longmuir's *Speyside*, Rampini's *Moray and Nairn* (in the County Histories Series), and Forsyth's *In the Shadow of Cairngorm*. These, however, may be dismissed as being merely repetitions and elaborations of previous accounts, without any authority derived from direct tradition. Indeed, it is very unlikely that any pure tradition on the subject has existed for the last three or four generations at least; and, generally speaking, there is in the present day perhaps no local tradition on any historical matter of more than a century ago which has not been tinctured and adulterated by printed books. The author of *Legends of the Braes o' Mar*—a book which might reasonably be expected to contain some reference to tradition on the subject—contents himself with copying the account 'given by one of our historians,' i.e. Sir Walter Scott, in *Tales of a Grandfather* (History of Scotland), chap. xxxix. He speaks of it as connected

with the killing of the baron of Braichlie in 1592, but 'a total misrepresentation of the case'; and he concludes with the statement that 'no such thing ever happened to the inhabitants of the Braes of Mar.' He gives good reasons for his belief that the story is not a true picture of what took place in 1592, but he seems to go too far in positively denying that the main incidents narrated in it ever took place.

In all probability the 'popular' accounts referred to have been founded on that in an 'Old MS. History of the Grants' quoted in W. Grant Stewart's *Lectures on the Mountains* (2nd Series, p. 115) published in 1860, and perhaps on Sir Walter Scott's version—of which more anon. A somewhat earlier account than that given by W. Grant Stewart is contained in a Genealogy of the Grants attributed to Mr. James Chapman, minister of Cromdale from 1702 to 1737, and printed in Macfarlane's *Genealogical Collections* by the Scottish Historical Society in 1900.

In these several accounts the number of orphans in charge of Huntly is variously stated—three or four score in the old MS. Grant History, 'above six score' in Chapman's MS., and as many as two hundred by Sir Walter Scott—but all agree in attributing the raid to the desire of avenging the slaughter of a baron of Braichlie. The two MS. accounts place the event in the time of James Grant, third of Freuchie, known as Seumas nan Creach, whose chiefship extended from 1528 to 1553, and if the event ever took place—and no reason appears for doubting that it is historical—all the probabilities point to this as the correct period.

The mention of the baron of Braichlie in the story, however, has given rise to suggestions of a later date. Two barons of Braichlie of the name of Gordon are found in history as having come to violent ends—one in a raid into Strathdee and Glenmuick by the Clan Chattan in 1592, the other in a quarrel with John Farquharson of Inverey in 1666; and each of these occurrences has been suggested as marking the period of the raid, presumably either in ignorance of the period of Seumas nan Creach or on the very assumption that he was introduced into the story in error. Neither 1592 nor 1666 can be accepted as the proper date. The raid of the Clan Chattan in 1592, in which the earlier Braichlie was killed, was directed against Huntly's possessions and followers on Deeside, below Braemar, and was an incident in a small civil war of a few years' duration in which the Grants were leagued with the Mackintoshes, the Earls of Moray and Atholl, and others against that noble; while the killing of Braichlie in 1666 was an

event with which the Grants had nothing whatever to do, being merely an episode in a quarrel between neighbours. There is no record of any raid by either Gordons or Grants in connection with it, and the proceedings subsequent to Braichlie's death were carried on by ordinary process of law through the Privy Council and the Justiciary Court. Besides, it took place so short a time (only thirty-six years) before the admission of Chapman as minister of Cromdale that if the children of the Trough had been imported into Strathspey after 1666, that writer must actually have known some of them, and would certainly not have placed his story in the time of Seumas nan Creach, more than a century earlier.

Sir Walter Scott, the 'historian' whose account is quoted at length in *Legends of the Braes o' Mar*, if he thought about the question of date at all—which is doubtful—would seem to favour the more recent date (1666), as he speaks of the *Marquis of Huntly*, a title which was not bestowed until 1599. But Sir Walter cannot always be taken seriously as a historian; even in writing on historical subjects he could not get away from the fact that his proper and natural rôle was that of a romancist or shake off the desire to make a good story, and the sublime indifference to accuracy in the matter of dates and similar details which characterises his historical romances is apparent in his incursions into the realm of serious history. He no doubt obtained the story of the Trough from Chapman's MS. (already mentioned) in Macfarlane's Collection of MSS. purchased for the Advocates' Library in 1785, and the manner in which he has added body and colour to that skeleton-like recital of incidents is a fair example of his usual method. Not only does he give graphic descriptions of the plan of campaign in the raid by the Gordons and Grants and of the orphans feeding at the trough at 'the Marquis's Castle' (balcony overlooking kitchen, master-cook's silver whistle, struggling, biting, scratching, etc., of the children, and so on), but he increases the number of children by two-thirds, makes the laird of Grant take all to Strathspey, instead of half, and—worse still—makes the Farquharsons the sufferers in the raid and the parents of the children of the Trough. His version of the story is, perhaps, the one most widely spread, and most people acquainted with it at the present day are under the impression that the orphans were all Farquharsons; but Sir Walter had no authority for introducing that name into his story, and it may be presumed did so merely because in his own time it was the name—or one of the names—

most intimately associated with Deeside, the district mentioned by Chapman as the original home of the orphans.

That there must have been some foundation in fact for the story scarcely admits of question ; the tenacity of the tradition and the fact that in Chapman's time the descendants of the orphans were still distinguishable seem conclusive. 'Those of them that were brought to Castle Grant are to this day called Slick Nammor (*sic*), *i.e.* the Posterity of the Trough, and they are promiscuously called Grants or Gordons,' says the reverend gentleman. The other MS. Grant History above referred to mentions some of the 'several families of the Slick-na-mar in Strathspey, as Macfinlay Roys in Culchoich Beg and M'Jameses in Inverallan Parish'; and these names are frequently found down to a comparatively recent period in the parish registers as *aliases* of both Gordons and Grants, while even at the present day families of Grant are still to be found in some of the Speyside parishes who are known as belonging to the Race of the Trough. No doubt, therefore, there was at some time more or less remote an importation into the Grant country of persons whose descendants were marked off and distinguished by that title, and the main question remaining for consideration is, When did this importation take place?

The MS. accounts which have been mentioned—both of the eighteenth century and the only available accounts entitled to any real authority—agree in saying that it was in the time of Seumas (James) nan Creach, the Grant chief from 1528 to 1553, Chapman, indeed, giving 1540 as the actual date. James 'of the Forays' would have been a most likely person to make such a raid as that of the story, and, as it happens, there is actual evidence of a fierce and sanguinary feud between the Grants and the inhabitants of the upper Dee country in his time—not actually during his chiefship, but only a year or two before his accession, when he was more than forty years old. This evidence is contained in several documents among the muniments at Castle Grant, and may be read in the third volume of *The Chiefs of Grant*, produced in 1883 under the editorship of the late Sir William Fraser. Suffice it to say here that for some time before October 1527, when an agreement for a cessation of hostilities was made, a state of war had existed between Strathspey and the upper Dee district, in which each side had invaded the territory of the other, with great plundering and slaughtering—'*truncacionem et depopulacionem hominum ac asportacionem animalium granorum rerumque aliarum*'—and in these proceedings it can hardly be supposed

that the heir-apparent to the Grant chiefship, James of the Forays, did not take a prominent part, even if he were not the actual leader of the Grants. In the agreement of October 1527 he is named next to his father on the side of the Grants, and in subsequent documents relating to the same events, after his father's death in 1528, he is of course the first mentioned on that side.

The Earl of Huntly was concerned in the affair not, so far as appears, as acting with the Grants, but as the Crown administrator of the lands of the Earldom of Mar, which were at the time in the King's hands and in which was included the district affected by the raid. Holding such a position, the Earl—quite apart from any feelings of commiseration which may have moved him, and with which Chapman credits him—would be almost bound to take measures for the preservation and protection of the children (the number of whom probably increased with the age of the tradition) who had been deprived of parents and homes in the course of the feud, and he could scarcely have done this without removing them from the desolated district. Thus his inclusion in the story may be accounted for without so far stretching probabilities and ignoring ascertained conditions as to make him a participator in the raid; in fact, his inclusion in this character was in all probability a late addition to the local story in the time of Chapman. That there actually were orphans is evident from the agreement of October 1527 between the Grants on the one part and 'Fyndlayus Farquharsone' and a number of other tenants of the King in 'Stradee' on the other, 'pro se, suis prolibus, *orphanis*, consanguineis, amicis et adherentibus, etc.' Orphans are similarly mentioned in another agreement, a few months later, between the Grants and the Strathdee tenants of the Earl of Huntly and Gordon of Abergeldie, who had also suffered in the raid. But nothing appears in the documents as to any carrying away of orphans, and it is quite possible that those taken by Huntly may have been only from his own lands.

It is very likely, too, that the name of the baron of Braichlie was introduced into the story in the course of time as being a well-known name connected with Deeside in song and story, and in order to account for the raid and for the inclusion of Huntly as a party to it.

However these things may be, the Children of the Trough cannot consistently with original authorities or historical probabilities be regarded as Farquharsons, as, on Scott's sole responsibility they are widely held to have been; and if the events on which

the story is founded may be assigned to the year 1527—a course which is strongly favoured by probability and recorded historical facts—it is scarcely possible that they could have been Farquharsons. It is true that Fyndlayus Farquharson (Finla Mor) appears in connection with the events as the principal man among the King's tenants, but he is the only one of his name in the long list of tenants given in the agreement of October 1527; moreover, the Clan Farquharson can scarcely be said to have come into being until after his death, and it was not until the time of his grandsons that the Farquharsons spread over and acquired a hold on the districts of Braemar and Strathdee.

Altogether the story is a good specimen of the class of traditional narratives which, although smacking considerably of mere legend, have yet a solid foundation in fact and are redolent of the wild times in which their incidents took place. It also affords an illustration of the proneness of tradition as its age increases to gather extraneous matter and to blend and confuse persons and circumstances of distant periods. Sir Walter Scott himself was sensible of this tendency when he wrote that 'tradition will accurately preserve the particulars of ancient events, even whilst forgetting, mis-stating, and confounding dates and persons.'¹

A. M. MACKINTOSH.

¹ *Anne of Geierstein*, chap. xxx.

The Politics of Burns¹

THIS discourse, whatever result it may come to, is certainly not wrong in its choice of a subject. To think of the politics of Robert Burns is not like some of the idle and irrelevant enquiries about the lives of poets. In every current opinion about him, in every judgment passed on him since the year 1786, he is taken as a representative man, speaking for his nation, or for the rank he belongs to, or for some new reviving spirit of liberty, or for the old traditional Scottish loyalty, or for these two together, as Jacobin-Jacobite.

Of his loyalty to the house of Stuart there can be no doubt, and there is no doubt that he was affected by the spirit of the French Revolution. But neither of these motives made the real politics of Burns. The French Revolution counted for very little in the poetry of Burns, for the good reason that in 1786 the French Revolution was not yet in sight, at any rate from the horizon of Mauchline. It is not wonderful that readers of the life of Burns (in any version of it) should be struck by the story of his later days, and the difficulties of the excise-man who admired the French, and sent them those historical carronades.

The difficulties are well described by Carlyle:

‘Metecors of French politics rise before him ; is he not a well-wisher of the French Revolution, a Jacobin, and therefore in that one act guilty of all?’ ‘These accusations’ (Carlyle goes on) ‘it has since appeared, were false enough: but the world hesitated little to credit them.’

And later, we may add, long after the suspicions and jealousies of Dumfries, when Burns’s opinions about France have little left in them to irritate the most sensitive Tory, there is another kind of exaggeration connecting Burns and the French Revolution through the Spirit of the Age. You will find this superstition in Matthew Arnold’s essay on Gray: ‘If Gray, like Burns, had been

¹A paper read to the Historical Society of the University of Glasgow.

just 30 when the French Revolution broke out, he would have shown perhaps productiveness and animation in plenty.'

Now this means evidently that Burns lived in a time of expansion, and had the advantage of this expansion or explosion in his poetical fertility, as contrasted with the small volume of Gray's poems. It is true that Burns was born in 1759, and therefore was 30 in 1789; it is true also that the explosion reached his mind. But what had it to do with the *Kilmarnock* edition of 1786, or the *Edinburgh* of 1787? And how much of Burns's poetry was written after the explosion of 1789? That sentence of Matthew Arnold may, I think, be worth noting in an historical society, as an example of one of the Idols of the Theatre, one of the fallacies besetting historical study, especially, I should say, the history of literature. The Spirit of the Age is a dangerous demon, and I cannot but think he has imposed on Matthew Arnold in this reference to Burns. The poems of Burns in which he gave his rendering of Ayrshire life; the poems which made his fame at once, through all the length of the Island of Britain, were published before the French Revolution; and further, they show no signs of the coming expansion. The politics of Burns are not, in 1786, affected by the great things coming on; if there is any high spirit in his politics, and there is much, it is derived from the time of Gray; the time of depression, as Matthew Arnold counts it. If one is to borrow metaphysical aid to interpret the poetical genius of Burns, why not take the 'freits,' as we may call them here, which will be interpreted 'omens,' if this argument is ever repeated in South Britain, why not take the freits from his birth year of 1759?

It is not less significant, that date, than 1789; it is the 'wonderful year,' of 'Hearts of Oak,' of Minden and Quebec and Quiberon. Burns knew well enough what that year meant, and his hero is William Pitt, Earl of Chatham, and also, for the father's sake chiefly, William Pitt, the son:

'An' Will's a true guid fallow's get,
A name not envy spairges.'

There you have the politics of Burns in 1786, when he was at the height of his power. It is obvious enough, but seems generally to lack interest for readers of Burns. Yet surely there is something worth considering in the fact, which Scott is one author to note clearly, that Burns for a time was a Pittite:

'You will see he plays high Jacobite . . . though I imagine

his Jacobitism, like my own, belonged rather to the fancy than the reason. He was, however, a great Pittite down to a certain period.'

Burns shows an extraordinary gift for finding out all that he wants to know, and he must have wanted to know everything about the Pitts, or he could not have found out Boconnock in Cornwall, the house of the Pitts—regarding which I remember Mr. Phillimore spoke some pleasant things some years ago on a 25th of January—if the newspapers of the 26th are to be trusted. I am sorry I was not there to hear.

There are several points here all at once calling for notice, and seldom getting it from friends of the poet:

The extraordinary talent for history shown by Robert Burns.

His attention to British History in preference to Scottish.

The originality of his views.

He is not fascinated at this time by Charles James Fox. At any rate in his political choice and aims and admirations he refuses to be swayed by the passionate eloquence or the liberal ideas of the statesman with whom we should think he might have had most sympathy. He celebrates him later.

Further, and this perhaps when one comes to look into it is the strangest thing of all, his clear, original and careful study of British politics is carried on through the time when his poetical studies are most closely limited to the country he knows—not Scotland, but Ayrshire, and not the whole of Ayrshire.

To understand the politics of Burns it is necessary to think of his position with regard to the scene and the substance of his poetry—the poetry of 1786 and 1787, to which he never added another volume of the same sort in the ten years remaining, and scarcely a poem except *Tam o' Shanter*.

How did Burns come to write the Kilmarnock volume? This problem may be hard to answer, and it is possibly foolish. But there are some misconceptions about his circumstances and education, and his place in literature, which must be cleared away. Carlyle gives his authority to some of these in his review of Lockhart, and his lecture on the Hero as Man of Letters:

'With no furtherance but such knowledge as dwells in a poor man's hut, and the rhymes of a Fergusson or Ramsay for his standard of beauty.'

Now we know that his standard of beauty was formed in part upon the rhymes of Ramsay and Fergusson, but we know that it was influenced also by Pope and Steele and Beattie's work, by

Shakespeare and Milton, by Thomson, Shenstone, and Gray and Goldsmith. You can tell a man by his quotations; he quotes *Hamlet*, *Othello*, *King Lear*, *Troilus and Cressida*. He writes to Mrs. Dunlop of his recourse to the dramas of Thomson. He quotes to Clarinda from Gray's *Bard*:

‘Dear as the light that visits these sad eyes,
Dear as the ruddy drops that warm my heart.’

Is not the standard of beauty there?

Carlyle on Burns again, in *Hero-Worship*:—

‘This Burns appeared under every disadvantage; uninstructed, poor, born only to hard manual toil; and writing, when it came to that, in a rustic special dialect, known only to a small province of the country he lived in. Had he written even what he did write in the general language of England, I doubt but he had already become universally recognised as being, or capable to be, one of our greatest men.’

I am not quite sure what Carlyle means by a rustic special dialect, known only to a small province of the country he lived in. Of course the language of Kyle and Carrick has peculiarities of its own. Burns does not write exactly the same language as the Scottish poets of Lothian and the Mearns; there are words and phrases in Fergusson, and also let me say for the pleasure of naming them, in *Hamewith* and in *Horace* of the Ochils, that are not found in Burns. The language of Ross of Lochlee, in *Helenore, the Fortunate Shepherdess* (Lindy and Nory), must have been strange to Burns, though probably more familiar to his father and his Montrose cousins, but it was no great hindrance to his understanding and appreciation of ‘Lindy and Nory’; and as for readers in the South, it was in England that he found at once some of his most enthusiastic admirers, among some of the most fastidious and most purely Southern in taste and breeding. I mean particularly William Gilpin, the careful and delightful student of the picturesque, who, if any one, might have been offended by Scotch drink, Scotch religion and Scotch manners. Instead of which Gilpin, the refined and elegant, chooses precisely from a poem on Scotch drink a stanza for the death of a hero, and he quotes it at Killiecrankie for an epitaph on Dundee. Coleridge in the *Friend* makes a similar use of the same context, without the particular reference, though decorously he omits the line:

‘Clap in his cheek a Highland gill.’

Wordsworth, speaking of the death of Dundee in one of his early poems, shows that he had read Gilpin, and had read Burns as quoted by Gilpin, and did not disapprove:

‘When brave Dundee with ‘faint huzzas’ expired.’

It is curious.

There are selections from Burns in the *Annual Register*, as soon as may be after the Edinburgh edition.

Scottish poetry had been regularly within the knowledge of Southern readers for two or three generations before Burns—we may say perhaps ever since *Christ’s Kirk on the Green* was published at Oxford by Edmund Gibson. A good example and proof of this is the list of subscribers to *Orpheus Caledonius*, London, 1733; there are many English names among them, more English than Scotch, I should say, guessing roughly—the Rt. Hon. William Pulteney, Esq., Thomas Pitt, Esq., Mrs. Pitt, George Venables Vernon, Esq. (6 sets), Lady Robert Walpole. I believe that Horace Walpole read his mother’s copy.

Burns wrote in the language of Kyle, because that was his natural language. But he had not to choose between that and English. Any page of Burns will show that his language is not to be described simply as a special dialect; it has all manner of variations between the pure vernacular and the book-English. It is not, I think, commonly recognised how much an affair of art, an assumed and artificial style, was the Scottish poetry of the eighteenth century; how different in its condition from the poetry of the old ‘makaris,’ Dunbar and Douglas and the rest.

Beattie writes a poem to Ross of Lochlee, an occasional diversion, in the familiar stanza:

‘O Ross, thou wale o’ hearty cocks,
Sae crouse and canty wi’ thy jokes,
Thy hamely auld warld muse provokes
Me for a while
To ape our guid plain country folks
In verse and style.
O bonny are our green sward haws
Where through the birks the burny rows,
And the bee bums, and the ox lows,
And saft winds rusle,
And shepherd-lads on sunny knows
Blaw the blythe fusle.’

He passes this off as a *tour de force*, a literary joke, and such indeed it was. And so are the Scots verses of Stevenson and of

Hugh Haliburton and the author of *Hamewith*, obviously. And so are the Scots verses of Robert Burns and of Allan Ramsay and of Robert Fergusson before him. Burns adopts a literary convention in the same way, though more consistently and thoroughly, than Beattie. None of his forms are invented; all are taken from the tradition which had been founded in the seventeenth century by the *Elegy on Habbie Simson, piper of Kilbarchan*, developed and confirmed by Allan Ramsay. The readers of Burns, his rhyming friends and competitors, all understood this. It is all a game of language, 'crambo-clink,' with rules and patterns of its own, used for fun by men who wrote their serious business letters in English, and exacted the catechism in English from their children and servants, and sang in English the metrical version of the Psalms by Mr. Francis Rous of Truro, sometime Provost of Eton.

Now when this is understood it will be found, I think, to have some bearing upon the politics of Burns, though possibly I may seem to have wandered away from the proper field of the Historical Society over the borders into philology, if not into mere rhetoric and *belles lettres*.

It is a great thing for an artist to inherit a strong tradition, to belong to a school. It means that he has all the strength of his own and the last generation to draw upon; he does not waste his time in solitary adventures; he is not left to himself; he is saved from caprice and melancholy, from the fate of Chatterton. Think of the difference between the art of Burns, his secure command of all his arguments and all his forms on the one hand, and the poetry of his contemporary Blake on the other—in so many ways miraculous, yet at what an expense of thought and care in finding out the new ways. The poems of Fergusson, as Dr. John Service expressed it, in a true conceit, are the *juvenilia* of Burns; and Ferguson himself worked in a traditional way.

The security of Burns as a poet with the inherited forms and examples of Ramsay and Fergusson goes along with security and confidence in the choice of themes. His poetry, for all its rustic character and language, has the distinctive mark of aristocratic literature. It is self-possessed, at ease and sure of itself; classical. It is not restless, or self-conscious or anxious or experimental or *arriviste*. It has the true dignity, like that of the man who knows he is master in his own house, and is accustomed to converse with his equals, and has no reason to go craving for what he has not got.

When Keats came up by Glen App, and so by Ballantrae and Girvan and Maybole to Alloway, thinking rightly about Burns, more than most men, he saw Arran over the sea, and wondered why the vision of the island had never passed into Burns's poetry. Arran had been before him all his days, and there is no word of it anywhere, in any of his prose or rhyme. For this disregard there was probably good reason. Burns has left out of his poetry many other things which must have been equally within his knowledge, and might have been wrought into the fabric of his verse. He was thought by some to be indifferent to the beauties of nature. He was certainly irresponsible when people gave utterance to their hearts of sensibility :—

‘He disliked to be tutored in matters of taste, and could not endure that one should run shouting before him whenever any fine object appeared.’ (Cunningham, Chambers II. 156 n.) Andrew Lang, in a sonnet written under the influence of Wordsworth, has uttered the same complaint of those who shout

‘To me, to me the poet, O look there !’

But it is not only in matters of this sort that Burns is economical and reticent. The Kilmarnock volume, which expresses so much of the life of Ayrshire, leaves out a great deal. Burns keeps to the region he knows ; neighbouring provinces are left unnoticed, though he might easily have touched upon them, and brought back profitable things. Why does he go down to the sea, and no further ? Why does he make nothing of the contraband trade with which he came to be acquainted at Kirkoswald ? If he was too proud to speak of the Arran hills which did not belong to him, might he not have gone sailing with fishermen of Girvan or Ayr, Dunure or Turnberry ? No, they were not his own people ; his own people are the farmers or their cotters, and it was not his business to go looking for subjects. The fishermen are left out. So on the other side the further moorlands and their shepherds are left out. He takes the Doon where it comes near him ; he does not wander up to talk with the lonely shepherds on the Galloway border ; Loch Doon he never thinks about, nor the wild uplands where his river comes down from the granite of Loch Enoch, and houses are far between.

While he thus restricted himself in his choice of Ayrshire themes, he was attending to contemporary history. He must have read the newspapers and probably also the *Scots Magazine*

with extraordinary care. And he does not read under the influence of that Scottish prejudice which he was proud to confess in the well known and often quoted words: 'the spirit of Wallace poured a Scottish prejudice into my veins, which will boil along there till the floodgates of life shut in eternal rest.'

He is not particularly good at Scottish history. His Scottish politics are determined by Scotch drink. But the politics of the United Kingdom of Great Britain in his own lifetime were noted with a diligence which the biographers and commentators of Burns have passed over very lightly.

This historical study comes out in two poems particularly: the birthday poem to the King and the historical fragment on the American war and the parliamentary vicissitudes following—'When Guilford good our pilot stood.' His carefulness is proved through one of the conventions of that sort of lyrical satire. The rule is that persons are not to be named by their right names, if another name can be provided. It is that rule (together with the need for a rhyme to *winnock* and *bannock* and *Nanse Tinnock*) that puts *Boconnock* for *Pitt* or *Chatham*. Hence *Guilford* and not *Lord North*, *Montague* for *Lord Sandwich*, *Grenville* for the statesman commonly called *Lord Temple*. *The Duke of York* is *Right Reverend Osnabrug* (of course there are other obvious motives here). *Lord George Germaine* appears under his other name of *Sackville*. A note in the Centenary Edition, from an autograph manuscript seen by the editors, shows that Burns originally wrote *Germaine*:

'And bauld G——ne wham Minden's plain
To fame will ever blaw, man.'

Altered:

'And Sackville doure, wha stood the stoure
The German chief to thraw, man.'

I believe that Burns thought of changing it because *Germaine* was the right name, and therefore the wrong name for his purpose.

It does not look as if he were working with an index or a peerage at his side. He knows the names and titles of these persons of quality because he is interested in British history. *Boconnock* comes to his mind because he has found out some time before what he wants to know about the family of *Pitt*; just as he does not need a file of newspapers, or a set of the

Scots Magazine, or the *Annual Register*, when he finds his old soldier among the Jolly Beggars :

‘My prenticeship was past where my leader breathed his last,
When the bloody die was cast on the heights of Abram.
I served out my trade when the gallant game was played,
And the Moro low was laid at the sound of the drum.

I lastly was with Curtis among the floating batteries.
And there I left for witness an arm and a limb,
Yet let my country need me, with Elliot to lead me,
I’ll clatter on my stumps at the sound of a drum.’

The fragment ‘When Guilford good’ looks at first like a rigmarole of mere annals turned into burlesque rhyme. But it works up to a climax, and it is not a fragment; it is the war-song of William Pitt, the young hero. It turns into that, whatever Burns may have first intended, or even if he intended nothing in particular when he began. And he certainly had the whole history in his mind when he began, and also his judgment on the characters. You may notice that his alteration of *Germaine* proves this. It is not merely a conventional vague illusion to Lord George Sackville’s notorious cowardice at Minden. It is so, in the first version; but the second, the authorised version, shows that Burns knew what happened at Minden, and he has put this into a phrase so mischievous that the point of it may easily escape notice and Sackville be mistaken for a hero:

‘wha stood the stoure
The German chief to thraw, man.’

It looks at first like heroic resistance; till you remember that the German chief, Ferdinand of Brunswick, was Lord George Sackville’s commander, that the *stoure* means the repeated order to charge, with a prophetic allusion to the trial that followed. ‘The German chief to thraw’ is not to confound the enemy, but to disappoint his own general.

Burns’s politics at this time are clear enough. Chatham is his great hero because he knows about Minden and Quebec, and the taking of Havana, ‘when the Moro low was laid.’ And William Pitt the younger has his regard partly for his father’s sake, and partly for his own courage and his resistance to the coalition of Fox and North, which Burns could not stand because it was meanness and knavery. He does not object to Fox because of his tinkler jaw or dicing box and sporting lady. Fox’s gambling was

merely a good thing for a satirical poet, as in the address to the Prince of Wales in the *Dream*:

‘That e’er ye brak Diana’s pales,
Or rattl’d dice wi’ Charlie.’

But he seriously did not like ‘yon mixtie maxtie queer hotch potch, the Coalition,’ and he seriously regarded Pitt as a high-spirited young man breaking through the intrigues of party politics and likely to go further. And this is what he puts into his rhyme of the American war and Rockingham and Shelburne and the Coalition, and Fox’s India Bill, and Temple’s message from the King, ‘a secret word or twa, man,’ and Pitt’s courageous adventure—a long way from Mauchline, but touched off with the same intensity as Black Russell and Moodie and Peebles from the Waterfoot:

‘But word an’ blow, North, Fox, and Co.
Gowff’d Willie like a ba’, man,
Till Suthron raise an’ coost their claise
Behind him in a raw, man:
An’ Caledon threw by the drone,
An’ did her whittle draw, man;
An’ swoor fu’ rude, thro’ dirt an’ bluid,
To mak it guid in law, man.’

The Dream of the 4th of June, 1786, is the other example of Burns’s interest in the history of his country, which is not politically Scotland, but Great Britain. Also of the quickness and readiness with which he followed the news from London. *The Dream* is suggested by Thomas Warton’s periodical birthday ode published in the newspapers. It is worth mentioning that while the ode of 1786 prompted Burns’s poem, the ode of the previous year was the occasion of the notorious burlesque Probationary Odes, the sequel of the *Rolliad*. So that Burns here again had his eye on the same sort of things as attracted the wits of London. He has nothing much to learn from them in the art of satirical poetry. Here again, though here only by the way, Pitt comes in as the statesman to be respected; and Burns appears as the champion of the Navy against retrenchment in a passage which may possibly have been quoted, though I have never noticed it, in speeches of knights and squires who represent our burghs and shires:

‘I’m no mistrusting Willie Pitt,
When taxes he enlarges,
(An Will’s a true guid fallow’s get,
A name not envy spairges),

That he intends to pay your debt,
 An' lessen a' your charges;
 But, God sake! let nae saving fit
 Abridge your bonie barges
 An' boats this day.'

'Burns was a great Pittite down to a certain period,' and that period was the end of his free, unimpeded work as a poet. He is a poet for the rest of his life, but never again with that irresistible command of his art, that certainty in all his various themes and moods which went with the volume of poems chiefly in the Scottish dialect. After that he is distracted. His work in the songs, as we watch it in his correspondence with Johnson and Thomson is of a different sort, often painful and laborious. He wastes his time thinking about impossible plans for Scottish drama and Scottish opera. And his political opinions change. His important Whig friends make him unsure of himself; he has to ask Henry Erskine whether it will do to print 'When Guilford good our pilot stood.' He takes to wearing the buff and blue, and owes allegiance to Mr. Fox. At the same time he makes more than in early days of his Jacobite sentiment; he writes his worst verse in a poem on the name of Stuart:

'Though something like moisture conglobes in my eye.'

To make up for that—

'It was a' for our rightfu' king.'

But before he had forgotten his earlier studies and interests he wrote a deliberate argument which may be quoted here.

I cannot see anything wrong in Burns's letter to the *Star*, Nov. 8, 1788, protesting against some of the Whig rhetoric over the centenary of the glorious Revolution; it seems to me right in history and right in sentiment, with a shrewd stroke at the orators who blamed the tyranny of the Stuart kings and ignored the tyranny of parliaments.

TO THE EDITOR OF 'THE STAR.'
 (CURRIE, 1800.)

Nov. 8TH, 1788.

SIR,—Notwithstanding the opprobrious epithets with which some of our philosophers and gloomy sectarians have branded our nature—the principle of universal selfishness, the proneness to all evil, they have given us; still, the detestation in which inhumanity to the distressed, and insolence to the fallen, are held by all mankind, shows that they are not natives of the

human heart. Even the unhappy partner of our kind who is undone—the bitter consequence of his follies or his crimes—who but sympathizes with the miseries of this ruined profligate brother? We forget the injuries, and feel for the man.

I went, last Wednesday, to my parish church, most cordially to join in grateful acknowledgment to the AUTHOR OF ALL GOOD, for the consequent blessings of the glorious Revolution. To that auspicious event we owe no less than our liberties, civil and religious; to it we are likewise indebted for the present Royal Family, the ruling features of whose administration have ever been mildness to the subject, and tenderness of his rights.

Bred and educated in revolution principles, the principles of reason and common sense, it could not be any silly political prejudice which made my heart revolt at the harsh abusive manner in which the reverend gentleman mentioned the house of Stuart, and which, I am afraid, was too much the language of the day. We may rejoice sufficiently in our deliverance from past evils, without cruelly raking up the ashes of those whose misfortune it was, perhaps as much as their crime, to be the authors of those evils, and we may bless God for all his goodness to us as a nation, without at the same time cursing a few ruined, powerless exiles, who only harboured ideas, and made attempts, that most of us would have done, had we been in their situation.

The ‘bloody and tyrannical House of Stuart,’ may be said with propriety and justice, when compared with the present royal family, and the sentiments of our days; but is there no allowance to be made for the manners of the times? Were the royal contemporaries of the Stuarts more attentive to their subjects’ rights? Might not the epithets of ‘bloody and tyrannical’ be, with at least equal justice, applied to the House of Tudor, of York, or any other of their predecessors?

The simple state of the case, Sir, seems to be this:—At that period, the science of government, the knowledge of the true relation between king and subject, was like other sciences and other knowledge, just in its infancy, emerging from dark ages of ignorance and barbarity.

The Stuarts only contended for prerogatives which they knew their predecessors enjoyed, and which they saw their contemporaries enjoying; but these prerogatives were inimical to the happiness of a nation and the rights of subjects.

In this contest between prince and people, the consequence of that light of science which had lately dawned over Europe, the monarch of France, for example, was victorious over the struggling liberties of his people; with us, luckily, the monarch failed, and his unwarrantable pretensions fell a sacrifice to our rights and happiness. Whether it was owing to the wisdom of leading individuals, or to the justling of parties, I cannot pretend to determine; but, likewise happily for us, the kingly power was shifted into another branch of the family, who, as they owed the throne solely to the call of a free people, could claim nothing inconsistent with the covenanted terms which placed them there.

The Stuarts have been condemned and laughed at for the folly and impracticability of their attempts in 1715 and 1745. That they failed, I

bless God : but cannot join in the ridicule against them. Who does not know that the abilities or defects of leaders and commanders are often hidden until put to the touchstone of exigency ; and that there is a caprice of fortune, an omnipotence in particular accidents and conjectures of circumstances, which exalt us as heroes, or brand us as madmen, just as they are for or against us ?

Man, Mr. Publisher, is a strange, weak, inconsistent being : who would believe, Sir, that in this our Augustan age of liberality and refinement, while we seem so justly sensible and jealous of our rights and liberties, and animated with such indignation against the very memory of those who would have subverted them—that a certain people under our national protection should complain, not against our monarch and a few favorite advisers, but against our WHOLE LEGISLATIVE BODY, for similar oppression, and almost in the very same terms, as our forefathers did of the House of Stuart ! I will not, I cannot, enter into the merits of the cause ; but I dare say the American Congress, of 1776, will be allowed to have been as able and enlightened as the English Convention was in 1688 ; and that their posterity will celebrate the centenary of their deliverance from us, as duly and sincerely as we do ours from the oppressive measures of the wrong-headed House of Stuart.

To conclude, Sir, let every man who has a tear for the many miseries incident to humanity, feel for a family, illustrious as any in Europe, and unfortunate beyond historic precedent ; and let every Briton (and particularly every Scotsman), who ever looked with reverential pity on the dotage of a parent, cast a veil over the fatal mistakes of the kings of his forefathers.

R. B.

Burns's opinions about the French Revolution have nothing dishonourable in them, and nothing very difficult to understand. They are like Wordsworth's, but of course without Wordsworth's intimate knowledge of France, and with sympathies less intense. He hates the invaders of France, and there is deadly contempt in his rude rhyme :

‘You're welcome to Despots, Dumourier !’

But, like Wordsworth, he turns to think of his own country when his country is in danger. There is no discord or contradiction between ‘A man's a man for a' that,’ Jan. 1795 (‘two or three good prose thoughts inverted into rhyme’), and the song for the Dumfries Volunteers (*Dumfries Journal*, May 5th, 1795).

‘Be Britain still to Britain true
Amang oursels united,
For never but by British hands
Maun British wrangs be righted !

* * *

The Politics of Burns

The wretch that would a tyrant own,
And the wretch, his true-born brother,
Who'd set the mob above the throne,
May they be damn'd together!
Who will not sing *God save the King!*
Shall hang as high's the steeple;
But while we sing *God save the King!*
We'll not forget the people!'

Whatever may be the value of his later thoughts in prose or rhyme, they have not the significance or the force of the miraculous volume of 1786, with the other poems written but not printed at that time. Burns as a poet is to be judged by the work of those years; the more this is studied the clearer is the relation between his command of the world of Mauchline and Ayr, and his political understanding of what is meant by Great Britain.

W. P. KER.

Reviews of Books

THE BURGH RECORDS OF DUNFERMLINE : Transcribed from the Original Manuscript Volume : Courts, Sasines, etc., 1488-1584. Edited by Erskine Beveridge, LL.D., author of 'A Bibliography of Dunfermline and West Fife,' etc. 4to. Pp. lviii, 600. With three Illustrations. Edinburgh : William Brown. 1917.

WHEN in 1835 the Commissioners on Municipal Corporations reported that the Town of Dunfermline appeared to have been founded by the Monastery in 1363 and that it was not erected into a Royal Burgh till 1588, these inaccuracies were more excusable than they would have been seven years later after the Bannatyne Club had issued *Registrum de Dunfermlyn*, containing reliable information bearing on the relationship between the abbey and the burgh. The abbey was preceded by that church which King Malcolm and Queen Margaret, about the year 1080, established on perhaps an older foundation, in the vicinity of their own residence, and in a district which had for long been possessed as royal territory. In situations and springing up under conditions such as these, several towns had their origin as royal burghs, and that Dunfermline had reached that stage of development sometime before the remodelling of the church and the establishment of an abbey, at the beginning of David's reign, seems to be proved by the fact that one of the abbey's earliest endowments consisted of a dwelling in the King's burgh—'in meo burgo de Dunfermelyn.'

At a later but unknown period the Abbot came into the King's place as Superior of the Burgh. Of this change we have no documentary evidence till the first King Robert's reign. By one of that sovereign's charters there were confirmed to the monks the great customs exigible throughout their whole territories, including their burghs of Dunfermlyn, Kirkaldy, Queensferry and Musselburgh. In a grant by David II. to the Abbot and Convent, trading privileges were confirmed to the inhabitants of these four Burghs ; and Abbot John (1365-99) confirmed to 'his' burgesses of Dunfermline all the rights and privileges of a free merchant guild, as fully as such were possessed by the burgesses of any Burgh. But it is from the terms of an Indenture dated 13 October 1395 that Dunfermline's burghal status is most clearly disclosed. By this deed the Abbot and Convent leased to the Alderman and Community the rents of the Burgh, the petty customs, stallages, the issues of court, and the whole burgh and liberties thereof, to be held in feu-farm as freely as any burgh in the kingdom was held and possessed, reserving only the lands and rents in the burgh belonging to the

Abbot and Convent and the correction of the bailies as often as they happened to transgress in law or justice. In return for these rights and privileges the community undertook to pay to the Abbey and Convent the yearly rent or feu-duty of 13 merks, the sum which also appears in the Abbey's rental made up at the time of the Reformation. From a Report on the Condition of Royal Burghs in 1692 it is stated that the feu-duty was then payable to the Earl of Tweeddale, bailie of the Regality, while sixpence sterling, the commuted value of a pair of white Paris gloves, as feu-duty for the Common Muir, went to 'the King.'

From what has been said it appears that Dunfermline was originally a royal burgh, but that its great customs and other sovereign rights were, at an early period, conferred on the Abbot and Convent, whereby it was put into the category of a Burgh of Regality, an arrangement which subsisted till, in consequence of Reformation changes, its royalty position was restored. On the community, however, these variations, theoretical rather than practical, may be supposed to have had little effect. Owing probably to the old Burgh Laws being in operation before the Abbey connection was formed the burgesses seem to have always had the free election of their magistrates, not hampered as were the citizens of Glasgow, a bishop's burgh, with the interposition of ecclesiastical superiors. In civic administration, likewise, and in the exercise of market and trading privileges, little or no restraint is discernible from that quarter. Dunfermline was represented in the Convention of Royal Burghs long before the Reformation, and it appears in a tax-roll of 1535 bearing its share in a National impost. To raise their share of one of these taxations in 1516 the community set part of their lands on a nineteen years' lease for payment of rent in advance, and on this occasion the consent of the commendator of the abbey 'as superior of the burgh,' was obtained.

A volume of the Burgh's records, beginning as early as 1488, has been preserved, and it is this volume which now has had its contents made open to the public. Consisting of a large folio, bound in the original leather cover, on which are embossed three groups of scriptural and traditional figures, the book records proceedings of the Burgh Court, elections of magistrates and officers, services of heirs, entries of burgesses and regulations and enactments connected with the administration of the burgh's affairs, down to about the year 1528. Transfers of property, including 'recognitions' or forfeiture of lands and tenements for non-payment of ground annuals or feu-duties, compose most of the remainder of the volume, but with many of the documents thus inserted, varying in date from 1455 onwards, chronological arrangement is often disregarded. Blank spaces in the original record have been used for such purposes, a system of interpolation which was also practised in the ancient Abbey Register.

In most publications of Burgh Records on a large scale, selections only are given, but in the present case the opportunity has been taken of printing the contents of the volume in full. All this, too, has been accomplished with the utmost care; contractions, so trying to the unpractised eye, have been extended, proper names have been supplied with capital letters, and punctuation has been introduced, but otherwise

the manuscript has been followed *verbatim et literatim*. Written almost wholly in the vernacular the book contains many words and phrases now obsolete, for the interpretation of which most readers will require to consult the appended glossary. The language seems to have been locally termed not Scots but English, as a Bailie to whom a Latin precept was produced caused it to be read 'in Ynglis.'

The Burgh magistrates were chosen by the community at the head court after Michaelmas, and consisted of a Prepositus or Provost, alternatively designated Alderman, and two Bailies. There are few references to a town council, enactments being usually passed in name of the Alderman, bailies and community, with the occasional addition of the deacons of crafts. In burgh court procedure an assize, chosen from among the burgesses and varying in number from twelve to eighteen, seems to have decided questions of fact. Both civil and criminal cases were disposed of in court, and these included suits for debt and prosecutions for breach of peace, theft and trading offences.

Between 1488 and 1524 two hundred and sixty-three burgesses were enrolled, ten of them being females. Most of the male entrants were admitted by purchase, the amount exacted from each being usually half-a-mark or 6s. 8d. A considerable number were admitted under the formula 'be resone of his fader' and apparently without payment of money. One was admitted 'be resone of his moder and hir resignacion maid be hir tharapon in judgment.' This was probably the case of a widow who had, through burgess-ship, been allowed to carry on trade till her son was of sufficient age to become a freeman. George Grant, as his qualification for admission, had 'to wyrk to the common work quhill he have plesit thame,' and John Thomson, in 1496, 'wes maid burges for his lifym, at the commande of my lord of Mar.' Of those admitted for services rendered or to be rendered, one had reponsibility 'for covering of the burn with flaggis stanes and mending tharof,' and another for supplying 'a new firloft, pek and pynt, and uphold of them.' 'Be resone of hir fader' was the usual phrase on entering the name of a female burgess, and on the admission of Margret Gilcrist the stipulation was made that in the event of its being found that her father was not a burgess she should pay the usual dues, which dues were likewise to be exacted in the event of her brother returning home and claiming admission in right of his father. It thus seems to have been the rule that females could not claim gratis admission when there happened to be a male entitled to benefit from his father's burgess-ship. In 1494 Alan Mowthrar was entered burgess 'in name and behalf of all the dochteris of John of Cleis, as he that hes gottyn all their consentis.' Probably the daughters of a burgess who left no male heir were entitled to nominate an applicant for the privilege and to confer on him the needed qualification. Deprivation of burgess-ship sometimes followed misdemeanour, as in the case of one who was undergoing imprisonment and who 'tynt his freedome' for 'passyn furth of the tolbuith' without leave of the officers.

In April, 1491, 'Schir Andro Peirson, chaplen,' was admitted a burgess 'for his gud service'; and in the following year 'the alderman, balyeis and

communitie' promised him a suitable appointment on the occurrence of the earliest vacancy. What was the nature of the chaplain's 'service' does not appear, nor is it stated that the altarage he obtained was conferred on him by the community, but shortly afterwards he appears under the designation of 'chaplane of Sant Margret's altar,' in the Parish Kirk. In that capacity he appeared before the bailies in a court held in the Tolbooth, on 21 January, 1493-4, and presented 'erd and stane' of two properties in Calsagait 'for falt of payment of the annuel' owing to him. This was the first step in the course of legal procedure for obtaining possession of lands or tenements where the annuals or feu-duties payable therefrom were irrecoverable. An old Burgh law provided that any one intending to pursue for 'recovery' of a waste tenement because of unpaid annual rent should not, in accordance with former practice, be bound to present at the Burgh court any of its doors, windows and timber, or suchlike, thereby damaging the structure, but that it would be sufficient if he went to the land or the tenement, with witnesses and the burgh serjeant, and took 'erd and stane' thereof and presented the same to the bailies at three head courts of the burgh. The earth and stone so produced were to be 'placit in a pock,' sealed with the bailie's seal, and kept till the fourth court, at which the presiding bailie would be entitled to give decree of possession in favour of the pursuer. At the first court, in Peirson's case, the Burgh serjeant and two witnesses gave sworn evidence of what had been done and the bailie affixed his seal. At the second court, held on 8 April, similar procedure was followed, and at the head Michaelmas court, after the production of earth and stone, deposition of witnesses and sealing, the serjeant and witnesses declared on oath that there were no goods upon the ground which could be distrained or seized for the unpaid annual. The serjeant was then instructed to proclaim openly that unless the heirs should come and 'recover' the ground within forty days sentence would be pronounced and possession given to the chaplain. At the head 'Yule' court, held on 13 January, 1494-5, the final stage was reached, and the court 'gaif dome upon the said land, and possession to be gevin to the forsaid Schir Andro, as law of burghe schawis.' Such was the procedure in 'Recognitions,' of which there are many examples in the volume.

In his Introduction Dr. Beveridge calls attention to the main features of the book and the use which other local historians have already made of the old Records. The name Dunfermline he derives from the Fort (King Malcolm's tower) near the rivulets Fermand Lyn, and he also discusses the old place names and surnames occurring in the volume. Touching on ecclesiastical affairs, an interesting list is given of the altars within the parish and conventual kirks of the abbey, together with the names of their chaplains or tutors, as well as an account of several chapels in Dunfermline and its immediate vicinity, but having no connection with the abbey. With regard to the development and internal arrangement of the abbey church there is appended to the Introduction an instructive Monograph by Mr. F. C. Eeles, who acknowledges the value of the discoveries made by Mr. P. Macgregor Chalmers, regarding the foundations of the eleventh century church, as disclosed by the recent excavations conducted by him. Repro-

ductions of photographs of the embossed cover of the old MS. and of St. Margaret's shrine, with a Sketch-plan of the abbey in pre-Reformation times, add interest to this attractive volume, which is also furnished with a full Index as well as the Glossary above alluded to. Dr. Beveridge makes no announcement of his intentions regarding the completed Transcripts of subsequent MS. Registers, but the hope may be entertained that at no distant date they will be used in the compilation of at least one other volume of Dunfermline Records.

ROBERT RENWICK.

THE REGISTER OF THE PRIORY OF ST. BEES. Edited by the Rev. James Wilson, Litt.D. Pp. xxxix, 661. 8vo. Publications of the Surtees Society. Durham: Andrews & Co.; London: Bernard Quaritch. 1915.

THE Benedictine priory, founded about 1125, and richly endowed with adjacent territory by William Meschin, brother of Ranulf Meschin, lord of Cumberland, was a sort of sequel and counterpart for Coupland, the southern division of Cumberland, to the foundation at least a dozen years earlier of Wetheral, in the northern or old Carlisle division of that county, made by his brother Ranulf. Large further grants from the faithful soon followed: they had been expressly invited in the foundation charter. The muniments, an imposing series, were enrolled in a Harleian vellum folio, written in the fifteenth century and containing 497 documents, to which from other sources the editor adds the text of 106 invaluable documents more. Chiefly known hitherto through brief and imperfect extracts in Dugdale's *Monasticon*, the cartulary possesses double importance as not merely a vital and business-like register of tenurial facts, but also as more than usually full of incidental political data, due in part to the nearness of Ireland, Man and Scotland, and the family connection of lords of Galloway with Cumberland. The northern shores of the Solway Firth contributed handsomely in lands, saltworks, and fishings to the dower of St. Bega. Who that saint was remains more than ever dubious since Dr. Wilson launched his thunderbolt of doubt, deriving its explosive energy from the fact that Bega's chief symbol was her bracelet, and that *sancta Bega* is good ecclesiastical Latin for the Anglo-Saxon *halgan beage* (holy bracelet), a relic on which, centuries before the legend of the saint was written, oaths of great import were taken in Anglo-Saxon times. The *armilla beate Bege virginis* is certainly an awkward rival in sanctity to the saint herself.

As the register of a great monastery, of which perhaps it may be said the annals were not eventful, this cartulary had been studied for years by the editor before he undertook that task. It is matter of congratulation that so ripe a historian, already so intimate with the book and the locality it chiefly concerns, should have given by his editorship so ungrudging, thorough and accomplished a piece of service not merely to North English antiquity but to the general course of monasticism on its feudal and territorial side. Critical estimates of men's work in history need occasional rectifying of the compass. The doctrine that the 'historian' is higher than either the editor or the translator may be challenged by the question whether the test an editor or translator's scholarship undergoes in the

demand it implies for an all-embracing and yet intimate knowledge, textual, critical and historical, is not in reality greater and incomparably more severe than that made on the writer of history who can select his line of direction and is not constrained to face difficulties and problems which neither editor nor translator can evade? Dr. Wilson stands all the tests, he has written the political and ecclesiastical history of Cumberland with a broad eye for all its relationships, he edits this cartulary with the fidelity, minute learning and meticulous caution needed for a first-class contribution to the Surtees Society which, in spite of some rival efforts in Scotland and elsewhere, holds easily the foremost place in the editorial production of national records. No better equipped cartulary has perhaps ever appeared, and it leaves one wondering whether the writing of the Victoria history of the county was more the making of the editor than the familiarity with the cartulary was the making of the historian. A text prepared with the exactest record scholarship is accompanied by notes laden with documentation, an appendix of supplementary illustrative charters, accounts and writs, a magnificent index, and an introduction which is a masterly study of the whole political and ecclesiastical connotation of St. Bees priory and its lands.

In the appendix a text of the *Vita et Miracula* of the saint, probably from the first half of the thirteenth century, is a useful bit of commentary. The *Chronicon Cumbrie* is sympathetically expounded from a standpoint indicative of the advance made since Archdeacon Prescott dismissed it in editing the *Register of Wetherhal* twenty years ago. There are many suggestive points about place names, 'knot,' 'hou,' 'pol,' 'gil,' 'thwaite,' 'bek,' 'ridding,' and 'scale,' many of which are Norse memories. The service of 'bode' and 'wyttensman,' and words like '*follatum*,' '*frussare*' and '*briga*,' shew the persistence of puzzles of the medieval vocabulary.

Scottish aspects of the cartulary include the numerous acts of our kings and magnates in days when their footing was firm in great English lordships. Localities of Scottish grants include Colvend, Preston and Kirkandrew in Galloway, as well as Annan and Rainpatrick in Annandale. An odd error of the scribe is that Randolph, Earl of Moray, in an interesting confirmation charter styles himself 'lord of Wales,' whereas plainly the scribe misread *dominus Vallis Anandie et Mannie* as *dominus Wallie Anandie*, etc. In this charter occurs (p. 495) the curious reference to King Alexander III. : *qui Insulam de Manne per ensem conquestabatur*, interpreted by the editor as relative to the battle of Ronaldsway (see *S.H.R.* xii. 440). A charter, number 353 of the cartulary, granting an annual-rent at Annan, contains what is believed to be the earliest mention of the hospital there, still commemorated by the farm-name of Spitalridding Hill. Too many themes invite discussion—mills, saltworks, iron mines, coal mines, rise of markets, the port of 'Withofthavene,' in the middle of the twelfth century, the tenure by cornage, the claim of sanctuary for the priory, and the singular absence of echoes of the war of Scotland. Enough has been said merely to thank the editor; not nearly enough to appreciate the cartulary.

GEO. NEILSON.

A CALENDAR OF THE COURT MINUTES, ETC., OF THE EAST INDIA COMPANY, 1655-1659. By Ethel B. Sainsbury. With an Introduction and Notes by William Foster, C.I.E. Oxford: Clarendon Press. 1916. Pp. xxxiv, 387. 12s. 6d. net.

THIS instalment of the valuable calendars of the Court Minutes of the East India Company is concerned with a most critical period of transition in the fortunes of the enterprise. The old experimental stocks were coming to an end, and in 1657 a new one was started which turned out to be permanent, and after many vicissitudes resulted at length in the formation of the East India Company, which became celebrated in history. This volume opens in a time when the trade was greatly depressed, so much so that the Adventurers were ready to sell off the remaining assets by public auction for what they would fetch. But it was recognised in the end that, if England was to continue to trade to India, some close form of organisation was required, and Cromwell resolved to grant the Company a charter.

The fate of this document has long been in doubt. Naturally when the Restoration came less than three years after this instrument was signed, the Company was anxious to suppress it. In a catalogue of the papers of the Company compiled in the eighteenth century there is an entry of 'Oliver Cromwell's Charter to the Company,' but no copy of it is amongst the existing documents at the India Office. Sir William Hunter seemed to be on the verge of success when he traced a copy to Batavia, where it had been sent by the Dutch East India Company, but at this point the clue failed. At one time the provisions of Cromwell's charter were a mystery, but at length, through the industry of Mr. Foster and Miss Sainsbury, it is possible to reconstruct them almost completely. This is a triumph of constructive research.

This new volume of Court Minutes maintains the high standard of its predecessors. The summarising of the minutes has been skilfully done so as to preserve many of the personal touches of the original. For it is to be remembered that at this period the official or commercial style of correspondence and minute writing had not been invented, so that the records are much as those who composed them thought and spoke. Hence no one who wishes to picture the social life of the period can afford to neglect these papers, and in his investigations he will find these Calendars indispensable.

W. R. SCOTT.

THE WORK OF ST. OPTATUS, BISHOP OF MILEVIS, AGAINST THE DONATISTS, WITH APPENDIX. Translated into English, with Notes, critical, explanatory, theological and historical. By the Rev. O. R. Vassall-Phillips, B.A., Balliol College, Oxford, Priest of the Congregation of the Most Holy Redeemer. 8vo. Pp. xxxv, 438. London: Longmans, Green & Co. 1917. 12s. 6d. net.

THE translator supplied a great want when he gave to English readers the seven books of St. Optatus against the Donatists in a language with which they are most familiar. It is certainly a praiseworthy enterprise, for not

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only is the Latin text of the treatise little known except to theologians, but no English translation has ever been attempted before. There can be no doubt that Mr. Vassall-Phillips deserves commendation for breaking new ground, and though expert students may dissent from his translation of some passages, there is evidence of conscientiousness and care in the endeavour to interpret the true meaning of his author. He has, however, anticipated objections that might be made by reproducing the Latin in footnotes when the meaning seemed to him obscure, or when some technical phrase was used about which a different interpretation was possible. No reasonable student could expect more from a translator.

Our chief objection to the translator's methods is his importation of extraneous matters and inferences in his notes to the text of Optatus. One looked for the historical setting of the seven books against the Donatists and their influence on the controversies of the fourth century after the manner of Newman in his translation and exposition of the treatises of St. Athanasius against the Arians. But Mr. Vassall-Phillips does not confine himself to his author's period. Many of his notes, discursive and self-evident as several of them are, seem directed against modern ecclesiastical conditions as if Optatus were gifted with prophetic instinct and had in mind 'Luther, Calvin, Zwingli, Cranmer, Knox, and their associates,' when he was defending the unity of Christendom against the disintegrative tendencies of Parmenian and his fellow schismatics. If the translation was made for a polemical purpose, no more need be said : it has attained its object.

Mr. Vassall-Phillips has supplied his book with a map of North Africa, taken from Du Pin's 1702 edition of the Latin text of St. Optatus, and some useful appendices relative to the Donatist schism.

JAMES WILSON.

THE EASTERN QUESTION : An Historical Study in European Diplomacy.
By J. A. R. Marriott. Pp. viii, 456. Demy 8vo. Oxford : The Clarendon Press. 1917. 12s. 6d. net.

MR. MARRIOTT has produced a useful book. He has read industriously for it, and the list of authorities cited for each chapter is imposing. But he is not a mere boiler-down of historians and geographers, British and foreign. What moves the special admiration of the reader is the ease and skill with which he handles his material and carries along two or three threads of story at the same time without ever dropping one or confusing his threads. That is noticeable, not so much in the comparatively easy matter of emphasising at the right times the French interest in the Near East through centuries, as in the telling of the early nationalist history of the Balkans. We all know something of the older Serbia and the older Bulgaria, of Stephen Dushan and Simeon the Great. Mr. Marriott stalks through their interrelations like a hunter in a familiar forest.

So also he keeps a close hand on the relation of the Eastern Question to European politics in general during the eighteenth and nineteenth centuries. You are never left in doubt why Russia or Austria or France was able (or willing) to move the Near Eastern waters at any time.

Mr. Marriott begins with the advent of the Ottomans, and is exceedingly happy in his treatment of their attitude to their Christian subjects—a mixture of tolerance and indolence. For the rest he is generally successful in selecting the main facts, and lets the reader see for himself why the Ottomans decayed, if not exactly why the revival of Serbian, Bulgarian and Roumanian peoples was possible after centuries of submergence. Perhaps he is too fond of explaining things by the eternal paradox of the Eastern Question. One desiderates from a historian at the least an analysis of paradoxes.

From the battle of Lepanto, however, to the Austrian invasion of Serbia, the panorama unrolled by Mr. Marriott is remarkably satisfying, never over-coloured, and hardly ever distorted by a political prepossession, though from the modern Russian point of view one fears that the author would be damned as an Imperialist.

One may select two parallels to exhibit Mr. Marriott's fairness. He takes essentially and rightly Kinglake's view of the motive that drew Napoleon III. into the Crimean war; and he treats with exactly the same positiveness the entrance of the Kaiser on the scene as the Sultan's friend on the morrow of the Armenian massacres of 1896. You are allowed to see in precisely the same light Nicholas's insult to Napoleon, whom he addressed as 'bon ami' and not 'mon frère,' and the immorality of the Kaiser, who clasped the 'blood-stained hand,' 'which no respectable sovereign could grasp without loss of self-respect.' Only that and nothing more.

Mr. Marriott's weakness is indecision of opinion; or rather he disappoints those who expect of a historian an opinion about alternative policies of the past. He is not sure about the justification of the Crimean war; he does not really try to estimate what the effect of leaving the Treaty of San Stefano alone might have been. He does not attempt an historical analysis of the ideal policy that underlay the Czar Nicholas's tentatives regarding the Sick Man of Europe; this looseness is not unfashionable just now. But if we could let off Mr. Marriott on the ground of his implied theory of history, he will not let us. For he is sure that the Allies bungled their Balkan diplomacy in 1915, though he has few or no facts to go upon. So he may fairly be charged with either negligence or feebleness of grasp when he fails to pronounce upon the Aberdeen-Napoleon combination and evades the question whether the Great Bulgaria of San Stefano would not have been exactly the counterpoise to Mittel Europa and the fender against the Turk that the present year of grace craves.

Also one is bound to say that in accepting the Powers' 'small nation' peace as a solution of the Balkan problem, Mr. Marriott permits it to be said that he has not learned the lesson of his own history or of the present war. His maps are satisfactory; he does not allow nearly enough of influence to geography in the final settlement of the questions raised, albeit hundreds of thousands of aliens are at the moment 'holding' Salonica, which none of them hopes to possess in the end.

JAMES DAVIDSON.

PROCEEDINGS OF THE SOCIETY OF ANTIQUARIES OF SCOTLAND, SESSION 1915-16. Vol. L. Fifth Series—Vol. II. Pp. xxxiv, 384. With 138 Illustrations. 4to. Edinburgh: Printed for the Society, 1916.

THIS is a record of good work done under difficult conditions.

Mr. A. O. Curle and Mr. James E. Cree give an account of their excavations on Traprain Law in 1915, and Mr. Harry Inglis describes the roads that led to Edinburgh. Mr. George Macdonald, C.B., contributes a valuable paper on The Roman Camps at Raedykes and Glenmailen, and among many other articles of interest are those by Mr. Scott Moncrieff on the Early Use of Aqua Vitae in Scotland; by Mr. W. K. Dickson on a Fifteenth-Century Manuscript in the Advocates' Library; by Sir James Balfour Paul on Ancient Artillery; by Mr. Oldrieve on the Ancient Roof of Glasgow Cathedral; and by Mr. J. Graham Callander on some Pre-historic Jet Ornaments.

The alterations which were made last year in the type and arrangement of page, mark a great improvement on previous years.

J. J. SPENCER.

HENRY BENNET, EARL OF ARLINGTON, SECRETARY OF STATE TO CHARLES II. By Violet Barbour, Ph.D. Prize Essays of the American Historical Association, 1913. Pp. xii, 303. Crown 8vo. London: Humphrey Milford; Oxford: University Press. 1914. 6s. 6d. net.

WE are given here an adequate account of Arlington, 'brilliant and brief,' who, as one of the 'Cabal,' made or marred (as one chooses to consider it) the reign of Charles II. A courtier *pur sang*, Henry Bennet is not shown as a pleasant character, but his few Parliamentary appearances made his enemies understand he was an intellect to be reckoned with. His religious experiences are interesting and typical of his time. Educated to hold a Living, an Embassy to Spain inclined him to Crypto-Catholicism. He played into the hands of France all his Court life, while remaining outwardly Protestant and taking the Tests. He married a Dutch wife of Protestant parentage, intrigued against her country, and yet, died a Catholic. The author points out a curious and forgotten fact that Arlington's Spanish proclivities made him hostile to the Portuguese as 'rebels' when the match with Catharine of Braganza was first mooted. Oddly enough she does not mention that it was at his house that the 'mock marriage' between Charles II. and Louise de Kéroualle took place, though she mentions the royal visit to Euston.

ANGLO-AMERICAN ISTHMIAN DIPLOMACY, 1815-1915. By Mary Wilhelmine Williams, Ph.D. Prize Essays of the American Historical Association, 1914. Pp. xii, 356. Crown 8vo. London: Humphrey Milford; Oxford: University Press. 1916. 6s. 6d. net.

THE chief authorities for this book are to be found in the Public Record Office in London and the Department of State in Washington, and one welcomes the work as giving a considerable amount of new information

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about the British claims and interests in Central America—at one time considerable—and their gradual abandonment before 1856. It was then decided that the American Cotton Trade was more important to Great Britain than any of its interest in the Isthmus, and this abandonment culminated in the Hay-Paunceforte treaty of 1901. A useful bibliography on the subject is added.

CHRONICLES OF THE CAPE FEAR RIVER, 1660-1916. By James Sprunt. Second edition. Pp. xii, 732. 8vo. Raleigh: Edwards & Broughton Printing Co. 1916.

THIS mammoth volume on Cape Fear in North Carolina is of more value to the local historian than to the general reader. It is an exhaustive account from the foundation of the colony to the State in recent times. To us the most interesting chapter is one by David Macrae, dealing with a visit to the Highland settlers in the 'Scotch County,' North Carolina having been a place of Highland emigration after Glencoe and the '45. Flora Macdonald joined this group in 1775 and was received with great honour and Highland music at Wilmington. We get pleasant glimpses of MacRaes and of the Highland Jacobite settlers who became British loyalists in America.

THE STORY OF THE SCOTS STAGE. By Robert Lawson. Pp. 303. Crown 8vo. Paisley: Alex. Gardner. 1917. 5s. net.

IT is not an easy thing to give a consecutive account of the chequered existence of the stage in Scotland, but the author has made quite an interesting book. In early Scotland, Mystery and Morality plays were allowed and encouraged by the Church and countenanced by the pre-Reformation Kings. Sir David Lindsay's *Satire of the Thrie Estatis* was performed at Linlithgow in 1540, but a blow fell on all stage representations from the opposition of the Presbyterian Reformers, and in spite of a few dreary (and apparently ludicrous) masques in the time of James VI., plays in Scotland were confined to a few sporadic exhibitions in different towns. In 1681 the Lady Anne, afterwards Queen Anne, presented 'Mithridates, King of Pontus,' at the Tennis Court, and the Duke of York's players, then at Holyrood, gave some other performances in Edinburgh, which were no doubt to theatre-lovers a prime opportunity. Stroller companies appeared from time to time thereafter to the horror of the clergy, who, in 1757, prosecuted the Rev. Mr. White of Liberton, who had seen a stage play, though 'he had endeavoured to conceal himself in a corner.' Still the vogue for plays grew and theatres were opened until, in 1784, the General Assembly had difficulty in obtaining a full attendance of its members on the evenings upon which the great Mrs. Siddons performed!

In Glasgow the opposition of the Church was even more rigid and more fierce than in Edinburgh, and theatres were more than once raided by hostile crowds, but there too the drama conquered, and the Church capitulated slowly. The author describes the 'Aberdeen Revels,' and traces the history of the Arbroath, Dundee, and Perth stage also, and gives plentiful information on his subject.

FASTI ECCLESIAE SCOTICANÆ: The Succession of Ministers in the Church of Scotland from the Reformation. By Hew Scott, D.D. New edition. Vol. II. Pp. iv, 468. Royal 8vo. Edinburgh: Oliver & Boyd. 1917. 20s. net.

THIS new volume of the revised edition of Dr. Scott's great work, which a Committee appointed by the General Assembly is preparing, includes notices of the clergymen in the Synods of Merse and Teviotdale, Dumfries and Galloway. The volume is, of course, almost entirely devoted to biographical notices of the incumbents of the parishes in these Synods, but the notes on the churches and on the erection of the different Presbyteries add to its interest. The dates of the Synod and Presbytery Records are carefully given, and it is a matter of regret that a number of volumes, chiefly of the seventeenth and eighteenth centuries, are missing.

When complete, this new edition will be a very valuable work of reference, and we welcome this fresh instalment.

THE MANUFACTURE OF HISTORICAL MATERIAL: AN ELEMENTARY STUDY IN THE SOURCES OF STORY. By J. W. Jeudwine. Pp. xxvii, 268. 8vo. London: Williams & Norgate. 1916.

THIS discursive essay is sometimes a little unbalanced, and its grammar not above reproach, but it has a definite critical purpose. Its idea is to classify and analyse the types of record-tradition, (the poet-lawyer historians, the year books, the monastic chroniclers, the sagas, the law-collections,) and to determine the characteristic qualities of each genre. Scotland, he thinks, had in Burton its one great judicial historian. He objects to the monastic abuse of King John. He is hard on the old masters, and specially on Bishop Stubbs. Professor McKechnie escapes no better: that blindest of moderns he incidentally charges with 'unsupported slander,' and accuses of writing scarce a chapter on Magna Carta 'without abusive language'! He has been puzzled to trace Burton's reference to *Acts*, i. 275: of course it is to the Thomson and Innes standard edition of the *Acts of the Parliament of Scotland*. A central objective of the study is to make the critic of history always watchful of the limitations and the bias of his authorities and of his own bent.

For a clear, moderate and sympathetic survey of Irish history on the eve of the Convention, reference may safely be made to *Ireland in the last Fifty Years* (8vo. Pp. 108. Oxford: Humphrey Milford. 1s. 6d. net), by Ernest Barker, who sums up hopefully, on economic grounds, on the lines of agreed Home Rule for the island as a unity.

A reprint from the Transactions (Vol. xxviii.) of the Gaelic Society of Inverness is *The Grossett Manuscript, Being an Unpublished Record of Events in the Stirling District during the Jacobite Rising of 1745-1746*, edited by Lieutenant David N. Mackay, R.N.V.R., who has added good chronological and historical notes. Walter Grossett, a local justice of peace, wrote by way of diary a report on proceedings mainly in the shire and

vicinity. He reckoned the battle at Falkirk a victory for King George, and his narrative, compiled after 13 July, 1746, was countersigned both by Gen. Hawley and Sir John Cope, whose certificate of its truth is a little surprising. Culloden he must have considered beyond his remit.

The English Historical Review for July opens with a short study of the *Rise of King Worship*, by Rev. C. Lattey, who specially analyses the deification of Alexander, its oriental origin, its object, and its historical consequences. *The King's Chamber under the early Tudors* is investigated by Mr. A. P. Newton, especially in its treasury relationship. *The Storming of the Rock of Cashel* in 1647 is critically told by Rev. St. John D. Seymour. A capital new mediæval Latin poem, a satire on human misery, is edited by Mr. M. Esposita, under the title of *A Thirteenth Century Rhythmus*. It opens with the description of spring, so constantly recurrent later for over a hundred years of English verse.

The second part of the current volume of the *Revue Historique* opens with the first instalment of an interesting study by M. Desdevises du Deyert of the internal administration of the Spanish-American colonies in the latter half of the eighteenth century, based on the archives at Seville. The subject has been dealt with by historians too exclusively from the point of view of European politics, and the value of M. Desdevises' study lies in his treatment of it as an investigation of Spanish colonial policy. In an article entitled *Un essai de réglementation pendant la première invasion* M. Albert Mathiey deals with the internal administration of France during the critical months from September to December, 1792. The number contains the second part of M. Lewis Halphen's elaborate examination of the sources of the reign of Charles the Great, in which he enforces the view that the *petites annales* have a secondary character. In the *Bulletin Historique* MM. Luclaire and Alazard present an estimate of the works on Italian History from the end of the fifteenth to the eighteenth century, which have appeared during the last six years, in which particular attention is paid to Croce, *La Spagna nella vita italiana durante la Ruascenya* (1917) and Anzilotti, *Le crisi costituzionale della Repubblica fiorentina* (1912). Among the reviews of books is included a favourable notice of Flachaise's *La dévotion à la Vierge dans la littérature catholique au commencement du XVII^e siècle* (Leroux, 1916), an important study of the religious mentality which was produced by the Wars of Religion, and of particular interest to readers of Brémond's recent study of the same period.

The American Historical Review for April contrasts in an article by Jesse S. Reeves two conceptions of the Freedom of the Seas. While declaring that Britain has at times used her sea-power arrogantly, the writer cordially attests that 'to the securing of what freedom the seas possessed in the century between 1814 and 1914, while her sea-power was undisputed, England made the principal contribution.' Germany's recent role is scathingly indicated in the proposition that 'The infamous misdeeds of the submarine have made less for the freedom of the seas than did the guillotine for liberty.'

Mr. A. L. Cross has a choice paper on English criminal law during the eighteenth and early nineteenth centuries, exhibiting the ingenious, if distorted, applications of 'that queer old exemption benefit of clergy,' when turned towards restricting the severity of the penal code. The essay sketches admirably the final stages of the historical ecclesiastical privilege.

In the July number two papers by Mr. Carl R. Fish and Mr. C. W. Ramsdell tracing the military history of the railroads in the North and in the South, illustrate the fact that in the Civil War victory was determined by the superior mechanical and industrial equipment of the North, reflected (as a marked instance) in the respective governments' handling of the railway systems.

In a note plainly inspired by the entry of the United States into the European War, Professor J. F. Jameson earnestly points out the necessity of a definite well-informed and wise public opinion as the controlling requirement for success in such a crisis as the present. 'The American gun may be the best that science can make it, the man behind it unsurpassed in quality, but how long will he persist in his fearful struggle if the people at home do not see why he should?' Hence, the professor contends, a plain duty for historical scholars to stimulate intelligent rational conduct in war-time by helping 'the public to see the present conflict in a wider perspective.'

The American Journal of Psychology for July has an article by Charles Bird, in which he attempts a psychology of the soldier. His notes on the mentality revealed under the terrific stress of new conditions in the present war incidentally draw upon no fewer than seventy-two authors, whose works are named in a bibliographical list. A paper on the 'Authorship of the Book of Mormon' applies 'psychological tests' to the question, which however scarcely seem to go beyond proving from the text of the forged book itself that it reflects the public anti-masonic agitation of 1826-1833.

Maryland Historical Magazine for December has a long instalment of the Carroll correspondence for 1762-1763, in which young Charles Carroll sets forth his aversion to matrimony, describes his recovery from small-pox, indicates his discontent with the study of law, and gives some account of a tour in Holland.

The Iowa Journal (April) has, translated from the French original by Etienne Cabet (founder of the 'Republic'), a History and Constitution of the Community, Colony and Republic of Icaria, established at Nauvoo on the Mississippi. The period covered extends from 1848 until 1854, and the original French work was published in 1855. Most interesting it is to see the application of a communistic theory in the political institutes of so modern a settlement. The July number describes the enlistment measures in Iowa during the Civil War, and contains a considerable chapter of Miss Gallaher's studies of the Indian frontier management in her sketch of events and policy in 1830-1835.

Communications

DR. JAMES PEDDIE STEELE OF FLORENCE. The death of Dr. James Peddie Steele of Florence at the age of eighty-one removes one of the last of a good old type, the scholarly physician. Born in an atmosphere of Classical learning he took to the study with avidity, and after graduating at Edinburgh he became assistant to Professor Blackie, and was a prominent member of the Hellenic coterie in that University, which included men like the late Principal Sir James Donaldson. During the busy years when he practised his profession in Rome he never slacked in his devotion to Latin and Greek, and Alcaic odes from his pen were familiar to readers of the *Scotsman*. He rejoiced in the society of scholars, Villari and Comparetti were his familiar friends, and he extended a delightful hospitality to eminent English and American Humanists both at Florence and at Tivoli, where he spent the twenty-two years of his retirement.

He was deeply interested in Scottish scholarship and education, and twice offered prizes of a hundred guineas to the alumni of our universities for essays connected therewith. One on 'Sixteenth century Humanism as illustrated by the Life and Work of George Buchanan' was characteristic of his devotion to that famous scholar, a volume of whose works always lay open in his study. He was a stout upholder of the old learning against modern tendencies in education—the title of an article on 'The passing of Latin,' he once said, went to his heart like a knife. But he was no old-fashioned scholar; he was one of the most enthusiastic and generous supporters of the British School of Archaeology at Rome, and deeply interested in questions of Horatian topography. In general literature he preferred the old and well tried. Dante was more to him than any of the moderns.

A Scot to the backbone, Steele knew his 'Sir Walter' as few do nowadays. He could quote him by the page, and in his company one was never very far from 'Cuddie Headrig' and 'Andrew Fairservice,' in whom he took a peculiar delight as types of Scottish peasant character. His rare geniality and charm of manner endeared him to his friends, and those who had the pleasure of being his guest at one of the periodic luncheons of the old 'Walking Party' at Fiesole realised with admiration the full import of the old words, 'A kindly Scot.' He will be sadly missed by a large circle, but to his friends in Florence the loss will be irreparable.

J. HARROWER.

The University, Aberdeen.

GOVERNOR MACRAE. The Rev. John Warrick, Cumnock, points out that Sir Herbert Maxwell, in his article on the 'Duel between Sir George Ramsay and Captain Macrae' (*S.H.R.* xiv. 302), states that Governor Macrae had neither kith nor kin, and so adopted the five grandchildren of his old benefactor, Macguire, the fiddler of Ayr. A similar statement is made in the notice of Governor Macrae in the *Dictionary of National Biography*. But Macrae's cousin, Isabella Gairdner, had married Macguire's son, and it was their children—his kith and kin—who were adopted, and succeeded to the property of the Governor. There are many connections of these adopted children living in the West of Scotland, and among them the family of the late Mr. Charles Gairdner, banker, Glasgow, who was a great-great-grandson of the youngest of the granddaughters of the 'violer' of Ayr.

Another correspondent writes :

'One wonders how many Glasgow readers of Sir Herbert Maxwell's very interesting article realised that the city possesses to this day a very substantial memorial of the nabob who founded the bully's fortunes. As the Latin inscription upon it records, it was Governor Macrae who about 1730, at a cost of £3000, erected the familiar equestrian statue of King William which stands at the Cross. The curious will find a racy sketch of the Governor's career in *Good Words* for 1866 (pp. 611 f.). It is from the pen of Norman Macleod, who recurred to the subject more briefly three years later (1869, p. 643). According to *Good Words*, Macguire and his *protégé* lived, not in Ayr, but in Ochiltree, where the former 'occupied his busy hours as a maker of spinning-wheels . . . while his art as a fiddler made his presence essential at every merry-meeting in the district.' The 'violer' would thus appear to have been an amateur, not a professional. Incidentally, it may be noted that it was the 12th, and not the 13th, Earl of Glencairn who married Elizabeth Macguire. The 13th Earl was her son James, over whom Burns composed his famous 'Lament.' In Balfour Paul's *Scots Peerage* she is described as 'daughter and co-heiress of Hugh Macguire of Drumdow, co. Ayr.' She survived till 1801.'

BALLANTINE. Does the name belong mainly to Upper Tweeddale? There were Ballantines in Lyne Water in the seventeenth century, and a Ballantine was Laird of Woodhouse in Manor Water. Has the name any connection with Bellenden, which probably originated from Bellenden, near Alemuir? In actual pronunciation the two names would, to a Tweed-side man, be almost exactly the same.

C. R. B. M'GILCHRIST.

Liscard, Cheshire.

TWEEDDALE. This name is found as a surname as early as 1390. Is there any record of it at a prior date? It is probably a name of origin. Has it any connection with the name of Tweedie? The mythical origin of the name Tweedie is given in Sir Walter Scott's notes to his *Lay of the Last Minstrel* and also in Sir Herbert Maxwell's *Story of the Tweed*, 1909, page 17.

WILLIAM T. BRIDGE.

127 Lonsdale Street, Melbourne.

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The Old Chapels of Orkney

IN the year 1701 a very worthy and pious divine called John Brand published an account of a tour of inspection into the state of the Church in Orkney and Shetland. While finding much that pleased him, this extremely Protestant gentleman was greatly scandalised by one shocking discovery. It seems that the islands were afflicted with a veritable plague of ancient popish chapels, and that in the shelter of their ruinous walls anti-Christ still lingered, tempting the parishioners to do all manner of ungodly things. They made pilgrimages to the more notorious of these chapels, laid votive offerings on their moss-grown altars, and even (adds Mr. Wallace, another divine, in his *Discription*) celebrated their saints' days, each district still venerating the memory of the papistical person to whom its particular chapel was dedicated. There could be no true Christianity in the Isles, said the Rev. Mr. Brand, till Government had taken the scandal in hand and razed the chapels to the ground, 'which might prove as the taking away of the Nest Egg.'

Since then time has done all too thoroughly the work which Government neglected. With only one or two exceptions, the Orkney chapels are no more, but it has fortunately proved possible to rescue a considerable body of information about them. From Wallace we learn that in his time (the latter half of the seventeenth century) there were thirty-one kirks in which public worship was still being conducted, and 'above a hundred' chapels. As he first held a charge in the North Isles and then was minister

of Kirkwall, and was, besides, a writer of high character and scholarly attainments,¹ this estimate of the number of chapels may safely be taken as something more than a loose guess. If we take the total number as certainly over 100 and probably not above a third more (*i.e.* 133) we shall be within pretty safe limits; and this estimate is supported by the known number in South Ronaldsay in the year 1627. As one of the South Ronaldsay parishes had five and the other four, and as both were rather larger than the average of the thirty-one parishes extant in Wallace's day, a figure, say, between 110 and 120 is suggested from this analogy.

The first step clearly was to identify as many of the sites as possible, and the means of information used have been: (*a*) The *Report* on the island of South Ronaldsay in 1627,² which gave a full list of the chapels at that date—a list that served as an invaluable basis for the study of other parishes.

(*b*) Various later works dealing with Orkney, which contain references to the chapels. Chief among these is the old *Statistical Account*, and the most important of the others are Wallace's *Discription* and Brand's *Tour*.

(*c*) The 6 inch to the mile Ordnance Survey maps. These have proved a mine of information; the sites of chapels and burying grounds being marked in large numbers all through the islands. To test their accuracy one naturally turned to South Ronaldsay. There the whole nine chapels, with their correct dedications, are recorded; and, in fact, with very few exceptions, all the other individual chapels mentioned in the old *Statistical Account* and other places are in the maps. As a further test, the adjacent place-names were noted, and, in many cases, a 'Kirk Taing,' 'Kirk Geo,' 'Chapel Taing,' etc., confirmed the site. In some instances such a place-name served, further, to indicate a lost site.

(*d*) Personal inquiry, supplemented by information very kindly given me by correspondents. Almost the whole Mainland of Orkney and the island of South Ronaldsay have thus been

¹ See the account of him in Appendix ii. *History of the Church in Orkney*, vol. iii. Craven.

² Printed in Peterkin's *Rentals*. The questions which the *Reports* of 1627 had to answer included an inquiry concerning any 'chapellanries' in the various parishes. By this was clearly meant any 'kirklands' attached to chapels or altars in the cathedral and possessing solid value, and in that sense all the other parishes answered it. South Ronaldsay gave a list of the local chapels as well.

covered (most parishes pretty thoroughly), and the majority of the sites have been visited and examined.

The total number of sites collected by these various methods amounts to 102, there are one or two other probable but not yet fully established sites, and the existence of two more on Stronsay is known from the old *Statistical Account*; while the whole of the North Isles and most of the South are yet unvisited, and may have sites not shown on the map or mentioned elsewhere. It thus seems pretty certain that in those parishes where a thorough investigation has been possible, practically all the chapels are now located, and it also seems probable that even outside these parishes there remains no very great number to be found.

TWO TYPES OF CHAPEL.

A general survey of these 102 chapels, simply looking at them on the map, shows that they can at once be divided into two classes on mere geographical lines: (1) Chapels on very small, sometimes uninhabited, islands or on desolate seaboard promontories. (2) Chapels evenly distributed all over the cultivated districts—and this class includes the vast majority.

With regard to the first class, Dr. Craven, author of the *History of the Church in Orkney*, gives the valuable opinion that they were of two kinds. (a) Chapels of Pilgrimage, such as the chapels in the Brough of Birsay, the Brough of Deerness, and Enghallow; the oldest religious foundations in the islands. (b) Votive Chapels.

It is certain that neither of these two kinds could have been intended for anything in the nature of public worship. Their isolated position forbids this intention, as also the fact that they had no kirklands or emoluments appertaining to them. Their lonely situation also shows that they were never attached to any private estates or mansions. This class of chapel falls outside the scope of these papers.

Coming to the second, and by far the more numerous class, they present two salient features. In the first place, they were certainly secular or private chapels in the great majority of cases, and not part of the regular Church organisation. Direct documentary proof of this is to be found: (a) In the case of the South Ronaldsay chapels. In 1627 seven of the nine chapels with their lands were in the possession of private landowners, while the ownership of one other, being unknown, must be

presumed to have been in private hands likewise. Three of them, it will be seen later, stood apparently on 'kirklands,' that is to say, lands belonging to religious foundations, apart from the bishopric estate; and in these cases the chapels may either have been built by lay landowners and piously bequeathed to some religious foundation, or erected by churchmen. One stood on 'auld-earldom' land, but the others were certainly not only owned by private landowners in 1627, but stood on odal estates.

(b) In the sale of the chapel of Essenquoy along with the lands by William Sinclair of Warsetter in 1550.¹ (c) In the reference to the Lawman's 'church' which was broken into and pillaged by order of the governor, David Menzies, before 1425.²

Equally convincing is the negative evidence of the different bishopric rentals, and of the 'Charge of the Temporality of the haill Kirklands,' none of which include these chapels or any lands attached to them.

Finally, there is the very significant fact that in the great majority of cases the chapels demonstrably stood on odal land.³ In other cases, there is some doubt as to the exact nature of the land, owing to the mixture of odal, earldom and church lands in the townships where the chapels stood, and only in very few instances were chapels certainly erected on bishopric lands.

The second feature is the peculiar distribution of these chapels. This distribution will be shown presently in detail, but its general character may be gathered from two passages in the old *Statistical Account*. In his description of Orphir, the parish minister states, 'Roman chapels are to be met with in every district of this parish.' And it may be mentioned here that the specific and almost technical use of the term 'district' in connection with parochial affairs is illustrated in every book of kirk-session records, as will be realised better later.

¹ *Records of the Earldom of Orkney*, No. cxxix.

² *Ibid.* No. xviii. This was probably the chapel of Kirkness in Sandwick. In 1438 in the record of certain proceedings taken some unspecified number of years previously, John of Kirkness (alive evidently in 1438) is described as 'then lawman of Orkney,' implying that for some reason he had vacated the office. We also know that about 1421 the lawman of the plundered chapel was removed from office and William Thorgilson appointed instead, and further, that the former had a kinsman, John of Baddy. As 'Baddy' was tacksman of the links of Sandwick in 1492 and the name is not found elsewhere, and as the site of the chapel of Kirkness is right among the foundations of the other buildings forming the House of Kirkness, it seems likely that John of Kirkness was the dispossessed lawman in question.

³ In a few cases these lands had been 'conquest' by Earl William Sinclair between 1434 and 1471, but were odal previously.

Still more significant is this quotation from the report of Mr. George Low, minister of Harray and Birsay: 'Remains of popish chapels are many, because every eyrsland of 18 pennyland had one for matins and vespers, but now all are in ruins.'¹

It is this last clue that led step by step to the elucidation of the relationship between the chapels and the districts or divisions of the parishes, and though the discovery of the existence of *burial districts* actually come somewhat late in the inquiry, the whole question will be illuminated most clearly by dealing with them now.

THE BURIAL DISTRICTS.

A generation or two ago invitations to an Orkney funeral were issued as a matter of undeviating routine to all the neighbours living in the same district as the deceased. Relatives from a distance might of course be included, but otherwise the company was limited to the inhabitants of that district, who all made a point of attending. So much is remembered by the older people probably in every parish. In most parishes the precise districts are still known to a few, and in at least one parish the actual custom still persists.

But a few inheritors of ancient lore will tell one more than that. They say that at one time attendance at a funeral was *compulsory* for the inhabitants of the district, and they quote the specific case of a death from infectious disease, when people shrank from performing this duty but were compelled to do it.

And this is proved by a couple of entries in the Orphir kirk-session records under the year 1715. On January 2nd a man in the township of Kirbister was cited to appear before the session because he 'had not laid down the burial warning and had not sent the same to Tuskerabist (another "town") which occasioned few to be present for carrying the corps of the deceased Jennet Gune to her burrial place, and those that came were but weak boyes.' On June 17 the session, after considering the case, decreed that thereafter the relatives of the defunct should send word to the elder of the bounds telling him the time of the funeral (when obviously the duty fell on him of summoning all within his bounds). And it may be added that other entries

¹ In connection with this may be quoted this passage from a report on the island of Unst in Shetland given by the minister to Low, and published in his *Tour*. 'There have been in the days of popery no less than twenty-two chapels, the island being divided into twenty-two parts called Scathills (skatalds).'

show that Kirbister and Tuskerbister formed one of the parish 'districts' or 'quarters.'

So much light can be thrown on the old ecclesiastical and social constitution of Orkney from a study of these burial districts in connection with the chapels that it seems well worth while dealing with the ascertainable facts parish by parish, in every case where a parish has been at all thoroughly examined. But first, to make clear the bearing of the data, a few facts of general import may be stated.

1. In the parishes of Harray, Birsay, St. Andrews, Rendall, and Firth (these for certain, and there may be others) the old burial districts are still remembered to-day under the names of 'erse-lands' or 'urslands.' In Harray and part of Birsay the 'erse-lands' are actually 18 penny lands; and we have already seen that there was traditionally a chapel for each 'eyrsland of 18 penny lands.'

2. We have also seen that in Orphir these burial districts were the elders' bounds, and further that there were chapels in every 'district.'

3. That, in certain cases at least, the elders were appointed for the urislands appears from several references. In the Holm Kirk-session Records, on January 19, 1701, it was decreed that money was to be uplifted for the seats in church by the elders 'in their several urslands and bounds.' And on Feb. 29, 1763, James Cromarty was nominated 'to supply the vacancy of an elder in the usland (*sic*) of Acrobister.' Again, in the account of a visitation of Westray by Bishop Mackenzie in 1678, occurs the passage; 'whereupon the Elders were ordained that each should bring the Inhabitants of his Urisland with him.'¹

4. Wallace, in describing the lawrightmen and their duties, says that they 'are commonly the Kirk Session Elders of the parish.' This from a parish minister is an authoritative statement, and its accuracy is proved by a comparison between lists of Sandwick lawrightmen and elders in the same year (1678), and of Deerness lawrightmen and elders in the years 1673 and 1680.

From these premises alone three conclusions already begin to emerge: That the burial districts being the elders' bounds were also the lawrightmen's districts. That there was at least one chapel in each of these districts. That in some parishes, anyhow, the districts were the urislands.

How far these conclusions are borne out when the islands are

¹ Craven, *History of the Church in Orkney*, vol. iii. p. 74.

examined parish by parish can only be seen by going into the parishes in some detail. To reproduce in a paper like this the full tabulated results would give it rather too much the instructive but depressing aspect of an income-tax return. One such fully detailed example may, however, serve to show the method in which the information has been arranged.

Parish of Harray.—Traditional 'erselands' or burial districts, with their chapels :

I. (a) Knarston, $4\frac{1}{2}$ penny land, Mirbister 3d. land = $7\frac{1}{2}$ d. land, (b) Garth $4\frac{1}{2}$ d., Corston 4d., Corrigall 2d. = $10\frac{1}{2}$ d. According to some witnesses these are known to-day as separate erselands, but it will be seen that added together they form one true urisland of 18d. land, which no doubt came to be divided for convenience sake. At least one witness regarded them as a single erseland. One chapel, in Corston. Site plainly visible on top of a mound, which seems at least partly artificial. Foundations now flattened out into an irregular parallelogram lying east and west. Outside dimensions of this, 42 ft. by 24 ft.,¹ but these probably exceed considerably the real dimensions of the chapel. Tradition strong. Adjacent field called Kirkbrek. All Corston was odal land.

II.—Noltclet $4\frac{1}{2}$ d., How and Ramsgarth $4\frac{1}{2}$ d., Hunscarth 3d., Binbister 6d. = 18d., combined with Over Brough 9d. The only kirk in this erseland is the parish kirk in Overbrough. Negative evidence of all witnesses strong that no other traditional site exists. Over Brough was all odal land.

III.—Netherbrough 12d., Rusland 6d. = 18d. Two chapels. 1. Marykirk at Kirkquoy in Rusland. Site now obliterated, but part of the chapel walls were standing within living memory. 2. Chapel at Kirkabrek in Netherbrough. Traces of various buildings, but actual foundations of chapel cannot be identified. Tradition good. All this urisland was odal.

IV.—Grimeston 18d. One chapel, Marykirk in Isbister, on promontory running into loch. Foundations quite visible. Built either on top of or close beside an ancient broch. Lies east and west. Inside dimensions roughly about 30 feet by 15 feet, and

¹ The dimensions in the case of this and all the following chapels are only approximate. The foundations being in every instance grass-grown (save in the chapels of Thickbigging and Grimbister) one could only guess the inside lines of the walls, and this being so, it scarcely seemed worth while using a tape, and the measurements were simply obtained by pacing. They are, however, probably correct within a foot or two, and serve to give a good general idea of the size and proportion of these chapels.

might be a few feet longer at west end. Possible chancel in addition, but indications are very vague. Anyhow it was a larger chapel than the average. All Isbister was odal land.

The erselands were clearly the four true urislands, with the odd half urisland thrown into one of them. They are exactly the same as the lawrikman divisions already deduced from independent evidence before this chapel investigation was begun.

There also seems to have been a chapel of the other sort. It is traditionally known as the 'Kirk of Cletton.' Reputed site is on a promontory on the loch shore quite away from all the inhabited townships. I found quantities of large stones clearly belonging to something more like a broch than a chapel, but a chapel may very well have existed there as well.

The other parishes examined may now be dealt with more briefly; it being always understood, however, that each of them has been, so to speak, blue-booked in the same way.

South Ronaldsay.—This island (consisting of two parishes) was not personally visited. Inquiries were made by letter, but so far I have not got in touch with anyone who remembers the old burial districts. The divisions of the parishes and their proved connection with the lawrikmen were, however, dealt with previously.¹ We also know the nine chapels recorded in the Report of 1627, besides the two parish kirks.

Taking the *North Parish* first. In district I. was the chapel of St. Ola in North Widewall; in II. were the two chapels of St. Colme in Hoxay and St. Margaret in the Hope; in III. the chapel of St. Colme in Grimness, and in IV. the parish kirk in Paplay, besides the chapel of St. Ninian in Stows, which from its isolated position may perhaps have been one of the older type of chapels; though according to the report it apparently had kirklands attached. Anyhow, there were kirklands in Stows.

St. Ola was either on odal or 'pro rege'² land; St. Margaret and St. Colme in Grimness were on odal land; and St. Colme in

¹ *Scot. Hist. Review* for Oct. 1916, p. 58.

² The earldom estate consisted of 'bordlands,' 'pro rege,' and 'conquest' lands. The 'bordlands' were the remains of the original Norse earldom estate. They paid no scat and had never been odal. 'Conquest' were the odal lands acquired in the fifteenth century. 'Pro rege' presumably meant odal lands gradually acquired by the earls at intermediate dates. All three were strictly speaking 'pro rege' after their acquisition by the Crown in 1471, but the distinctions between them are always insisted on in the 1502-03 rental. The term 'auld earldom' covers bordlands and pro rege.

Hoxay seems probably to have been on kirkland. The parish kirk was either on odal or pro rege land.

The *South Parish* had four divisions. In the district of Sandwick, etc., was the Rood Chapel of Sandwick. In Burwell, Windwick, etc., stood the two chapels of St. Andrew in Windwick and Our Lady in Halcro. In Isbister, etc., were the parish kirk at Burwick and the chapel of St. Colme, also in Burwick. In the fourth district of Gossigar, etc., no chapel was recorded, but there are two 'kirkgeos' on the shore, which seem clearly to indicate a chapel which had vanished before 1627.

The Rood and St. Andrew's chapels were on odal lands, the parish kirk and St. Colme on 'auld earldom,' and Our Lady seems to have been on kirkland.

In every case where there were two chapels, or a kirk and a chapel, the district was unusually large, well over an urisland. It seems likely also that the three extra chapels (judging from the lands they stood on) may have been church foundations and not secular chapels of the usual type.

As the sites have not been visited, such foundations as may exist could not be measured, but the dimensions of Our Lady in Halcro are given by Petrie (quoted by Dryden) as 21 feet by 14 feet inside, with walls $2\frac{1}{2}$ feet thick.

So far I have not been able to learn that the term 'ursland' is known in the island. The actual divisions, as given above, varied from 9d. land to 27d. land.

Firth.—There are four traditional 'erselands,' which consist respectively of 15d., 11d., $16\frac{1}{2}$ d., and $13\frac{1}{2}$ d., apparently a case of the term urisland being by analogy used of districts somewhat less than 18d. land. In the first (beginning at the Rendall border) was the chapel of Redland, now altogether vanished. In the second was the chapel of Burness. A fragment of the foundations can be seen on the side of a large mound covering a broch.

In the third stands the parish kirk, and also a very small ruinous building at Thickbigging in Finstown, said to be actually part of a surviving chapel, and traditionally called the 'Black Chapel.' The fragment is roughly built; it lies about E.S.E. by W.N.W. and measures 10 feet 6 inches across. Almost 8 feet 6 inches of the side walls remain, but at that point a wall has been built across it, and beyond this hardly anything remains.

In the fourth 'erseland' is the most interesting find of all. This is the chapel of Grimbister, a fast decaying little building, of which the west gable and most of the side walls still stand. If I

am right in thinking that a fragment of masonry marks a dividing wall between nave and chancel, the dimensions are: nave about 22 feet by 13 feet, chancel about 10 feet by 13 feet. The side walls were originally about 6 feet 6 inches high and are 3 feet thick. The chapel lies E. and W. Like the Black Chapel, it is a very rude piece of masonry.

All the sites were on odal land, with the possible exception of Burness. That township consisted of $3\frac{1}{2}$ d. odal and $2\frac{1}{2}$ d. pro rege.

There is one more chapel in this parish, though clearly of the older type—the traditional chapel on a little uninhabited holm in the loch of Wasdale. This was not visited.

Reliable data regarding the lawrikman divisions in the seventeenth century are lacking, but the known roithmen at the beginning of the sixteenth century fit the four erselands very strikingly.

Rendall.—Here the three lawrikman divisions¹ deduced from the assize lists¹ are actually the three traditional burial districts. They are much larger than urislands, running from 23d. up to 30d. lands, yet tradition remembers the term 'ursland' being applied to them. In each of the three there was one kirk or chapel. The district of North Side (to which, from its geographical situation, the isle of Gairsay must have been attached) had the chapel of St. Thomas near the Hall of Rendall. The foundations are well marked, they lie E. and W., and are close to a large broch. The total length is about 30 feet, including a nave of something under 21 feet, and a chancel of about 9 feet, with a wall between: width of nave about 11 feet, and of chancel about 9 feet.

In the district of Gorsness stood the old parish church, and in the district of Isbister, etc., the site of St. Mary's Chapel is well marked. It lies E. and W. on top of a broch, and as the east end of the mound has been cut away, a section is displayed showing the interior of the broch with the chapel above it. This seems to have been about the usual width, but as the east end has gone, the length could not be told.

St. Thomas was on odal land, the parish church might have been on odal or pro rege, and St. Mary's was on pro rege.

There is also a tradition of a small chapel called the 'Kirk of Cot' in the isolated hillside township of Cottascarth. As this was kirkland it was very possibly a church foundation.

¹ *Scottish Historical Review* for October, 1916, p. 54.

Stenness.—Interesting and unusual conditions obtained here, and in regard to them I have been fortunate enough to have my own inquiries supplemented by a very thorough independent examination of all the available facts by the Rev. G. R. Murison, minister of Stenness. There were only two kirk sites in the whole parish known to tradition—the parish church in the township of Stenness and a chapel in the township of Ireland. ‘Nowhere else in the parish is there a relic or a popular belief in support of a theory of more than these two kirks,’ writes Mr. Murison. Though the chapel has now vanished, ‘a *side* of the building was clearly visible, running east and west, almost—along the burn which passes the Mill and the Hall of Ireland,’ Mr. Murison tells me, and he adds that one witness can remember when a gable was also standing. Furthermore, the cornyard of the hall was once known as the ‘grave-yard,’ and contained ‘numerous flat stones under the earth, overgrown by the grass.’

Both this chapel and the parish kirk stood on what was originally odal land, the site of the kirk having been bequeathed to the church by ‘ane uthale woman’ (Rental of 1502-03).

It is equally certain that tradition knows of only two burial districts, one comprising the towns of Ireland, Ottergill, Clouston, and Onston (1½ urislands), and the other the rest of the parish (2 urislands), which correspond to these two sites.

The feature of the two sites and the two large districts will be seen presently in North Sandwick also, but what was quite peculiar to Stenness was the existence of two separate and contemporary parish bailies, the ‘bailie of Stenness’ and the ‘bailie of Ireland.’¹ It seems difficult not to associate this with the existence of a district entirely odal, having a private chapel, and a district mostly bishopric or kirkland possessing the parish church. There is no evidence regarding lawrikman districts, apart from this; and there is no reliable tradition of the use of the term ‘urisland’ for burial district in Stenness.

North Sandwick.—The conditions here were like those in Stenness, except that there is no sign of two bailies. There are only two kirk sites known, the parish kirk in North Dyke and the chapel of Kirkness, the burial districts were two areas of wide extent corresponding to these, and—in this case—these two districts are definitely the same as the known lawrikman districts in 1618.

Though both in North and South Sandwick exceptionally good

¹ Stenness Kirk-session Records.

traditional evidence was available, no trace can be found of any use of the word *urisland*. And this is not surprising, for the two districts of North Sandwick consisted, one of six *urislands* odd (most of them of very low value), and the other of about two; while those in South Sandwick were in no case less than two *urislands*.

The foundations of the chapel of Kirkness are to be seen on a mound apparently covering some prehistoric buildings. They lie E. and W., and seem to include both a nave and a chancel. Both are about 11 feet wide; the nave seems about 21 to 23 feet long, and the chancel about 9 feet.

The chapel stood on *odal* land, but North Dyke contained so many varieties that it is difficult to form any opinion regarding the parish kirk. Apparently it was not on *bishopric* or *kirklands*, but there is one striking fact which seems to connect its district peculiarly with the Church. The *teinds* of the whole of the district—and of no lands outside it—formed the endowment of the ‘*stouk*’ or Prebendary of St. Lawrence. The parish kirk itself, it may be added, had no connection with this prebendary, being dedicated to St. Peter. There is no other instance, so far as I know, of one of these districts being treated as a unit for any kind of ecclesiastical purpose—unless the separate *bailie* in Stenness comes under that head.

South Sandwick.—The evidence here is very contradictory. We have two *lawrikman* ‘quarters’ in 1618, three large traditional burial districts, and five known chapel sites, so distributed as to suggest as many districts at one time; and that is all it is safe to say.

The five sites are at Tenston, Lyking, Voy, Yesnabie, and Skaill. Tenston and Lyking were chapels of the average smaller size, about 20 feet by 10 or 12; while Voy seems to have been a somewhat larger building. Tenston and Voy were on *odal* land, and Lyking apparently on *bordland*.

Of the other two chapels, one at Skaill, close beside Skaill House, has vanished entirely, but it is on record in 1679 when a circuit court was held in it.¹ It stands on *bishopric* land, a most unusual feature in these chapels. The last is the chapel of Yesnabie, referred to in the account of Sandwick by the Rev. Charles Clouston. I did not visit this site. It was on *odal* land.

Orphir.—The Kirk-session Records, taken in conjunction with

¹ Deed in Kirkwall Record Room.

traditional evidence, show six districts: I. Tuskerbister and Kirbister (12d.); II. Groundwater and Hobbister (15d.); III. Swanbister and Smoogro (12d.); IV. Bu of Orphir and Threepenny land of Orphir (12d.); V. Midland and Houton (12d.); VI. Petertown and Clestrain (11½d.).

The kirk and chapel sites are these: In district I. (a) Marykirk in Tuskerbister. This was a very small building about 11 to 12 feet long by 8 to 9 feet wide, lying almost due E. and W., and close to the old site of the houses of Oback. (b) 'The Kirk o' Lian' in Kirbister, a vanished site, but remembered by tradition. The stones and bones of the graveyard were removed within living memory, and there is a very precise story of one large stone which used to be in the 'chancel' of the kirk, and which had two footprints in which the clergyman is said to have planted his feet when officiating.

In district II. was the now vanished chapel of Groundwater, and in III. was the chapel of Swanbister, the foundations of which are just visible.

In IV. was the parish church on auld earldom land. In V. were two chapels: (a) 'The Kirk o' Myre' at Myre in Midland. It was apparently on top of other foundations, and from the little that can be seen seems to have been very small, about 15 or 16 feet by 9. It lies E. and W. and was on auld earldom land. (b) Chapel of Houton, known as the 'Kirkhouse.' It also was apparently very small, but the traces are extremely indistinct. It probably stood on that part of Houton which was odal land.

In VI. was the chapel of Orakirk in Petertown, which stood on auld earldom land. The site can only just be distinguished.

There was also a chapel on the small island of Cava.

The chief features in this parish are the apparently small size of the districts as measured in pennylands, and the fact that in two of these seemingly small districts there were two chapels. The Orphir pennylands, however, contained a quite unusual number of merklands in them, and so these districts were actually of greater value at one time than the average urislands elsewhere. Also, it will be noticed that in the two districts which have two chapels each, one at least of these chapels was extremely small; while in No. I. district the two towns forming it are separated by nearly two miles of moor.

There is no recollection of the term urisland in the parish, and no evidence as to lawrikman divisions.

Deerness.—This parish I have not visited personally, but Mr. Magnus Spence has most kindly—and very thoroughly—collected all the available information for me. No one is so well qualified to deal with Deerness, and his researches are extremely unlikely to leave much of an aftermath.

The circumstances here are exceptional and significant. There were six urislands (true urislands and also traditionally known as 'Yureslands') to which the lawrikmen in the seventeenth century were allotted and the deacons to-day are likewise appointed, while the roithmen about 1500 fit them very strikingly. No parish, in fact, has more continuously and better defined districts. And yet there seem as definitely to have been only three kirk or chapel sites, apart from the remote dedications on the Brough of Deerness and the little isle of Cornholm. These three are: (1) The parish kirk; (2) the chapel at Kirbister on the farm called 'Bishops'; (3) a chapel at Newark (anciently the 'town' of Meal).

Equally exceptional is the fact that every one of these three stands on bishopric land, and it is difficult to avoid the conclusion that these two exceptional features are closely related to one another, and also to a third feature, namely, that a large part of Deerness consisted of bishopric land.

There are a few more parishes which have been by no means thoroughly investigated, but of whose chapels or districts enough is known to justify a brief note regarding them.

St. Andrews.—Here the five lawrikman districts are definitely known.¹ I. In the district of Campston, Oversanday, and Stembister was the chapel of St. Peter in Campston. II. In Essenquoy and Yenstay was the chapel of Essenquoy. III. In Tankerness, Linksness, Whitclet, and Fea was the parish kirk. IV. In Tolhop was the chapel of St. Ninian. V. In Sabay and Foubister there is a place on the shore known as 'Chapel Taing,' pointing to a vanished chapel there. Of these, the chapels of St. Ninian and St. Peter were in use at the end of the seventeenth century for the holding of bailie courts.

The term 'urslands' was applied to these districts in one bailie court record, and is traditionally remembered in connection with burial districts. Not one was an actual 18d. land; some were larger and some smaller, yet that was much about their average size.

Birsay.—In this, the largest, parish there seem to have been

¹ See *Scot. Hist. Review*, Oct. 1916, p. 53.

seven burial districts. The two large districts of North Side and South Side appear to have had only the parish kirk between them (Birsay, it may be recalled, was once the episcopal see), and all Marwick had only one chapel. These were the regions of small and crowded urislands.¹ There was a fourth straggling district of less than an urisland in value, with the chapel of Hundland in it, and another isolated chapel on the burn of Kirkgeo amid the moors beyond the Hillside—a curious, lonely site, and yet with a traditional kirkyard hard by. Even more isolated and deeply embedded in the moorland was the chapel on the burn of Etheriegeo, between this straggling district and the first houses of Evie, but far removed from both.

And then there seem to have been three true urislands, one containing the chapel of Kirbister, another the chapel of Ingsay, and the third two chapels, one in Beaquoy and the other in Greenay. So that the tradition of a chapel in every eyrsland of 18d. land in this parish was only partially correct. These Birsay burial districts, however, whatever their size, are traditionally remembered as 'erselands,' so that if Mr. Low had not been so careful to mention that they contained 18 pennylands, he would have been right enough.

In addition to these eyrsland and moorland chapels, there is in Birsay the well-known chapel on the uninhabited tidal islet of the Brough.

Evie.—Only three sites are known to map or tradition in this parish. On the shore stood the old parish kirk of St. Nicolas, upon the farm of Orquil, behind the present village of Evie. Further north along the shore in the district of Costa was the chapel of St. Peter, or 'Peterkirk,' as it is known to-day. The foundations of the east end can just be seen on top of a large broch. They measure 15 feet across, outside, indicating an inside width of 9 to 10 feet, but the ruinous walls of a modern enclosure have obliterated all the rest. St. Peter's stood apparently on the odal lands once known as Pow, while the four pennylands of Orquil can be identified as an early bequest to the Church by the pious odaller Gudbrand.

The third site is the remote chapel of St. Mary far up the burn of Woodwick, hidden in the moorland some way beyond the limits of cultivation, and yet traditionally endowed with a burial ground. It seems to be known to few in the parish, and though the site is clearly visible, nothing of the foundations can now be

¹ See *Scot. Hist. Review*, Oct. 1916, p. 55.

traced. In the O.S. map it is styled 'The Kirk of Norrisdale,' but the correct local pronunciation is 'Norrensdale.' Undoubtedly it must have been connected with the chaplainry of Our Lady of Woodwick, an endowment which included most of the township of Woodwick.

The coincidence of the three chapels of Kirkgeo and Etheriegeo in Birsay and St. Mary in Evie, all erected by their pious founders on lonely moorland sites far up the burns that descend from this particular group of hills, is very curious and noteworthy. One seems to be here on the scent of something very different from a system of district chapels. The proximity of the three to the episcopal see at Birsay was pointed out to me by Dr. Craven. Possibly this may give a clue, and possibly also this wide and lonely region of moors may at one time have been credited with inhabitants more sinister than grouse and curlew.

As yet I have no information as to the districts of Evie, but it would seem pretty certain that only St. Nicolas and St. Peter can have been district kirks.

Stromness.—Only three lawrikman divisions are enumerated in 1618, but there were certainly five kirk sites, one in Cairston, one in each of the quite separate districts of Kirbister and Quholm (which together formed a division), and two in the extensive district of Inner and Outer Stromness—a district containing four urislands. Both here and in South Sandwick the chapels correspond so well with the natural divisions of the parish that they probably record the original system of districts, several of which subsequently became merged into their neighbours. Indeed, one would naturally expect to find a few such changes here and there in the course of centuries.

North Ronaldsay.—This island is divided into three parts by two long turf dykes running right across it, and the tradition is that a one-time owner divided it thus between his three sons. The tradition seems rather like an obvious popular explanation of something that calls for a story, but there the dykes still are (or bits of them, anyhow), and they are shown as entire in Mackenzie's charts. In the Ordnance maps three sites are given: The parish kirk of St. Ola (thus designated in Blaeu's Atlas); the chapel, evidently of St. Bride, at Bridesness; and a chapel near the loch of Garsow; and these three stood one in each of the three divisions.

TWO GENERAL FEATURES.

To conclude this detailed survey of the parishes and their chapels, two general features may be noted.

In the first place, a tradition of a burial ground is generally associated with the chapel sites, and in a number of cases bones and what are said to have been stone coffins or tomb-stones have actually been found. This at once suggests the obvious origin of the burial districts. No doubt at one time each district buried its dead beside its local chapel, and then when the Church constrained or induced the people to bury in the parish graveyard, the duty of carrying the corpse thither was laid upon the inhabitants of the chapel district it came from. In fact, the same company simply had to make a longer journey.

The second feature is the proximity of almost all of these chapels to a broch or other prehistoric building of stone. Allowing for the complete disappearance of many such prehistoric habitations, it is quite possible that there are no exceptions. Not infrequently the chapels are actually erected right on top of them. Personally, I cannot doubt that this was simply for the utilitarian purpose of securing a handy quarry. Indeed, I believe that in this class of chapel there was rarely any other reason for the choice of a site.

A striking illustration is St. Thomas's Chapel near the Hall of Rendall, which was evidently built by the ancient owners of the Hall; but instead of erecting it close to their house they built it three or four hundred yards away, beside a large broch, a senseless arrangement were it not for the excellent quarry they found there ready to their hands.

Sometimes, it is true, a chapel will be close beside what was once an important house, and very frequently it will be on the sea or loch shore, and these situations naturally suggest other reasons for the choice of site. But then again the chapels are often very far from the shore, and a field or two away from any dwelling. The one thing they did keep near was a ready-made quarry in the shape of a mass of masonry bequeathed to the wood and steel loving Northman by the vanished race of stone-hewers.

J. STORER CLOUSTON.

(To be continued.)

The Pretender's Printer

ROBERT FREEBAIRN came of good Scottish clerical ancestors, who for at least four generations had occupied Scottish pulpits. His father was that David Freebairn, M.A., who was successively minister of Gask, Auchterarder and Dunning, and who died Bishop of Edinburgh on December 24th, 1739. He had been married at least twice. His first wife, Jean Graham, was buried in Greyfriars Churchyard, Edinburgh, on July 27th, 1697.¹ She was probably the mother of Robert Freebairn, but nothing further seems to be known about her. On March 5th, 1699, the widower married Anna, daughter of the deceased Richard Dobie, and niece of Sir Robert Dobie of Stanihill.²

When David Freebairn settled in Edinburgh after the Revolution, he betook himself, like some others of his brethren in misfortune, to bookselling for a livelihood, and accordingly became one of those who were known in the city as the 'Killicranky Stationers.'³ So far as known his children consisted of Robert, James and Helen, besides a son John who died in 1700.⁴ James Freebairn took an active share in the Rebellion of 1715. He was an officer of excise in Perthshire and, along with almost all his fellow-excisemen in the county, joined the Pretender. On the collapse of the insurrection he sought refuge in France, and for a time resided in Italy. He ultimately returned to Scotland, where he made use of his continental experiences by becoming a teacher of French in Edinburgh. He was the author of at least three books and died in 1733. His sister Helen married William Ged, of stereotyping fame, and so was the mother of that James Ged who joined Prince Charlie, and was taken prisoner at Carlisle. Jacobite blood accordingly flowed strong in Freebairn veins.

¹ *Reg. Inter. Greyfriars, Edin.* (Sc. Rec. Soc.), p. 210.

² *Register of Marriages, Edin.* (Sc. Rec. Soc.), p. 221.

³ *Master Clark Defended*, p. 2.

⁴ *Reg. Inter. Greyfriars* (Sc. Rec. Soc.), p. 210.

It is generally agreed that Robert received a liberal education. Even Mrs. Anderson, while strenuously opposing him in her struggle to retain the office of King's Printer for Scotland, acknowledged that he had the credit of being a scholar. He places the honorific 'Mr.' before his name in his imprints, and seems thereby to claim a university degree. A 'Robertus Freebairn' appears in the list of those who graduated Master of Arts at Edinburgh on April 29th, 1701,¹ and he was probably our printer. From his earliest manhood he had a somewhat sinister reputation for being a wild and turbulent fellow. Mrs. Anderson, who at the time was by no means an unprejudiced witness, refers to his character as if it were well known, and even makes merry over the frequency of his potations. 'If his learning in the school of Bacchus,' she says, 'should be found to overcome his Grammar Learning or that his Luxury masters his Philosophy, he will not prove himself better qualified by his scholarship for a Printer, and his friends desire him by all means to avoid passing Tryals that Way.'² It is to be feared that his later history showed little improvement on these early days.

About 1704 Freebairn started in business as a bookseller on his own account, his shop being in the Parliament Close. In February, 1706, he published a newspaper, the only venture he seems to have made in this direction. Trace of only two numbers has been found, and they bear the imprint: 'Edinburgh: printed by James Watson and sold at Mr. Freebairn's shop in the Parliament Close'³—a form of words which seems to make certain that at that moment Freebairn was without a press of his own. The defect, however, was remedied in the same year. In his well-known Preface, James Watson says: 'In 1706, Mr John Spottiswood Advocate, and Professor of the Law, brought Home a neat little House for printing his Law Books: But in a little time after, dispos'd of it to Mr Robert Freebairn Bookseller, who has very much enlarged the same and done several large Works in it, at Edinburgh.'⁴ Watson's dates cannot always be trusted, but there is no reason to suspect his accuracy in this case. If 1706 be correct Spottiswood's possession of a printing establishment cannot have been of long duration, for Freebairn's name as printer occurs on books of that same year. We have the authority of Mrs. Anderson for saying that he was not bred to the trade,

¹ *Cata. Grad. Univ. Edin.*, p. 170. ² [Mrs. Anderson's] *Brief Reply*, . . . p. 23.

³ *Edinburgh Periodical Press*, i. 222.

⁴ P. 18.

for he served no apprenticeship to it. But his irregular entry did not prevent him having apprentices immediately after he began business. It is interesting to find that Walter Ruddiman, brother of the Grammarian, was probably the first he so employed, and that he indentured him in the very year that he acquired a press.¹ It is also apparent that at the beginning of his career, Freebairn relied much on the judgment and learning of Thomas Ruddiman himself, the connection ceasing only on the outbreak of the '15. Ruddiman acted as his editor and literary adviser, and placed all his stores of erudition at his disposal. Among the books issued from his press was Ruddiman's own *Rudiments of the Latin Tongue*, a famous school book that has only recently been displaced in the favour of teachers. So close, in fact, were the relationships between the two men that George Chalmers writes: 'Ruddiman's connection with Freebairn and printing induced him to think that he too might exercise an art, the handmaid to that literature to which he had dedicated his life.'² For several years after his start, Freebairn published many books of importance.

The printing gift made to Andrew Anderson in 1671, and afterwards worked by his widow to the manifest detriment of the art in Scotland, fell to expire in May, 1712, and a determined effort was made to wrench the monopoly from her. It is needless to go minutely into the history of the struggle, for it has already been dealt with at length.³ Freebairn's part, however, in the various transactions may be indicated. In 1711 he entered into an arrangement with James Watson and John Baskett of London that conjunct application for the office should be made in his name on the understanding that in the event of success one-third share of the grant should belong to each of the partners. In spite of determined opposition on the part of Mrs. Anderson, they secured the patent on August 11th, 1711, and in October it passed the seals. But the pockets of the ousted printer were deep, and she was not discouraged by the apparent success of her rivals. She laid siege to the cupidity of Freebairn, whom she found in no wise above an accommodation. For what Watson affirms was a sum of between five and six hundred pounds sterling he was prevailed on to throw in his lot with her, the intermediary being a Mr. Campbell, an Edinburgh merchant, who had married one of Mrs. Anderson's grand-daughters.⁴ The result of the new com-

¹ Chalmers' *Ruddiman*, p. 78.

² *Ibid.* p. 78.

³ *Scot. Hist. Rev.*, vii. 255-9.

⁴ Watson's *Preface* [Ed. Couper], p. 75.

pact was that Freebairn, aided by Baskett, 'obtained a warrant from his Majesty King George to be his sole printer for Scotland, which warrant was on 8th December 1714.' Watson, however, made a 'humble Representation' to the authorities, and 'a stop was put to the passage of the said grant.'¹ The contest was then transferred to the Court of Session, and after repeated decisions in Watson's favour he was at last successful in establishing his full right to call himself 'One of His Majesty's printers,' while no question was raised as to Freebairn's equal right to the same designation.

Long afterwards Freebairn said that in consequence of the 1711 gift 'a printing House was set up by Messrs Freebairn and Baskett in Edinburgh, furnished with all proper Materials, better than any Printing-House in Scotland ever was or has been; as also a large convenient Warehouse; and they began immediately to print (upon Expiry of the former gift which happened in the 1712) patentee Books &c.'² but it is hard to believe the statement, unless it refers to the printing establishment Freebairn already possessed and which he continued to work.

To the ordinary business of a bookseller and printer Freebairn added that of auctioning books. An incident that happened at one of his sales, during the winter of 1711-12, had curious results. Keen bidding had taken place for one of the volumes exposed but no offer was received for a Bible which followed, a circumstance which drew an irreverent remark from Dr. Archibald Pitcairn, who was well known throughout the city and far beyond it as a skilful physician, a poet and a freethinker, and who was a personal friend of the auctioneer. Shortly afterwards the Magistrates of Edinburgh gave a public dinner, at which Freebairn and James Webster, one of the city ministers, were present. Webster, who seems to have been of a choleric disposition, took the opportunity, somewhat inappropriately it must seem, to complain that Freebairn 'in his auction sold wicked and prohibited books and particularly Philostratus's Life of Apollonius Tyanaeus, [the book for which there was such competition,] wherein that vile impostor and magician is equalled, if not preferred, to our blessed Saviour and his miracles, and which were greedily bought up by atheists and deists.' Freebairn instantly called for particulars, and Webster named Pitcairn. Freebairn forthwith carried the story of the

¹ John Baskett v. Watson—Respondent's Case.

² Information for Mr. Robert Freebairn and Mr. John Baskett v. Representatives and Assignees of James Watson, deceased, June 16th, 1740, p. 2.

accusation to his friend, who immediately instituted a process against Webster in the sheriff court. The case dragged on for some weeks, but at last, on the recommendation of the judges of the Court of Session before whom it had ultimately come, it was privately settled.¹ Along with Pitcairn, Freebairn was a member of the ancient Royal Company of Archers, which in spite of its name had distinct Jacobite leanings. In August, 1712, he had the good fortune and skill to win the blue ribbon of the Company, the famous Musselburgh Silver Arrow, an event which Pitcairn duly celebrated in verse,² and which is still commemorated on the medal affixed by the successful competitor to the arrow. The verse also appears in *Selecta Poemata Archibaldi Pitcairni . . . et Aliorum*, a book of which Freebairn declares himself to be the editor, and in which he included Latin lines of his own composition.

Freebairn never seems to have made a secret of his political opinions, and sometimes even took provocative methods to declare them. Mrs. Anderson has a trenchant paragraph in which she describes his obstinate determination not to take the oath to the new Government, and yet his willingness to take 'Forty Oaths to any King and Queen in Europe,' if thereby he could receive the privilege of Royal Printer for Scotland.³ The time had now come to put his protestations to the proof.

The last of the actions brought by Watson to vindicate his rights under the gift of 1711 was decided on 29th June, and on the 6th September following the Earl of Mar raised the standard of revolt against the House of Hanover. On the 8th he issued his Declaration, in which he detailed the ills from which the country suffered, and for which he promised an efficient remedy when James III. was firmly seated on the throne. A few days thereafter he sent out a manifesto, and it was considered necessary to have this document in type. It was accordingly sent to Edinburgh where, within a few days of its preparation, it was printed at the press of Robert Freebairn.⁴

That same 8th of September had been destined by the rebels for a startling *coup de main*. They had concluded that their cause

¹ Fountainhall's *Decisions*, ii. 756; Bower's *Hist. of Univer. of Edin.*, ii. 133; Wodrow's *Analecta*, iii. 307.

² *Poems in English and Latin on the Archers and Royal Company of Archers*. By Several Hands. Edin. 1726. Cf. Paul's *Hist. Royal Co. of Archers*.

³ [Mrs. Anderson's] *Brief Reply*, . . . pp. 8-9.

⁴ Rae's *Hist. of the Rebellion*, p. 194.

would be materially assisted if they could procure immediate possession of the castles of Dumbarton, Stirling and Edinburgh. The first, and as it turned out the only, attempt made was on Edinburgh Castle. An elaborate plan had been arranged by which a scaling party was to be admitted within the walls on the night of the 8th. The scheme, however, was betrayed and in other ways miscarried, and four of the party were captured, all of them being wounded. It is evident that Freebairn was one of the group of conspirators. On the 28th the Earl of Islay wrote to the Secretary of State: 'I think the dispute I have had some time about Mr. Freebairn, the King's Printer, is now a plain case: I believe he has fled'; and on the following day he sent word again: 'I have been busy all the day in searching for the persons concerned in the designed attempt upon this town. I have seized some of them, but the King's Printer and others have fled.'¹ The double offence of having taken part in such an overt act of rebellion as well as having printed the Manifesto of the Pretender was sufficient justification for action on the part of the Government, and it was little wonder that Freebairn was denounced a 'rogue' by the Court of Session.

Mar took possession of Perth on the 28th of September, and Freebairn must have joined him not many hours later. He was certainly with the rebel army on the 14th of October. There is evidence to confirm the belief that his flight from Edinburgh was in haste. He was well aware how useful a printing press would be to the insurgents, but apparently he had neither time nor opportunity to take the necessary apparatus with him. At any rate he reached the camp without it.

Having now a printer and realising the need of printing, Mar took steps to procure the mechanical means for it. According to the Master of Sinclair, the suggestion to have a press came from the Earl of Breadalbane. 'He told some of the politicians,' he says, 'among other things, that it was a shame to them to be idle at Perth, losing their time doing nothing, and, since they did not fight, he advised them to get a printing-press, and if they had nothing else to say, print Gazets; he said it was inconceivable the good that printing news would do them, and the value of these papers. They took it in earnest.'² Aberdeen had weakly surrendered to the Jacobites, and a Town Council composed of men favourable to the movement had been installed. Mar accordingly sent a

¹ Papers in Record Office.

² *Memoirs of the Insurrection of 1715* (Abbotsford Club), p. 186.

requisition to the Magistrates that they should provide his force with a complete printing outfit. The messenger arrived some time before 20th October, for on that day the Town Council met and agreed to do as Mar has asked. The minute runs that the Provost produced an order from the 'commander-in chiefe of his Majesties forces in Scotland' ordering the Magistrates of Aberdeen 'furthwith to deliver to Robert Drummond,¹ servant to Mr. Robert Freebairne, the best printing press, with such typs, utensills, and other materialls as Mr. Drummond should choise and find necessary, and to see them paiked up in good order, and to provyde horses and proper carriages for transporting them to Perth, or where the army should be at the tyme.' The Provost was careful to note that seeing 'the said press, typs and other utensills, did not belong to the town, but to James Nicoll, printer, it was just and reasonable that he should be secured for redelivery thereof, or the value of the same.' The treasurer was at the same time authorised to provide what money was necessary to make the requisite boxes for the carriage of the goods, and to cover the expense of transportation to Perth, as well as to compensate Nicoll for loss and deterioration of his plant.² It is refreshing to read how the Council took for granted that the printer would part with his property, but the Provost had probably previously discovered his willingness. Mr. J. P. Edmond was in doubt as to whether the press ever left Aberdeen,³ but it is certain that both it and its appurtenances duly reached Perth. On the 4th of November another minute records the arrangement made for obtaining the sum necessary to provide three hundred Lochaber axes, also demanded from the Council by Mar, and 'for defraying the expenses in transporting the same and the said printing press to Perth.'⁴ Rae is equally explicit. In noting Freebairn's arrival in Perth he says that he 'set up as the Pretender's Printer there, with the Instruments the Rebels had brought out of the Printing-House at Aberdeen.'⁵ No further reference is made to the matter in the Aberdeen Council Minute Book, and one is left to conjecture what recompence Nicoll received for the summary seizure of his goods.

¹ Probably the same Robert Drummond, who was printing in Edinburgh during the '45, and who suffered prosecution at the hands of the authorities for printing some politically objectionable literature.

² *Extracts . . . Records . . . Aberdeen*, p. 355.

³ *Aberdeen Printers*, p. lix.

⁴ *Extracts . . . Aberdeen*, p. 359.

⁵ Rae's *Hist. of Rebellion* (2nd edit. 1746), p. 297.

Perhaps the Council remembered its faults when the cause it supported had collapsed, and considered that in the circumstances silence was advisable. It is possible that Nicoll recovered his plant. The retreating rebel army reached Aberdeen on 6th February, 1716, and there broke up, the several detachments going each its own way. A printing press would be a cumbersome addition to flight, and it is not improbable that Nicoll had it restored to him as the easiest way of getting rid of it. That he may not have been personally unwilling to serve the Pretender is suggested by the fact that James's Proclamation at Scone on January 10th, 1716, was reprinted at Aberdeen.

By the end of October the press was at work, for proclamations then began to come from it. They usually bear the imprint: 'Perth, Printed by Mr. Robert Freebairn.' The use Mar made of the press is thus summed up by Rae. 'The Earl,' he says, 'caused false News to be printed and dispersed to keep up the Spirit of the People and to perswade the poor, misled Highlanders to come down and assist him,'¹ and he gives instances of the kind of facts that were dished up to capture the interest of possible adherents. The Master of Sinclair says that the main purpose for which the press was procured was to produce newspapers more or less regularly, and he tells how it was 'spread in toun [*i.e.* Perth] that we were to print Gazets,' but with his inveterate prejudice against Mar he questions the sincerity of the alleged object. 'I was not allowed to say,' he says, 'that I did not believe it, knowing that Mar, on second thoughts, would not love to have so many testimonies of his integrity standing in against him.'² That news sheets were sparingly printed, if at all, is evident from the fact that the surviving prints are mainly army orders, proclamations and such like documents, many of them being single sheets. One of the longest, if not the longest, is entitled *Scotland's Lament, Confabulation and Prayer*. It is a twelve-paged quarto, and bears the colophon: Perth, Printed by Mr Robert Freebairn, For the Benefite of all Lovers of God and their Country. 1715.' It refers to the Battle of Preston, which was fought in the middle of November, and indicates that there had elapsed enough of time between the battle and the date of publication for panic to set in. 'Nothing,' it says, 'is now talk'd off amongst us, but Gibbets, Forfeitures, Plantations, Annexations to the Crown, no Quarters by public Orders: Nay, we talk of these Things with Delight; and lately exulted, That

¹ Rae, *op. cit.*, p. 297.

² *Op. cit.*, p. 186.

there was not so much of our Country Men left at Prestoun as the Devil left to Job.' In spite of the lugubrious outlook, however, the pamphleteer, who showed considerable knowledge of Scripture, serenely argued the righteousness of the cause in which he and his friends were engaged.

Freebairn seems to have been something more than a mere operative printer in the rebel army. Indeed, it is difficult to believe that he ever actually worked as a mechanic at case or press, unless in an emergency. He was entrusted with the distribution of monies, and the frequency with which his name appears in the *Stuart Papers* seems to indicate that he held a responsible post among the less prominent officers. Near the beginning of the campaign, the rebels addressed a communication to the French Regent informing him that they had taken up arms, and among those who signed the document was our printer—a sufficient indication that he was considered a person of some importance. In noting this fact in his *Memoirs*, the Master of Sinclair adds a pungent reflection. Speaking of the signatories, he says that there was 'amongst others, one Frebairn, a printer, which a gentleman of rank and distinction of the Court of France assured me he read at full length, "Robert Frebairn, printer at Pearth," as well as some other who signed "Writer to the Signet" which was not takne notice of, though the other was.'¹ The Master's comment is that the signatures of such persons must have reduced the value of the intimation, as the French Regent would think 'we were all made up of such canaille.' There are other indications that he had taken a violent dislike to Freebairn.

When the Jacobite army found it necessary to retreat from Perth, Freebairn went north with it. He attached himself to those who put themselves under the leadership of Lord Duffus, and by one route or another he reached the far north of Scotland. Duffus had some notion of raising his compatriots in Caithness, but if he made the attempt, he met with no success. Ultimately Freebairn found himself in the Orkneys. There he came into contact with another band of fugitives under the Master of Sinclair, who was on no friendly terms with Duffus. To facilitate his escape the Master seized a vessel, and when the news of the capture got abroad, 'then a part of Duffus' crew,' Sinclair says, 'deserted him, after some night's heartie drinking; and though they had refused to goe alonge with us at first came now to us, a day before we were to sail and having no time to provide

¹ *Op. cit.*, p. 126.

for themselves, pretended they'd goe with us and were to take their hazard of the little bread, bear, and water, which we had calculated onlie for ourselves.' Freebairn was one of those who had been intemperate, for the Master goes on, 'That night another of their partie, one Mr. Freebairn, a printer, haveing got himself drunk, inclined to be impertinent ; it seems it was to be a merite ; but on my speaking to him next morning, when coole, he thought convenient to beg pardon.'¹ There is nothing to indicate that the request of the suppliants was refused, and all sailed for the south.

The fugitives landed at Calais, and by April 7th Freebairn was in Paris along with his brother James. In a letter he wrote to Mar on the 23rd of that month, he says that he is prepared to bear all present and future hardships without the least grudge, and that he had paid to General Gordon 400 pistoles of public money entrusted to him by 'his Grace' when the army left Perth. In May he had migrated further south, and thenceforward he spent his time between France and Italy. From the record of his movements it is apparent that he was largely employed as a courier between the scattered Jacobite exiles, for repeated reference is made to him as the bearer of letters and confidential reports between James and his followers. It is probable that he even ventured across the Channel, for on April 12th, 1718, William Gordon wrote to John Paterson: 'I am told that Robert Freebairn is gone safe to the other side.'² For these services he drew on the Jacobite exchequer, but he did not altogether depend for a livelihood on this source of income: he still did something by way of carrying on his old business of bookselling, and made every endeavour honourably to discharge debts he had incurred before his flight. In an unsigned letter sent to his father, Feb. 11th, 1721, he wrote: 'In May next I shall have occasion to be att Paris, and after a short stay I go for Holland. I desire that there may be no time lost in sending to the first one hundred Copies of Buchanan's works and two to the latter, which I shall have an opportunity to dispose of in both places to the advantage of my Creditors either for money or Books as best I can. I leave the powers and restrictions to themselves for Gods my witness they cannot receive their money with half the pleasure that I have desire to pay it. And had it not been the present disorders in England I had a fair prospect of makeing them and my self easy att

¹ *Op. cit.*, p. 376.

² *Stuart Papers* (Hist. MSS. Com.), vi. 304.

once haveing had Credit from a friend for 500 lib. Sterl. which I have laid out here in Books and MSS to a very considerable advantage.'¹

The immediate steps taken by the authorities against Freebairn after his escape included his removal from the office of King's Printer. An action of 'Declarator was brought at the instance of his Majesty's Advocate against Mr. Freebairn, That he had forfeited his Office of King's Printer, by neglecting to take the Oaths to the Government in the Terms of the Statutes made in that Behalf and by acting as Printer to the Pretender at Perth in the 1715.'² No appearance was made on behalf of the fugitive, and decree in absence was given against him.

This forfeiture of Freebairn gave a renewed opportunity to Mrs. Anderson and John Baskett to make plausible application for the office that had thus apparently become vacant. The patent of 1711 knew officially of the existence of Freebairn only, and on the ground of his amazing adhesion to the late rebellion, of his presumption in setting up as a rival King's Printer at Perth, and of his being at that moment a fugitive, his patent was recalled and annulled.³ On July 6th, 1716, a new gift was made out in the name of Baskett and Mrs. Anderson, but the applicants had still to deal with Watson, whose rights had in no way been infringed by Freebairn's actings. The new grant had evidently been kept secret, for Watson did not come to hear of it until the following December. The steps he immediately took to vindicate his claim before the Court of Session were successful, and the defendants had merely reserved to them the right to sue on their new patent if they saw fit. But Mrs. Anderson was now dead and Baskett had still his share in the Freebairn gift of 1711, and the Anderson-Baskett patent was quietly allowed to drop out of existence. In later days Freebairn was good enough to approve the steps Watson took to maintain his claims. Had he not been 'abroad,' as he euphemistically describes his exile, he also would have opposed the application made by Baskett to have the whole gift set aside, and indicates his obligations to Watson for strenuously resisting the scheme—which almost amounted to effrontery on the rebel's part when his treachery to the same man is recalled.

Some interesting tales are preserved by George Chalmers in his

¹ Unpublished letter in possession of Col. Greenhill Gardyne.

² *Information for Thomas Heriot*, July 1, 1740, p. 4.

³ *Lee's Memorial for the Bible Societies*, App. xxxi. p. 70.

MS. Collections for a History of Scottish Printing about the doings of Freebairn while he was on the Continent. They are drawn mainly from a missing MS. memoir of William Ged, written by Dr. Charles Webster, which Chalmers takes great pains to discredit, even while he quotes from it, but which it would be interesting to have in our hands to-day. It is said that Freebairn's printing-house was handed over to the care of Ged, who it will be remembered was his brother-in-law, and that it was the latter's experiences of the high prices paid for labour within it that set him to devise some system for reducing the expenditure and so made him think of stereotyping. On the same authority Chalmers states that the Freebairn printing business was for a time carried on on his behalf by Blair of Ardblair and Nairn of Greenyards, and that they contrived to make 'decent fortunes' all the time that their partner was swaggering at Rome and living at ease, but it is evident that here there is confusion with a transaction that took place later. Finally, it is stated that Freebairn took part in that famous journey made by the Princess Clementina Sobieski when she proceeded to Italy to unite herself to the Pretender, although Chalmers does his best to show that there is no truth in the story.

There can be no doubt, however, that Freebairn formed part of the Princess's escort when she started on her journey, although he was not with her when she was forcibly detained at Innsbruck by the Emperor, nor had any direct share in her escape. In a letter which his brother James sent to his father from Rotterdam on November 26th, 1718, he thus writes: 'You need not be anxious about my Brother, he is well & has been both well and honourably employed for some time past. Brigadier Hay and He were the only two of the K Subjects who were sent to Prague in Bohemia to accompany the Q on her journey to Italy. Robert left them on their journey and came post to Urbino to acquaint the K of their being on the road and next day was dispatched back to meet them.' That his services were considered of some importance is certain, for three years later, writing from the same town, Sept. 10th, 1721, Freebairn himself had the satisfaction of being able to say to his father: 'Having so favourable an opportunity I take the Liberty to send you enclosed a medall that was struck att Rome on the Q—ns escape from Inspruck. I had the honour to receive one of Them from her Majesty, in the most obligeing manner imaginable, so great a value was she pleased to put upon my poor Invention of it, and so good as to give me

that mark of her favour for my weak endeavours to serve Her in her confinement.’¹

The precise date when Freebairn returned to Scotland is unknown. The Act of Indemnity of 1717 promised pardon to all who had taken part in the rising with the exception of a few specially named. Freebairn does not appear immediately to have taken advantage of the amnesty.² George Chalmers says he came back in 1721. In 1721-2 much wrangling took place over the proper persons to be consecrated episcopal bishops in Scotland—a matter on which those interested took the advice of the Pretender. Freebairn’s father was one of the candidates for the Edinburgh see and was impatient at the delay in making the appointment. He appealed to the ‘King,’ and Lockhart says that the representation was made either by himself ‘or his son then at Rome.’³ He was, however, back in Edinburgh in 1722, for in that year his name, with the designation ‘Bookseller in Edinburgh,’ appears in the list of subscribers to the third volume of Mackenzie’s *Writers of the Scottish Nation*. In 1724 he and Baskett, his old partner, set up a printing house in the capital. But though Freebairn had thus returned to Edinburgh, and as it were resumed office under the usurper, he did not give up all relations with the exiled court. There is the evidence of his own handwriting that he was on the Continent during some part of the year 1730, and was in close consultation with James over the affairs of the Episcopal Church in Scotland, and especially with regard to the filling up of two vacant archbishoprics.

It has always been difficult to understand how Freebairn was allowed quietly to resume the post of King’s Printer and even to print Acts of Parliament. Principal Lee declares it is a mystery, ‘which it is not of much consequence to resolve.’⁴ The

¹ Unpublished Letter in possession of Col. Greenhill Gardyne.

² Hill Burton, Prof. Hume Brown and the Editor of the *Stair Papers* are all mistaken in affirming that the Commission of Oyez and Terminer, which met at Perth in the autumn of 1718, attempted to bring in a bill against the printer. The delinquent was his brother James (*Scots Courant*, Sept. 19-22, 1718).

³ Lockhart’s *Papers*, ii. 76. The reference may be to James Freebairn.

⁴ Lee’s *Memorial*, p. 183. The problem nevertheless interested Lee greatly. In his own copy of the *Memorial* he entered the following jottings: ‘If the gift to Baskett and Campbell as King’s Printer in 1716 was set aside, how does it happen that it is recognised both in Kincaid’s patent in 1749 and in that of Blair and Bruce in 1785? If Freebairn’s gift (in conjunction with Watson and Baskett) in 1711 had been sustained it would have expired in 1752, but Kincaid

explanation is quite simple. Baskett still held the third share of the Watson-Freebairn-Baskett gift of 1711, and even if that grant could not be recognised, he could still claim under the Baskett-Campbell grant of 1716. When the pair therefore resumed copartnery, all that required to be done was that Baskett should hand over to Freebairn a share in his third, which he did, and Freebairn resumed the place and privilege of 'One of the King's Printers,' with none to question the legality of his claim. In 1725 Brown, [Stewart] and Mosman, who had acquired James Watson's rights from his widow, did indeed attempt to dislodge Baskett from his privilege on the ground that he had never qualified by taking the oath of allegiance, but they lost their cause,¹ and in Baskett's triumph Freebairn's position was made secure. He died King's Printer.

The remaining twenty years of Freebairn's life were full of disappointments and petty wranglings, while his business was always on the verge of bankruptcy. In 1727 he entered into an agreement to print for James Blair of Ardblair and John Nairn of Greenyards, who had succeeded to the share in the gift of King's Printer originally held by James Watson. Evidently neither side was sure of the other, for it was arranged that the paper and money needed for the work were to be lodged in the hands of Thomas Ruddiman, who was also to give out the paper as it was required, and to receive the sheets as they were printed. All finished books were also to remain under his care until Blair and Nairn had been repaid the money they had expended, and in addition a further sum of . . . , or alternatively a third share of the actual profits. If they accepted the former alternative Freebairn was to receive all the unsold stock when Blair and Nairn's expenses had been met; if the other they were to receive two-thirds of the profits on the whole after sale.² Some difficulty was at first experienced in settling the provisions of the contract. 'The agreement was wrote down on a blotted piece of Paper and sent to a certain Gentleman to have extended, which he refused to do; as being usurious and taking advantage

did not enter upon the enjoyment of his right till 1757, exactly 41 years after 1757, viz., in 1798 Kincaid's patent expired. If Freebairn continued to be King's Printer subsequently to 1715, it must have been in consequence of some compromise, or a new contract of partnership.'

¹ Edgar's *Decisions*, p. 190.

² *Narrative of the Proceedings of the Arbiters in the Submission betwixt Mr. Robert Freebairn . . . and Blair . . . & Nairn*, Edin. 1736.

of Mr. Freebairn's situation at that time, from the Demands that were made on him, arising from Disorder of his Partner, Mr. Baskett's, Affairs at London.' If Baskett's affairs were not at the moment actually involved, they soon afterwards became precarious, for he was bankrupt in 1731.¹ The arrangement, however, was at last made and was shortly after extended to other books. It is probable that it was to cover the terms of this contract that books printed by Freebairn have in the imprint 'Robert Freebairn and Company.' In the course of a year or two disagreements broke out over the partnership, and if the averments on both sides can be trusted the terms of the contract did produce some queer situations. Thus Freebairn could obtain no copy of the books he himself printed unless by the written order of Blair and Nairn. Even with that permission his shop trade was badly handicapped. He complained that they shut up the books in the warehouse and only with difficulty could he get copies for booksellers who were his customers, and only a 'very inconsiderable' number for himself. He also claimed to have 'praemium on account of his Patent as King's Printer,' thus ignoring the equal right of his partners as assignees of James Watson.² At length the whole matters in dispute were referred to arbiters, who gave their judgment on January 20th, 1736. They found that Freebairn owed Blair and Nairn £1200 on their whole transactions and ordered him to make good that amount to them. Freebairn refused to accept their settlement and appealed to the Court of Session to have the decret reduced. He failed, however, to convince the bench, and final judgment was given against him.

In 1738 Freebairn raised an action in the Court of Session which, in all the circumstances of the case, bordered on the impudent. In the preceding May, Richard Watkins had bought the share of the patent of 1711 held by James Blair, being a sixth of the whole. It was an opportunity which Freebairn could not miss, and going back to the terms of the original gift, he claimed that the condition of copartnery, now so long in abeyance, should be implemented, and that all who held assignments of the shares in the original gift should join together in one business as King's Printers and should share all profits earned. To make sure that all parties were summoned, he called every

¹ *D.N.B.*, s.v.

² In Freebairn's *Narrative of the Proceedings of the Arbiters*, Blair and Nairn are described on the title-page as 'now aspiring to be King's Printers in Craig's Closs, Edinburgh,' Watson's old premises.

one who had at any time held James Watson's share and was still alive—Watson's wife, now Mrs. Heriot, Nairn of Greenyards, Blair of Ardblair, and Richard Watkins. In answer to the objection that it was impossible to go back on the various printing transactions that had occurred since 1712, he airily argued that they 'could easily compute the indebtedness' since that date. The sum of his case he rested on the ground that the agreement provided for one printing house and one only. He tried to turn to his own advantage the fact that from the beginning this condition had not been observed. 'Tis very true,' he said, 'if the other two Partners had given up the Business of King's Printer, had kept no Printing-house for that purpose, the managing Partner might have Reason to complain upon being brought to account by the other two Partners, they would, in Effect, by such Conduct, have renounced the Office, and left it entirely to the other who continued to exercise it by himself: But that's by no means the Case; the other two Partners had still their Printing-house, which they at first erected, furnished with all Necessaries, as it is at this Day, and printed all kinds of Books and Papers that fell under the Patent, as Occasion offered.'¹ Strange to say the Court 'found the pursuers had no claim for their bygone profits, but that they could insist the defenders should concur in a joint management for the future.' Freebairn brought the case again into Court two years later on the ground that he had discovered new evidence in his favour that was material to a sound judgment, but the verdict was allowed to stand.

In January, 1741, Watkins still further increased his interest in the 1711 patent by acquiring from the heirs of Baskett all the rights the latter had in it. Freebairn thereupon renewed his pleas before the Court and urged that the judgment of 1740 should be obtempered by Watkins as from 1738. The case lingered on till 1746 in which year Watkins began to issue books in his own name as one of the King's Printers. In his defence he had argued that the original agreement had been departed from, and that as 'he had at great expense provided materials to set up a printing house he could not be obliged to enter of new into a society with Mr. Freebairn.' A suggested compromise that they should account to one another for the profits came to nothing, and finally on 26th June, 1746, the Lords of Session held, as common fairness seemed to demand, that the pursuer had no case.

¹ *Information for Freebairn and Baskett*, June 16, 1740, p. 9.

During these years of litigation Freebairn never seems to have succeeded in placing his affairs on a sound financial basis. He was unable to meet the payment of money he was judged to be owing to Blair and Nairn, and the debt hung like a millstone round his neck for years. It involved him in several pleas before the Courts, and was the means of helping to waste what little stock he retained, for his books had to be disposed of to his great disadvantage. Once at least a lien was made on his rights as King's Printer, and apparently he had to surrender the privilege to his creditors for a time. In 1739 an action was brought against him by an Edinburgh printer, and in his reply he stated that the matter involved was 'a doing' while he 'was debarred the Liberty of the coming to Town, on account of the Decreet Arbitral in favour of Messrs Nairn and Blair.'¹ This doubtless is a veiled way of informing the Court that he had been forced to betake himself to the debtors' sanctuary at Holyrood. It was part of Watkins's argument against him that he was not in circumstances to enter into partnership with him as he claimed to do. 'A great Outcry,' declared Freebairn, was made, 'That your Petitioner's Circumstances were such, as made it impossible for him to advance what sums were necessary for establishing a joint Printing-house, or purchasing a sufficient Stock of necessary Materials; that the insolvency of a Partner was at common Law a sufficient Ground for dissolving the Society.' Freebairn denied the truth of the statement—'Your Petitioner's Circumstances and Credit are such, as sufficiently enables him to implement all that is prestable by him,' and offered to advance penny for penny. It is to be feared, however, that the printer was never far from the borders of bankruptcy, a condition which was considerably aided by his numerous litigations.

It has been asserted that Freebairn took part in the '45' to the extent of 'assisting in printing Prince Charlie's manifestos,' but no evidence can be obtained to support the statement. It is true that the renegade John Murray of Broughton tells how one Saturday morning in July, 1745, he received anonymous notice that the Pretender had landed in Moidart, and how 'after having conveyed away two large boxes containing the Chevalier's manifestos which he had procured to be printed some time before in Edinburgh,'² he hastened north to join the Prince. Murray

¹ *Answers for Mr. Robert Freebairn, His Majesty's Printer, to the Petition of Alexander Alison, Printer, in Edinburgh.*

² *Memorials* (Sc. Hist. Soc.), p. 159.

almost boasts that though several had to do with the printing of these manifestos, 'yet who was the printer [of them and of others] still remains a secret.' If Freebairn had anything to do with their production it is unlikely that he would have gone undetected, for the authorities could not have forgotten his share in the '15,' and must have kept a watchful eye upon him.

It is indeed hard to believe that Freebairn took any active share at all in the Rebellion, however much he may have sympathised with its object. He must have been a man well over sixty years of age, and what gain, either in purse or in honour, was likely to come to him by taking the field a second time? It is also hard to reconcile any secret or overt act of disloyalty with the fact that he was pursuing an action in the Court of Session probably at the very moment Culloden was being fought, for the decision was given only three months after the battle. Thomas Ruddiman kept aloof from the movement simply because of his advanced years, and in this cautious policy he was no doubt followed by his fellow-craftsman. The only suspicious fact that can be urged against Freebairn is that a printer named Robert Drummond was at the time repeatedly prosecuted for what amounted to active sympathy with the Jacobite cause, but whether this was the Robert Drummond who was associated with Freebairn in working his press in the '15 or whether Freebairn had any connection with him, being that person, during the '45, is altogether uncertain.

Freebairn did not long survive the collapse of the second Jacobite attempt, for he died on May 10th, 1747. His death removed some of the romance from his profession. In the long roll of adventurous printers he occupied a prominent position, and whatever may have been the defects of his character, he had the courage to take all the risks that attended the expression of strong political opinions. As a printer he was always on the side of sound work, and the majority of the books he prepared were of the standard class. The monopoly of which he held part did not expire till 1753 and it was carried on by his assignees up to that date.

W. J. COUPER.

Sir John Hay, the 'Incendiary'

SIR JOHN HAY of Lands and Barro was one of Charles I.'s most devoted adherents in the fight for Episcopacy against Presbyterianism. Most of the contemporary writers were Presbyterians, and their references to him are bitterly hostile, but when the evidence is examined dispassionately it shows that he was consistently loyal and courageous in serving his King, even if his aims were misguided and his methods sometimes unscrupulous.

John Hay was a younger son of William Hay (d. 1597), of Barro, East Lothian, by his wife, Margaret Hay, daughter to the laird of Monkton.¹ He was probably born about 1581, for in 1602 he became a notary public, presumably on reaching his majority. In the same year he was also appointed deputy to Alexander Guthrie, common clerk of Edinburgh,² whose wife was a Hay.³

The earliest recorded incident in his career reveals his combative nature and strong Episcopalian sympathies. On 21st July, 1608, a complaint against him was brought before the Privy Council.⁴ During the trial of an action in the Burgh Court, to which he acted as Clerk, the defender pleaded that the Commissaries alone had jurisdiction, and obtained from them an inhibition, a copy of which was served upon two of the magistrates as they were sitting in judgment in the Low Tolbooth. Thereupon Hay 'tuke and maist unreverentlie rave the samyn, and thairefter tuke the said principall inhibitioun and rollit the samyn verie informalie up as gif it had bene ane kaitch ball, and pat the samyn in his poutch, uttering and declairing maist disdainefull and contemptuous wordis.' The Lords found the charge proven, and committed Hay to ward in the Castle.

¹ *Hayes of Tweeddale*, by Father Richard Hay (Sir John Hay's grandson), ed. Maidment, p. 39; *Edinburgh Testaments*, 26th July, 1600.

² His protocol books from 1602 to 1631 are preserved in the City Chambers.

³ *Great Seal Register*, 1593-1608, No. 2072.

⁴ *Privy Council Register*, viii. 135, 137, 138.

The incident did not end there. Two days later a complaint was made to the Privy Council by Hay against Mr. Patrick Lindsay, a kinsman of Mr. John Arthur, one of the Commissaries, with a cross-complaint by Lindsay and Arthur against Hay. Hay stated that while he was on his way to the Council Chamber to answer the previous complaint, Lindsay threatened him, 'horrible sweiring he sould tak the said complenair be the nose, and, gif he had him out of that place, he sould have the best blood of the said complenairis body.' This charge was found proven, and Lindsay was committed to the Tolbooth.

Lindsay and Arthur averred that Hay had uttered 'mony impertinent and uncomelie speitcheis aganis the Commisaris, calling thame unhonnest personis' and refusing to acknowledge them or their jurisdiction, 'bot onlie the bischopis as ordinarie judgeis in spirituall causis.' This charge was dismissed as not proven.

A year later the Privy Council had to investigate a complaint by John Forrest, tailor burgess of Edinburgh, that on 22nd July, 1609, at midnight, David Johnston, bailie, and Mr. John Hay, with others, violently entered his house, took him out of his 'naiked bed,' and carried him to the Tolbooth, where they 'pat his craig [neck] and feit in the yrnis' and 'held him thairin lyand upoun his bak all that day quhill aucht houris at nicht without meit or drink.' So far from punishing the accused the Lords 'allow of the said punishment' and ordained further punishment, because Forrest was 'accessorie to the awayganging of David Johnnstonis dochter.'¹ The lady was probably a kinswoman of John Hay's wife, Marion Johnston.

On 12th June, 1612, Hay bought an estate called Lands in the barony of Kinderloch, Kirkcudbrightshire,² 'a poor piece in Galloway,' says the spiteful Scotstarvet.³ It marched with the property of Sweetheart or New Abbey, which was acquired by Sir Robert Spottiswoode, son of the Archbishop, and afterwards Lord President. Hay was a close political associate of Sir Robert, and they were related by blood through Jonet Spottiswoode, Hay's paternal grandmother.⁴

Nothing more is heard of him till May, 1617, when he took a prominent part in the reception of King James VI. on his State

¹ *Ibid.* viii. 334.

² *Great Seal Register*, 1609-20, No. 830.

³ *Staggering State of Scottish Statesmen*, ed. Rogers, p. 101.

⁴ *Hayes of Tweeddale*, p. 39; *Edinburgh Testaments*, 22nd June, 1588; *Calendar of Writs at Yester* (Scottish Record Society), Nos. 598A, 758, 772, 808.

visit to Scotland after fourteen years' absence in England. The royal progress was marked at every stage by the presentation of addresses of welcome and complimentary odes in English, Latin, and Greek, all in terms of the most fulsome flattery.

Hay was employed by the Town Council of Edinburgh to prepare and deliver an oration in English on his Majesty's arrival at the West Bow on 16th May. He also composed a Latin speech, which, owing to *angustia temporis*, could not be delivered. These many effusions were collected and published in a folio volume entitled *The Muses' Welcome*. Hay's panegyric covers almost five pages, and a few passages may be selected as specimens. It begins :¹ 'How joyfull your Majesties returne is to this your M. native Towne the countenances and eyes of these your M. loyall Subjects speake for their harts. This is that happie Day of our New birth . . . wherein our eyes behold the greatest humane felicitie our harts could wish, which is to feide vpon the Royall countenance of our true Phoenix, the brigt Starre of our Northerne Firmament, the Ornament of our Age, wherein wee are refreshed.'

The orator goes on to describe the dismal state of Scotland during his Majesty's long absence : 'the verie Hilles and Groves, accustomed of before to be refreshed with the dewe of your M. presence, not putting on their wounted Apparrell ; but with pale lookes representing their miserie for the departure of their Royal King.' Then follows a paragraph of outrageous personal flattery : 'Your M. most noble progenitoures were indeede all Princes renowned for their vertues, not inferior to any Emperoures or Kinges of their time ; they mainteined & delivered their Virgine Scepters vnconquered, from age to age, from the inundation of the most violent floods of conquering Sworde which over-whelmed the rest of the whole Earth, & carried the Crowns of all other Kings of this Terrestrial Globe captives vnto thraldome ; But farre short of your Majestie, nature having placed in your sacred person alone what in everie one of them was excellent. . . . Posterity shall blesse the Almighty our God, for giving to vs their Forefathers a King in hart vpright as David, wise as Salomon, and godlie as Josias.'

Finally his Majesty's services to the Established Church are duly recognised : 'What reformed Church doeth not blesse your M. Birth-day, and is not protected vnder the wings of your M. sacred authoritie from that Beast of Rome and his Anti-

¹ P. 39.

christian locustes, whose walles your M., by the soveraigne wisdomer wherewith the Lord hath endewed your sacred person, hath battred and shaken more than did the Goths and Vandales the old frame of the same by their sworde.'

Hay's performance seems to have given satisfaction to his employers, and on 15th May, 1618, on the resignation of Alexander Guthrie, he and Alexander Guthrie the younger were appointed conjunct Common Clerks. He held this office for over thirteen years.

He soon became involved in the bitter ecclesiastical controversy caused by King James's attempt to impose the Five Articles of Perth upon an unwilling people. The ministers of Edinburgh, who had accepted the Articles, wrote to the King complaining that certain members of their congregations had spoken 'unreverentlie' of them and of his Majesty. They were summoned to a meeting of the Town Council in June, 1619, and though they admitted writing the letter they refused to disclose the names of their detractors. The Council resolved 'to send Mr. John Hay, a man that had great credite with the Bishop of St. Androes',¹ and had kneeled himself,² to informe the king. It was thought he might weill doe something for the magistrats and the bodie of the toun. But if he did noe worse, at least he wold leave everie particular man against whom the king, bishops, or ministers had exception, to beare his owne burden. But worse was suspected, becaus he did what in him lay to maintaine the corruptions of the time.'³

Hay returned early in July and reported 'that the king wold not tak anie evill conceate of the people of Edinburgh, howsoever he was hardlie informed of them; but wold beare with them a whyle, till they were better informed.'

The controversy smouldered for some years, and broke out again in 1624. On Tuesday, 23rd March, in accordance with an ancient custom, a public meeting was convened in the Little Kirk as a preparation for the Communion, and, also in accordance with custom, the Provost, Alexander Clark, directed John Hay as Clerk of the Session to ask those who had complaints against any of the ministers to make them. The challenge was accepted by one John Dickson, who objected to Dr. William Forbes for

¹ Archbishop Spottiswoode.

² A reference to the first of the Five Articles, which enjoined kneeling at the Communion.

³ Calderwood's *Historie of the Kirk of Scotland* (Wodrow Society), vii. 382, 389.

having stated in a sermon that the differences between the Papists and the Reformed Church might be reconciled without difficulty. Objection was taken by other speakers that a public meeting was not a suitable place for discussing questions of doctrine, and an angry debate followed.¹

'Mr Johne Hay said it was not formall proceeding. He was a clerk and he sould know formalitie or informalitie. Thomas Macallow answeired that he was a clerk also, and somewhat before him ; and that he thought publict uttering of uncouth novelties, such as that was, and in such a place, sould be likewise delated publictlie, and speciallie to that meeting. Mr Johne Hay replyed that there was great difference betwixt him and the said Thomas, and that he was a hote litle man. Thomas answeired he knew noe difference, but that he was a meikle man, and he a litle.' Eventually it was decided that the opinion of the other ministers should be sought, but when a deputation went to interview them 'nothing could be obtained of the ministers but quarrelling at their informalitie, in that they did not first admonish Mr Forbes privatelie.'

The matter reached the ears of the King, who ordered the Privy Council to hold an inquiry, which resulted in William Rig, a bailie, and John Dickson, an elder, being deprived of their offices. 'This punishment no doubt was devised by David Aikenheid² and Mr Johne Hay, who wold rule both counsel and session as they please, and therefore wold be ridd of all such as they think will oppose to their corrupt courses.'³

At the end of the year Hay, who had been sent to London with sundry petitions to the King, returned with instructions to the Town Council to subscribe obedience to the Articles of Perth. Sir William Nisbet, ex-Provost, refused, but most of the others complied.

By this time Hay had begun to be chosen for public duties beyond those of Common Clerk. On 20th February, 1623, he was appointed one of six Scottish Commissioners 'to heare the propositionis and overtouris to be made to them be the Commissioners for England anent the wooll of this kingdome, and that so much therof as sall not be wrought and drapped within the same may be brought to England and there fra tyme to tyme boght for the furtherance of the draperie of that kingdome.'⁴

¹ Calderwood's *Historie*, vii. 596, 597.

² Ten times Provost.

³ Calderwood's *Historie*, vii. 619, 628.

⁴ *Privy Council Register*, xiii. 172, 176, 177, 233.

He was voted £2000 Scots for his expenses, and his passport to London is still in existence.¹

On 5th June he and Sir Andrew Murray of Balvaird attended the Privy Council and reported verbally that after 'sindrie trystis and meetingis' at which the Scots Commissioners 'caryed thame selffis verrie honnorable and with grite respect and credite to this thair native Countrey . . . it wes aggreit be commoun consent that the treatie sould desert without ony recorder at all to be maid therof in write.'

Another Commission was immediately appointed to consider the best way of developing Scottish industries of all kinds, especially the woollen manufacture, and Hay was one of sixty-nine nominees, drawn from the three estates.² Several preliminary meetings were held, but it does not appear that any practical result followed.

When Charles I. succeeded to the throne, Hay received many appointments which brought him into close relation with the Court. From December, 1625, he was repeatedly commissioned by the city of Edinburgh and by the Convention of Royal Burghs to carry petitions to the King in support of their trading rights and their privileges of self-government, and he was generally able to report that he had been successful in his missions.³

Maitland alleges that he abused his trust.⁴ He says that on 5th August, 1629, 'the Town Council of Edinburgh, to their no great Honour, made an Act perhaps not to be paralleled :⁵ For John Hay, one of their Town Clerks, being sent to London to transact certain Affairs belonging to the City, they obliged themselves and their Successors to receive and pay his Accounts upon his own Declaration, either by Word or Writ. Now Hay having been no less than seventeen times at London on the City's Account, he, by such Management, had a fine Opportunity to enrich himself at the Expende of the injured Citizens.'

Edinburgh, however, obtained reimbursement from the Royal Burghs of £24,000 Scots incurred by Hay as travelling expenses on their account, and the Burghs made no demur.⁶

One of his visits to London was in connection with the will

¹ *Memorials of the Earls of Haddington*, Sir W. Fraser, ii. 224.

² *Privy Council Register*, xiii. 234, 300.

³ *Records of the Convention of Royal Burghs*, iii. 187, 192, 213, iv. 532.

⁴ *History of Edinburgh*, p. 64.

⁵ *Council Register*, xiv. fol. 135.

⁶ *Records of the Convention of Royal Burghs*, iv. 533.

of George Heriot, the King's jeweller, who left the residue of his fortune to the Town Council and the ministers of Edinburgh for founding a hospital for poor children. Hay, who had been appointed Clerk to the Trust on 19th July, 1625, was instructed to receive payment of the realized estate from the executors, who were all in England, and there is a letter from him written on 3rd January, 1626, with a description of his doings since he left Edinburgh on the 5th of December. He writes¹: 'I came to London vpon the thretteine in the forenone and stayed thair till the sexteine, during the quhilk time I delyvered my letters to Mr Johnstoun,² bot could not have the occasioun of meting with the rest, for they were scarce sett down and Mr delawney³ his shop wes infected and his twa prenteissis deid, swa that he wald not admit any, albeit he come himselffe and speak with me. Upon the sexteine I went to Hamptoun Court. The king come thither from Wyndsore the 17. The xx I had ane kisse of his Majesties hand and delyvered my letter and by his Majestie wes ordained to attend till the Lords come, which I did till the 23, which day they come to Court; the 24 they kyiste his Majesties hands, and since we attendit till the last of the last moneth, quhilk day we were adverteist that his Majestie wald not midle with Scottish effaires befor his cuming to Whitehall. Swa I come to London upon Setterday last. Upon Mononday last I met with the executoris in Mr Delawney his chop. They have agreed to give me accompt quhilk is to be drawn up this oulk [week].'

The accounts were not finally adjusted till 12th May, 1627, when Hay received payment of £23,625 10s. 1½d. sterling. He resigned his clerkship in January, 1634, before the Hospital was opened.

He was appointed to at least two important Royal Commissions. The first was the Commission on Surrenders and Teinds, which was appointed in July, 1626,³ to work out the situation created by Charles's great Act of Revocation cancelling all grants of church lands since the Reformation. Their main duties were twofold—first, to settle the terms upon which the alienated lands were to be transferred to the Crown, and second, to place the whole system of teinds upon a new footing by eliminating the tacksmen or middlemen. His own property of

¹ *History of George Heriot's Hospital*, 3rd Ed. p. 40.

² Robert Johnstone, LL.D., and Gideon de Laune, apothecary, were two of the executors.

³ *Great Seal Register*, 1620-1633, No. 969.

Lands was surrendered and annexed to the bishopric of Edinburgh.¹

The other important Commission was appointed² 'to determine anent the trew sense, meaning and interpretation of all such lawes and actes of Parliament quhilks are unclear and doubtse in the selff and may receive divers interpretationes, . . . and anent the printing of such lawes and statuites as ar not zett printed, and anent the omissioun of such actes and statuites as ar abrogat or become in desuetude.' The Commission was renewed in successive sessions of Parliament down to 1633, and seems to have edited the statutes for publication as they were passed, but not to have undertaken any comprehensive scheme of Statute Law Revision.

Hay appeared as procurator for the City of Edinburgh in several important litigations, notably in 1629 and 1630, when the town of Leith presented a list of eighty-four grievances, raising the question of Edinburgh's right of superiority over her neighbour.³ The case was heard in London, before the English section of the Scots Privy Council, and Leith's pleas were repelled. The responsibilities of counsel were very heavy in those days, for it is recorded that when Leith's 'grievances, prejudicees, and oppressiones' were laid before his Majesty, they were denied by Mr. John Hay on behalf of Edinburgh 'wpon the perrell off his lyff and the lusse of the libertey off the said brugh of Edenborrouhg, and his said lyff, landis and goodis for ever.'⁴

In June, 1628, Charles granted a patent to the Earl of Seaforth for the erection of Stornoway into a Royal Burgh, on condition, however, that the existing Royal Burghs should be consulted before the patent was sealed.⁵ Seaforth anticipated matters by settling a colony of Dutch fishermen at the place, and at once the Burghs were up in arms at this invasion of their privileges. They sent John Hay to London to use every means to stop the issue of the patent.⁶ The negotiations were protracted, and he had

¹ *Ibid.* 1634-1651, No. 1010.

² *Ibid.* 1620-1633, No. 1287; Thomson's *Acts*, v. 47.

³ *Privy Council Register*, 2nd Ser. iii. *passim*, introduction, pp. xxvii-xxix; iv. introduction, pp. xxix-xxxi.

⁴ *Ibid.* 2nd Ser. iii. 639.

⁵ *Ibid.* 2nd Ser. iii. *passim*, introduction, pp. xxv-xxvii.

⁶ *Records of the Convention of Royal Burghs*, iii. 257, 265, 266, 300-4, 308-9, 318, 319, 323.

to fight hard to gain his case, but on 10th August, 1630, he was able to report that the patent had been cancelled.

The incident opened the whole question of the rights of strangers, especially Englishmen, to fish off the Scottish coast, and on the 11th November, 1630, the King, on the narrative that foreigners had been reaping the benefit of 'the great blessing whairwith it hes pleased god to inriche his Ma^{ties} dominions of Scotland, England and Ireland in the abundance and plentie of fishe upon all the coasts,' appointed six commissioners for Scotland, including Hay, to confer with six English representatives, with a view to founding a fishing association for control of the whole industry.¹ The Scots proposed that the fishings off their coasts should be closed to all except Scotsmen, and as their English colleagues objected to the proposal, John Hay was sent to report the matter to the Royal Burghs for their suggestions. The Burghs supported the proposal and suggested a fourteen mile limit all round the coast. The point was referred to the King, who replied that he could not understand the necessity for such a reservation, and that he would only reserve to natives 'suche fishing without whiche they cannot weill subsiste, and whiche they of themselves have and doe fully fishe.'²

A Royal Charter was signed on 19th July, 1632, erecting a company with a council of twelve—six to represent Scotland, John Hay being one, and six to represent England and Ireland.³

Hay's efforts were rewarded with a knighthood, and on 19th October, 1632, he and four of his colleagues appeared before the Privy Council at Edinburgh to report the result of their negotiations. They mentioned that 'his Majestie, out of his royall and princelie regarde of the honnour, credite and weale of this his ancient kingdome, honnoured almost the hail meetings for this treatie with his royall presence'; and they were thanked by the Council, who entered on their Register a finding that they had 'verie honnourable and faithfullie caried themselves therein for the honnour, credite and weale of this kingdome.'⁴

The next stage of Sir John Hay's career was reached on 12th December, 1632, when he was appointed Clerk Register. Sir James Balfour's comment upon the appointment was, that he was 'one altogider corrupte, full of vickednesse and villaney, and a suorne enimey to the peace of his countrey.'⁵

¹ Thomson's *Acts*, v. 230.

² *Ibid.* v. 234, 237, 239.

³ *State Papers (Domestic)*, 1631-3, p. 543; 1635, p. 271; 1636-7, p. 12.

⁴ *Privy Council Register*, 2nd Ser. iv. 554.

⁵ *Historical Works*, ii. 193.

On 31st December he presented his commission to the Lord President, and received his patent 'with all dew reverence upon his knees,' and the keys of his offices in the Castle and the Exchequer were handed to him. On the same day he was admitted a Privy Councillor, having taken the oath 'in most submissive reverence upon his knees, his hand lying upon the halie evangell.'¹ He sat regularly during the year 1633 as an extraordinary Lord of Session, and on 7th January, 1634, was admitted an ordinary Lord. The King's letter of appointment, dated at Whitehall, 23rd December, 1633, contained a passage of explanation. Within two months of his accession Charles had, in reconstituting the Privy Council, laid down the principle that no Privy Councillor should also hold office as an ordinary Judge of the Court of Session, his object being to control both judicatories. There was no question of his right to nominate his own Council, and when all Privy Councillors had been removed from the Session, the vacancies gave him the opportunity to appoint a majority of his own adherents. Subsequent appointments were made on this principle, but Sir John Hay's loyalty was so well established that an exception was allowed in favour of him, and also in favour of Sir Robert Spottiswoode, who was at this time appointed Lord President. Accordingly the Royal Letter stated that the King conceived 'that the placing upon that judicatorie some of our officers of Estate quho ar no noblemen is not derogatorie to the distinguishing of the two judicatories, bot will be steadable to our service.'²

Sir John Hay sat in Court regularly until March, 1639. He never took a judicial title, but always appears in the sederunt as 'Clericus Registri.'

In December, 1633, he bought part of the lands of Barro, the family estate in East Lothian, about five miles south-east of Haddington, and on 22nd March, 1634, he obtained a Crown Charter.³

On 21st October, 1634, he was nominated a member of the reconstituted Court of High Commission, and his son William was appointed Clerk.⁴

He took a conspicuous and most injudicial part at the famous trial of Lord Balmerino. In the Parliament of 1633, where the King was present, great hostility was aroused by the proposal

¹ *Privy Council Register*, 2nd Ser. iv. 590-2.

² *Books of Sederunt*, 7th January, 1634.

³ *Great Seal Register*, 1633-1651, No. 95.

⁴ *Ibid.* No. 228.

to confer upon the King the right to determine 'the apparel of Kirkmen,' and when the statutes for the session were put to the vote *en bloc*, it was widely believed that the opposition led by Lords Rothes and Balmerino had outvoted the King's party. Hay, however, in his capacity of Clerk Register, had the duty of counting the votes, and reported that the government programme was carried. 'A worthie gentleman [Rothes] stood up and quarrelled the Clerk Register for not marking the votes rightlie; but the King (who had also marked them himself) commanded the gentleman to be silent, or else, upon the perill of his life, make that good whilk he had spoken; whereupon the gentleman satt doune and was silent.'¹

The dissenting nobles gave vent to their feelings by drawing up a 'supplication' to justify their opposition, and Charles soon had an opportunity of showing his displeasure. A copy of the supplication with Balmerino's own notes was found in his possession, and he was brought to trial on the charge of 'leasing' in failing to communicate a treasonable document to His Majesty. The Earl of Erroll, Justice General, was appointed to preside at the trial, and the King directed the Lords of Session to select three of their number to act as assessors. By Act of Sederunt on 2nd December, 1634, they chose Lord President Spottiswoode, Sir John Hay and Sir James Learmonth of Balcomy, whom Sir James Balfour describes² as 'men suorne to the bischopes and fauorers of the corruptions of the tyme.'

If Hay had any tendency to judge impartially, it would have been removed by a letter which was addressed to him by the King on 20th November. His Majesty wrote:³ 'The tyme appoynted for it [the trial] being now so neir at hand, we have thought good heirby to recommend vnto yow the continuance of your accustomed diligence in adverting to everie occasion [which] may occure in a thing so neirlie concerning ws, which we will tak as acceptable service done vnto ws.'

The trial began on 3rd December, and by the 20th the objections to the indictment had been repelled, but it was not till the following March that the case went before a jury.

The official report⁴ is supplemented by a graphic account in

¹ Row's *History of the Kirk of Scotland* (Wodrow Society), p. 367.

² *Historical Works*, ii. 218.

³ Earl of Stirling's *Register of Royal Letters* (Grampian Club), ii. 808.

⁴ Cobbett's *State Trials*, iii. 593-711.

one of the Wodrow manuscripts.¹ The writer describes how Balmerino in his speech complained that he had been refused the benefit of either a preacher or a physician, and had not been allowed to take exercise in the 'yeard.' 'Sir Johne Hay in great rage arose, blaiming the King's Advocate² for not interrupting that part of the speiche. . . . After some hard words past betwixt them, then said Sir Johne Hay to Balmerino, "Ye speake untruelie. . . . First, as to a minister, my Lord St. Androes offered to preach to yow himselfe; 2. as for a physician, it was fattall to prisoners indicted as yow wer to want a physician; 3. as for libertie to walke out, the Constable knew his dewtie." To quhom Balmerino answered, "I wonder that the Clerk of Register should be so forgetfull, and to juggle and smoir the truth."'

By a majority of one (eight votes to seven) Balmerino was found guilty. 'Quhich being so concluded, Sir Johne Hay, out of a nimious diligence, caused Johne Bannatyne wryte the doome without the advyce either of the King's Advocate or of [the Justice deputes], viz: to be taken that day, being Saturday afternoone, to the mercat-crosse of Edinburgh, and there his head to be stricken off, quhilk Sir John Hay and the Lord Justice contended to have done that day.' The King's Advocate, hearing of their haste, delayed the execution till his Majesty's pleasure be known, though Sir John Hay still urged summary execution of the sentence and even opposed a petition by the prisoner that a minister might be allowed to visit him. In the end the Earl of Traquair persuaded the King to give way to the popular clamour and grant a pardon.

The climax of the struggle between Episcopacy and Presbyterianism was reached in 1637, when the King attempted to introduce Laud's Prayer Book into general use in the churches. Hay was one of the Privy Councillors who signed the proclamation authorising its introduction.³ The 23rd of July, 1637, was the day appointed, and the incident of Jenny Geddes and her cutty-stool at St. Giles was typical of the state of feeling throughout the country. The Privy Council was soon deluged with 'supplications' from every district and every class of the community, and Edinburgh was thronged with delegates who came to express the protests of the people. The city was without a Provost owing to the recent death of David Aikenhead, and Charles

¹ *Hayes of Tweeddale*, Appendix, pp. 95 seq.

² Sir Thomas Hope.

³ *Privy Council Register*, 2nd Ser. vi. 352.

realized that if the situation in Edinburgh was to be controlled he must secure the appointment of a strong man whom he could trust. Accordingly on 10th September he wrote to the Town Council: ¹ 'In regard of severall thingis especiallie at this tyme concerning our service and in particular the peace of that cite We have thocht it expedient that one of whose sufficiencie from our awin knowledge we haiv assurance may at this tyme haive that chaarge amaingst you, And as we have been hithertill gratuslie pleased to construe favourablie of what has fallin out amiss of the prosecution of our ordinancies laitlie there, so we ar willing yitt heirby to express our cair over yow, And thairfore we doe especiallie recommend unto your caire that our Trustie and Weilbelouit Sir Johne Hay, knycht, our Clerk of Register, be putt in leitt and maid choyce of for your Proveist for this yeir coming.'

Hay produced this letter in person to the Council on 18th September, and he presided at the meetings on 29th September when he was put on the leet, and on 3rd October when he was formally elected. Maitland says² that to show their independence the Council 'chose men for their other Magistrates and Members of their Council who had different Views from those of the Court.'

The Presbyterians were furious at the appointment. Dr. John Bastwick's information about Hay was that he was³ 'a man well acquainted with all the mercinarie wayes that could bee used for working upon that Community, and therefore the fitter man to bee chosen for furthering the execution of their deepe plots and designes; being plots and designes so contrary to and against their Acts of Parliament, Confession of Faith, and the Publick Worship of God in that Church, as they durst not discover the same to any one man that was knowne to be honest or religious, or free from that Corruption which that Hay for these many yeares in the whole course of his life hath beene generally noted for.'

The new Provost was present at the meetings of 11th and 13th October, when only routine business was transacted, but the next meeting, on 18th October, was memorable.⁴ It was his policy to prevent Edinburgh, if possible, from joining in the general

¹ *Town Council Register*, xv. fol. 25.

² *History of Edinburgh*, p. 72.

³ *The Beast is Wounded*, p. 7.

⁴ *Baillie's Letters and Journals* (Bannatyne Club), i. 22; *Correspondence of the Earls of Ancram and Lothian* (Bannatyne Club), i. 95.

supplication against the Service Book, and to gain time for the Privy Council to devise another attempt to introduce it into use. On 17th October a proclamation was issued by the Privy Council ordering the concourse of people to return to their homes and removing the Court of Session to Linlithgow. The same day the Provost on the King's instructions cancelled by proclamation an undertaking which he had given to allow commissioners to be chosen by the Town Council to unite in the general supplication.

The citizens were greatly stirred when they 'found their Provest unwilling they should joyne with the rest of the countrie in the commone way of supplicating, altho he profest his own great dislyke of the book, and assured them to obtaine that it should not be urged on Edinburgh; yit dealling underhand with many of the counsell and other speciall men in the toun, onlie to draw in a privat way by his advyse. . . . This made the people conveine when the Magistrats went to Counsell upone the eightein day of October, and ther with many earnest cryes beseeching them for Gods sake to care for the preservacione of true religione. . . . The Provest assured them his Majestie had alreadie discharged the Service-book by proclamatione, which wold be found at James Prymrose chamber, who is clerk to the Counsell. They sending to try the same, found ther was never word of any such proclamatione, which, with the Provest's slighting of their desires and his still pressing of his own private way, did justlie irritate the people that nothing was done by their Magistrats to hold out the Service-book which they believed to be idolatrous.'¹

By this time 'the whole streets were pestred with disorderly people, their Councell House was beset without and thronged within with their owne threatning Citizens, who had vowed to kill all within their house unlesse they did presently subscribe to a paper presented to them.'² This included three demands, (1) that the magistrates should appoint Commissioners to join in the general supplication against the Service Book, (2) that they should restore two 'silenced' ministers, (3) that they should restore a 'silenced' reader. The Provost had no option but to give way and sign the undertaking.

Meanwhile another disorderly crowd was besetting the Privy Council Chamber, where the Bishop of Galloway, the most un-

¹ *Roth's Relation* (Bannatyne Club), pp. 13, 14.

² *A Large Declaration concerning the late Tumults*, attributed to Dr. Walter Balcanquhall, pp. 34 seq.

popular man in Edinburgh, had gone to examine witnesses at a trial. The Earls of Traquair and Wigton with their retainers went to his relief, but were compelled to take refuge along with him, and sent a message to the magistrates to give them protection. The magistrates sent back word 'that they were in the same, if not a worse, case,' so eventually Traquair and Wigton escorted by their retinue made their way to the Town Council House, where the tumult had somewhat subsided, since it became known that the Provost had yielded to the popular demands.

'The Treasurer¹ told Rothes what extreame fear the Provost was in when he came up to the Town Counsell house to him; how he wold have made ane holl in the rooffe of the house and stollen out for fear of the people.'²

Traquair decided that under protection of his retainers he and the Provost should force their way through the crowd, but he himself was thrown down and narrowly escaped being trampled to death. They reached the Privy Council Chamber, where they waited a considerable time, 'and being past two efternoon could not think how to gaine their lodging for getting some refreshment of meet safelie and without pain.'

A message was sent to some other noblemen to come with their servants to their aid, and at length under convoy Traquair reached his house in Niddry's Wynd, and the Bishop his lodging at Holyrood. 'The Provost was againe set upon as he was entring his owne house, and was so pressed upon by the multitude that they crouded with him into his owne yard, railing upon him and throwing stones at his windowes, untill some of his servants discharging a Peece, which had nothing but powder in it, they retired for feare.'³

Later in the afternoon he attended a meeting of the Privy Council at Holyrood, and went that night to Leith 'curseing the Town of Edinburgh, swearing never to come amongst them againe, and professing he wold the next morning be gone for Court.'⁴ He did not carry out his threat, but merely stayed in Leith and about the town for some dayes till the calmeing of the peoples mindes.'⁵ He reappeared at the Town Council on 3rd November, but after that was absent until 29th December.

At this meeting he had again to face bitter opposition. In the interval since 18th October he had been using his influence

¹ Traquair.

² Rothes's *Relation*, pp. 19, 21.

³ *A Large Declaration*, p. 38.

⁴ Rothes's *Relation*, p. 21.

⁵ Baillie's *Letters and Journals* (Bannatyne Club), i. 38.

privately to induce the citizens to present a separate petition to the King asking for favour and pardon. Principal Baillie thus describes his procedure:¹ 'He gives them full assurance, will they bot use these formalities, the King shall freely pardon them, shall quyte them of the Service Book for ever, except the whole Kingdome be moved willingly to take it, which he thought would never be; for in all his discourses from the beginning he enveighed against the Booke as much as any; also that Counsell and Session should presently be restored to them, and their priviledges much augmented. It seems the man had undertaken to make that towne come in the King's will; and so, for the effectuating of his promise, did give assurance of many things which neither he could nor would be any wayes carefull to have performed.' The Commissioners from the rest of Scotland exposed his scheme, so 'the Provost's dealings evanished.'

Roths gives an account of the Town Council meeting of 29th December, 1637.² The Provost urged the Council to present a separate supplication, and stated on the authority of 'a nobleman' that if the town were 'perseued criminallie for their tumults' the nobles 'wold leave the toun to themselves.' The meeting was adjourned till next morning in order that the statement of the nobleman (presumably Roths himself) might be verified, and next day it was reported 'that what their Provost had spoke was bot a lie.'

The Provost unabashed continued to press his motion, 'allegding that he had a commission fra the Chancellor, Thesaurer, and Privie Seall, to deall with them for that effect. It went to voting, and ther was not one vote to second the Provost. My Lord Thesaurer and Privie Seall also professed that he had no such commissione from them.' 'And so,' says Roths, 'the Provost was twyse taken with a lie.'

He attended meetings on 3rd and 5th January and 2nd February, 1638, but never appeared at the Town Council again, and, so far as the special purpose of his appointment was concerned, he had completely failed.

Meanwhile the Privy Council had been anxiously watching events. In November they had again ordered the 'supplicants' to return to their homes, but had agreed to treat with 'Tables' or delegates representing the nobles, lairds, burgesses, and ministers. On 21st December the 'Tables' presented a demand to the Council at Dalkeith that the bishops should be removed from the

¹ *Ibid.*, i. 46.

² *Relation*, pp. 52, 53.

Council and no longer be judges in their own cause. Several of the members 'did discover themselves more clearly for the Supplicants than formerly they had ; . . . but none of the States-Men spoke cordially for the Bishops except Sir John Hay.'¹

Two days later, in spite of the opposition of Hay and the bishops, the Council commissioned Traquair to go to London and represent to the King the dangerous state of affairs ; and they also sent up by the hand of the Justice Clerk an 'Historical Information.' Hay had been in constant communication with the King, and on reappearing at the Privy Council on 15th February Traquair complained that 'whyll Privie Seall and he wer dealling with the Chancellor for drawing things to a pacificatione, and had condiscendit upone sum articles, and wer writting accordingle to Court, letters wer written underhand to the contrair.'² Five days later he stated specifically that 'he had sein sum of the Clerk Register's letters to the prejudice of himselfe and the cause, so that he wondered how any that loved him could bear the other any good countenance, insinuating that everie one sould hold him in a great deall of despite.'

On 19th February the King's proclamation in answer to the supplication was read. It announced that the service-book would be retained, and that the supplication itself was illegal. The Council were greatly alarmed, and even Sir John Hay was a party to their unanimous resolution at Stirling on 2nd March 'that the feares apprehended be the subjects of innovation of religion and discipline of the Kirk upon occasion of the Service Booke, Booke of Canons, and High Commission . . . ar the causes of this combustion.'³ He also signed the instructions to the Earls of Traquair and Roxburghe on 24th March 'to remonstrat to his Majestie the heavie and fearefull estate the cuntry is brought unto be the feares conceived be the subjects.'⁴

The reply of the people to the proclamation was the signing of the 'Solemn League and Covenant,' and at this point the King so far gave way as to send down the Marquis of Hamilton to act as conciliator. One of the concessions which he was authorised to make was to bring the Court of Session back to Edinburgh, but the 'Tables' intimated that the change would not be acceptable unless Sir Robert Spottiswoode and Sir John Hay were

¹ Bishop Guthry's *Memoirs*, p. 27.

² *Rothés's Relation*, pp. 56, 66.

³ *Privy Council Register*, 2nd Ser. vii. 8, 18.

⁴ *Historical Manuscripts Commission*, 9th Report, p. 254.

removed from the bench 'as being episcopally affected, and promoters of the Service Booke, and enemyes to the Covenant.'¹

They also alleged that they had been guilty of bribery and corruption, and asked Hamilton to remove them on that ground. He very rightly refused, and pointed out that the allegations must be proved before he could act upon them. Accordingly Alexander Gibson of Durie, who succeeded Hay in the office of Clerk Register, prepared a bill which boldly set forth² that they had 'frequentlie and diverse tymes themselves, their servants, and others, receaved money, gifts, or brybes from his Majesties leidges haveing actiones and causes depending before the Sessione, contrair to conscience and honesty and their dewtie, lawes and Acts of Parliament of this kingdome.'

The Court was opened by Hamilton in person on 3rd July 1638, but the protest was not presented, and Hay continued to sit till the end of the winter session of 1638-1639.

A much more important concession was made by the King in summoning a General Assembly, which met at Glasgow on 21st November, 1638. It very soon got beyond the control of the Episcopal party, and Sir John Hay was one of the twenty-two Privy Councillors who signed a proclamation on 29th November dissolving it and nullifying its Acts. The Assembly, however, ignored the proclamation, and proceeded to depose the bishops and sweep away the whole fabric of Episcopacy.

There is a reference to Sir John Hay in a doggerel poem called the 'Kailwyfe's Communing,' published about this time. It is an attack upon the alleged coolness of the Presbyterian leaders in face of an apprehended revival of Popery, and it contains a tribute to his consistency at the expense of his popularity.³

For weill remember I that day
Wherein we followed Sir John Hay,
And I think weill ther worsse then he
That now turnes coate so shamfully.
For he was never our profess'd freind,
The country never to him lean'd,
For enimie wee tooke him still
Expecting nought from him bot ill.

In March, 1639, the First Bishops' War broke out. Hay sat for the last time in the Privy Council on the 1st, and in the

¹ Gordon's *History of Scots Affairs* (Spalding Club), i. 73-5.

² Rothes's *Relation*, pp. 172, 178. ³ *Scottish Pasquils*, ed. Maidment, p. 82.

Court of Session on the 16th, and the same day left to join the King at York.¹ He remained there until the end of April, and attended a meeting of the Scots Council at Durham on 1st May, when His Majesty announced that he intended to invade Scotland 'to reclaim such as were refractory.'² He proceeded with Charles to Berwick, and was present when Commissioners were appointed by both sides to arrange a pacification. The truce was only temporary, and during the year 1640 the Covenanters were preparing for war.

The Scots Parliament sat for only eight days, but passed thirty-nine statutes. Chapter 17 was an Act against leising-makers, which, as Sir James Balfour explains,³ 'was purposlie made to catche Traquaire, the Thesaurer, S^r Johne Hay, Clercke Register, S^r Robert Spotswood, President of the Session, Maxswoll, Bischope of Rosse, and otheres, quho by rantring and lying had done muche mischeiffe to this kingdome, and in effecte had given maney bad informations to his Majesty and Counsell of England, contrarey to the treuthe and quhat was really done and acted by the Covenanters.'

The Second Bishops' War broke out in the summer of 1640, and ended like the First in the appointment of Commissioners. They met in London, and Principal Robert Baillie, who was one of the Scots representatives, records that Sir John Hay did his best to put obstacles in the way of an agreement.⁴ He wrote on 2nd December, 1640, that on the demand for publication of certain Scots Acts the King raised objections which were successfully removed. 'Thereafter, as we were informed, Register, President, Secretar, Galloway, Airly, etc., put the King with their despytefull words in ane evill mood.'

On 12th December he reported that the Scots had demanded the punishment of the 'Incendiaries,' as they were now officially called. 'Our method in it was syllogistick. We proponed first a major, 'Whoever shall be found incendiaries, that they may be proceeded against by the two Parliaments *respective*.' When this was made fast, we were readie to assume, 'But so it is, we instruct by such and such reasons, that . . . the Theasurer, Register, President, Balcanquall, are such.' The conclusion of sentence we were to leave to the two Parliaments. As yet we have not gone beyond the major.'

¹ Sir Thomas Hope's *Diary* (Bannatyne Club), p. 87.

² *State Papers (Domestic)* 1638-9, p. 628 ; 1639, pp. 25, 104, 273.

³ *Historical Works*, ii. 378.

⁴ *Letters and Journals*, i. 276, 279.

The negotiations dragged on through the spring and summer of 1641, and on 12th June the Scots Commissioners on the instructions of their Parliament formulated a petition to the King¹ 'to send home, or at least remove from your presence and from Court, such persons as are cited before them as incendiaries . . . for their evil offices done against their country, and for hindering by their bad counsels the progress of this treaty of peace, that they may no more have access to attempt the like in time coming.' After some delay the King gave way and wrote to the Commissioners on 21st July:² 'As for Sir John Hay and Sr Robert Spottiswood His Ma^{tie} declares it is long since they tooke their leave of him. But they ar forced to stay throughe want of money, And his Ma^{tie} hes given thame advertisement that they come no more to Court.'

On 29th July, 1641, the Committee of Estates nominated a committee to try the Incendiaries, and on 3rd August issued a proclamation that when they arrived in Scotland they were to be arrested.³ The Articles of Peace between the King and the Scots people, as finally adjusted at Westminster on 7th August, included an undertaking that the Scots Parliament would pass an Act of Oblivion, excepting therefrom the Incendiaries and the Bishops.

Charles himself came to Edinburgh on 14th August accompanied by three of the Incendiaries. Sir Robert Spottiswoode and Sir John Hay 'war schortlie takin and wardit in the castell of Edinburgh.'⁴ Hay petitioned the Estates on the 19th to be allowed to stay at his own house for a few days for reasons of health, and the request was granted on condition that he submitted to examination by one of three doctors named. Next day he replied: 'my waikenes is bettir knawine to my selffe than can appeire to them,' and surrendered to immediate imprisonment. It was not until 16th November that he was liberated on caution.⁵

The same day the Estates nominated a new commission to try the Incendiaries, but the trial was reduced to little more than a farce by a resolution that 'taking into ther consideracion his Ma^{ties} gracious goodnes towardis this his native kingdome and his fatherlie

¹ *State Papers (Domestic)*, 1641-3, p. 10.

² Thomson's *Acts*, v. 630.

³ *Ibid.* v. 319, 320, 342.

⁴ *Memorialls of the Trubles*, John Spalding (Spalding Club), ii. 64.

⁵ Thomson's *Acts*, v. 644, 645, 710.

cair and wisdom in composing of all past differances and providing for the future to the great joy and happines of his subjects, and that his Ma^{tie} may joyfully returne ane contented prince from a contented people . . . efter tryell they will not proceed to a finall sentence nor insist upoun the punishment of those persones, Bot that they doe for the reasonnes foresaid freeleie remite them to his Ma^{tie}.¹

On 12th July 1641 Hay resigned office as Clerk Register on compensation of £5,000 sterling being paid to his son William, and on 13th November an Act of the Estates was passed removing him and Sir Robert Spottiswoode from the Court of Session.

The trial of the five Incendiaries—Traquair, Spottiswoode, Hay, Dr Balcanquhall, and John Maxwell, Bishop of Ross, the last two being absent,—began on 4th January, 1642, and lasted almost two months. The proceedings were secret, but it became generally known that Traquair was found guilty.² The result in Hay's case can be inferred from the fact that on 24th September the King granted him a free pardon.³

He took no further part in public affairs until Montrose came south with a Royalist army. Although he was about sixty-four years old, he joined the Royalists and fought at the battle of Philiphaugh (13th September, 1645), where he and Sir Robert Spottiswoode were taken prisoners. They were confined in Dumbarton Castle,⁴ and Father Hay says:⁵ 'His life had been in great danger, had he not by a private convention with the Earle of Lanerick granted him the rents of the lands in Galloway, whereof he was proprier, during all the days of the said Sir John's lifetime, to have his life sav'd.' Scotstarvet says that he owed his escape to the Earl of Callander, and to his own son, Mr. William Hay, who paid £500 sterling to some of the officers for his release.⁶

Father Hay concludes his narrative thus: 'After this Sir John took himself to a quiet life, and retired to Duddingston, where he died upon Munday 20 of Novembre 1654, from whence his corps were transported to Edinburgh and laid in the Tron Church and convayed the 24th of the same month, being Friday,

¹ Thomson's *Acts*, v. 409.

² *Memorials of the Troubles*, Spalding, ii. 99, 138.

³ *Hayes of Tweeddale*, p. 41.

⁴ Thurloe's *State Papers*, p. 72.

⁵ *Hayes of Tweeddale*, page 41.

⁶ *Staggering State of Scottish Statesmen*, page 101.

to the Greyfriars Church-yard, where he was buried upon the west side of the Church-yard in the ordinar buriall-place of the Hayes.'

He married (1)¹ Marion Johnston, daughter of a second son of the laird of Newby, Dumfriesshire, and by her had four sons—Sir Henry, Commissary of Edinburgh, Mr. William of Aberlady, Clerk of Session, Lieutenant Colonel John,² and Alexander—and a daughter Janet, who married Mr. John Adamson,³ advocate: (2)⁴ Rebecca, daughter of Alexander Thomson of Duddingston and by her had four sons—Mr. Thomas, Mr. Andrew, Captain George (father of Father Hay) and Patrick—and two daughters—Margaret, who married John Stewart, Admiral Depute of Scotland, and Anna, who married David Aikenhead.

JOHN A. INGLIS.

¹ *Edinburgh Proclamations of Marriage*, 26th May, 1602.

² Dalton's *Scots Army*, p. 52.

³ Contract dated 5th June, 1621—*Register of Deeds* (Brown), 8th March, 1653.

⁴ Contract dated April, 1622.

The Coffin in the Wall

THE fascination which clings to every episode in the dramatic life of Mary Queen of Scots has attracted the pen of many writers ; much has been brought to light to lift the stigma cast upon her by the crafty nobles who surrounded her, each with his own axe to grind, but there are still some obscure points. The birth of James the Sixth and his individuality is one of these. The key to the mystery seems to the present writer transparent, and it was one in which Mary bore no part.

King James, I think, was never quite satisfied as to his legitimacy, and rewarded those who reassured him. His fear, that Rizzio had betrayed his mother's honour, was doubtless hinted by his tutor, George Buchanan, who was vindictive against her and her ladies. The improbability of this is great. Rizzio was a grey-bearded man of fifty, unattractive in appearance and deformed ; though an able secretary and man of affairs, he was too well versed in the intrigues of the Court to suit Darnley and his co-conspirators ; and Mary, well trained in her early youth, was, in spite of her sojourn at the French Court, of a chaste disposition, and her religion was a very real part of her life. From the time of an attempted intrusion into her chamber by an infatuated lover until her marriage with Darnley, to prevent any such recurrence, she made Mary Seton her bedfellow.

The letter written by Throckmorton to Queen Elizabeth after the death of Francis shows the impression formed of her character and judgment by that experienced statesman :

‘Since her husband's death she hath shewed (and so continueth) that she is of great wisdom for her years, and of equal modesty, and also of great judgement in the wise handling herself and her matters ; which increasing with her years cannot but turn greatly to her commendation, reputation, honour and great benefit of herself and her country. Already it appears that some such as made no account of her do now, seeing her wisdom, both honour and pity her. Assuredly she carries herself so honourably,

advisedly and discreetly that one cannot but fear her progress. As far as I can learn she more esteemeth the continuance of her honour and to marry one that can uphold her to be great, than she passeth to please her fancy by taking one that is accompanied with such small benefit or alliance as thereby her estimation and fame is not increased.’¹

To unravel the secret we must have recourse to the oft-told tale of Rizzio’s murder. Without entering into the reasons for what took place, which are very accurately given by Miss Strickland in her *Life of Queen Mary*, we need only picture the scene and its effects upon the Queen, who was seated at supper with her household in her private apartments at Holyrood Palace when Ruthven and his accomplices broke roughly into the room.

Rizzio, divining their intentions, took refuge behind his mistress; the supper table, laden with dishes, was violently upset, and struck Mary, then six months gone in pregnancy, as it fell, while Ruthven thrust with his dagger over her shoulder at his victim; she heard the cries and groans of the unfortunate Italian as he was dragged from the room and down the stairs—a dead man before he reached the bottom; she did not know if her own life was safe. Then, when the fiends were gone, she found herself a prisoner in her apartments, in terror of what might follow and in ignorance of what was going on outside, until her hot-headed and ambitious young husband, the author of much of the mischief, made his way to her by the private stair which connected their rooms and confessed to his intrigue with the Lords which had ended in the undoing of them both. How Mary set her ready wits to work and contrived their escape is described by Claude Nau, her secretary, in his *Memoirs*.²

Mounted on a pillion behind Arthur Erskine, accompanied by Darnley and the few faithful Peers with whom the Queen managed to communicate, they set off under cover of night for Dunbar. To make all safe, some soldiers were posted on the road. Darnley, thinking they were there to intercept them, took fright, put spurs to his own horse, and flogging that upon which Mary rode, cried, ‘Come on! By God’s blood they will murder both you and me if they can catch us.’ Mary reminded him that in her condition such violent exercise was impossible; but never heeding, he cried again, ‘Come on, in God’s name! If this one dies, we can have

¹ *Calendar of State Papers*. Foreign 1560-61. 833(3). See Strickland’s *Queens of Scotland*, vol. iii. p. 142.

² Claude Nau’s *Memoirs*, ed. by Rev. Joseph Stevenson, S.J., Preface, p. 96.

others.' Her powers of endurance becoming exhausted, she told him to save himself without regard to her. The gentlemen in attendance coming up, quickly closed round, and brought her in safety to the Castle. This incident is sufficiently characteristic to show of what stuff Darnley was made.

A few days later the Provost and citizens of Edinburgh, who were on her side, saw to her safe return to Edinburgh Castle. After a short stay, she returned to Holyrood until within a few weeks of her confinement, when, according to arrangement, she went back to the Castle. What some of the Lords said or this plan is told by Chalmers, a contemporary writer :

'However well intended it might be by the Privy Council of Scotland, to advise the Queen to return to the Castle for her accouchement,—Yet was it averted by matchless artifice into a plot, which had for its end the transfer of the Queen's sceptre to Murray's guilty hand. The grey-bearded statesmen reasoned in this manner: Recollecting the assassination of Rizzio in the Queen's presence and considering the Queen's period of pregnancy; the probability was that she would be delivered of a Monster, or a still-born child pretty certainly; and knowing how subject child-birth is to accident, they inferred, with great appearance of reason, that the Queen would never leave her bed alive.'¹

But the Queen had her faithful ladies around her, who, equally concerned in her condition and fully alive to the consequence which hung upon the issue, were ready to take any steps necessary to avert a calamity which would lay the throne open to Darnley or the epileptic Arran.

Those selected to accompany her to the Castle were limited to the Countess of Atholl, Lady Reres and Mary, the newly-wedded wife of Ogilvy of Boyne, niece of Lady Reres and daughter of Robert Bethune of Creich, Master of the Household.² The Lords in waiting were the Earls of Moray, Mar, Atholl and Argyll, all of whom were nearly connected and, with the exception of Moray, who was playing for his own hand, equal in their loyalty and devotion. The Countess of Atholl was the Queen's first cousin, being a daughter of her Aunt Lady Fleming, and by inter-marriage in the previous generation between the Atholls and the Forbes was also connected with Margaret Bethune, known

¹ Chalmers' *Mary Queen of Scots*, vol. i. p. 171.

² Macfarlane's *Genealogical Collections*, Scottish History Society, vol. i. p. 31.

as Lady Reres, the wife of Arthur Forbes of Reres, a cadet of the House of Forbes.¹

The Earl of Argyll's wife was Lady Jean Stewart, daughter of James the Fifth, by Elizabeth Bethune, elder sister of Lady Reres, and was therefore her niece, also half or bastard sister to Queen Mary. Mary Boyne and her father completed the clique.

It would appear that Lady Reres gave birth to a son in the Castle very shortly before the Queen was confined.

The Countess of Atholl was credited with occult powers, of which fact full use was made. Allusion to this will be found in *Douglas Peerage* and Sir James Balfour Paul's *Scots Peerage*.

The royal apartment consisted of a large outer or anti-chamber leading into a small bedroom about eight feet by eight, with one small window. Here, says Claude Nau, writing from information probably supplied to him by one of those present—as he only became secretary to the Queen after she was in captivity—the birth took place.

‘Le dix neuf Juin, jour de Mercredi, entre les dix et onze heures du matin, sa Majesté accoucha d’un fils, avec grand travail et douleurs, en présence de plusieurs dames,² lesquelles la voyant en danger et luy remonstrant le hazard ou elle était et son enfant, elle les supplia de sauver l’enfant sans aucun respect d’elle. Le prince vint avec un fort grande coiffe fort deliée qui lui couvrait tout le visage.’³

Other than this, not one word is said as to his condition, which is curious. It is the doctor's custom to consider the mother.

The first description of the child comes from the pen of the English Ambassador, but not until some eight or ten days later.

Meanwhile what of Lady Reres? A conversation is reported by Richard Bannatyne, secretary to John Knox, in his *Journal*,⁴ which took place five years after the event, between Andrew Lundy, a cousin of Lady Reres, and John Knox, which gives a clue to the plan that, in its simplicity and confidence in the credulity and superstition of the people, was apparently so successful.

¹ *Idem*, vol. ii. p. 219. Ch. Arthuro Forbes de Reres et Margaretæ Betoun suæ sponsæ in conjuncta Infeodatione et Ioanni Forbes filio et heredi app. Arthuri de terris de Westhouse in Baronia de Leuchars infra Vic de Fife. 21 Feb. 1550.

² Owing to the size of the room it is unlikely that there could have been more than two.

³ Claude Nau's *Memoirs*, edited by Rev. Joseph Stevenson, S.J., p. 236.

⁴ Bannatyne's *Journal*, p. 238.

‘On Tuysday, the 3 of Julij, 1571, Andro Lundie beand at dener with my maister, in a place of the lard of Abbotshalls, called Falsyde, openlie affirmet for treuth, that when the quene was lying in ieasing of the king, the Ladie Athole, lying (lodging) thair lykwayis, baith within the Castell of Edinburgh, that he come thair for sum business, and called for the Ladie Reirres, whom he fand in her chalmer, lying bedfast, and he asking hir of hir disease, scho ans writ that scho was never so trubled with no barne that ever scho bair, ffor the Ladie Athole had cassin all the pyne of hir (the Queen’s) child-birth vpon hir.’

That such belief was prevalent is illustrated in the reign of James VI. in the trial of one Eupham McCallyum some years later—‘For consulting and seeking help at Anny Sampson for relief of your pain at the time of the birth of your two sons and receiving from her to that effect ane bored stane to be laid under the bowster put under your head, enchanted moulds (earth), and powder put in ane piece of paper to be usit and rowit in your hair, and at the time of your drowis (throes) your guidman’s sark to be presently ta’en aff him and laid wimplit round your bed feet the whilk practisit, your sickness was casten aff you unnaturally upon ane dog, whilk ran away and was never seen again. And in the birth of your last son, the same practise was usit, and your natural kindly pain unnaturally casten aff you upon the wanton cat in the house ; whilk likewise was never seen thereafter.’¹

It would appear that the babe scarcely drew breath, but that eventuality was prepared for. To have told the Queen the truth in her exhausted condition might have broken her slender hold on life.

The midwife was doubtless in the secret, and to dispose temporarily of the infant was a simple matter. The other was ready at hand. Any inconvenient questions regarding Lady Reres’ offspring could easily be parried.

Apparently neither Darnley or the Lords in waiting were present. It was Mary Boyne who gave the news to Sir James Melville, who was waiting, with horse ready saddled, to carry the tidings to Queen Elizabeth.

The dislike of Darnley by the bedchamber clique is notorious ; that they had good grounds for their feelings, apart from his dissipated habits and neglect of the Queen, is shown in the letters of Randolph to Leicester.

‘I know there are practises in hand contrived between the

¹ Chambers’ *Domestic Annals* (1858), vol. i. p. 218.

Father and the Son (Lennox and Darnley) to come by the Crown against her will.'

Secret articles had also previously been drawn between Darnley and the banished Lords in return for his securing their pardon and recall, 'that they would procure for him the Crown Matrimonial of Scotland and that in the event of the Queen's death he should be declared her rightful successor and his Father the next heir after himself and that the Lords should pursue, stay and extirpate all who opposed this resolution.' The best laid plans, however, gang aft agley.

That Mary was aware of these intrigues is apparent by the steps she took between July and December to frustrate them in causing 'a Bond of Dismission of the Crown and Government'¹ to be drawn up in favour of the infant Prince, which was signed by the principal Lords and gentlemen, Arthur Forbes of Reres being one of these.

We are indebted to Lord Herries for the continuation of the scene in the Queen's bedchamber. 'This which follows,' he writes, 'is worth observing. About 2 o'clock in the afternoon the King came to visit the Queen and was desirous to see the child. 'My Lord,' says the Queen, 'God has given you and me a son begotten by none but you.' At which words the King blusht and kissed the child. Then she took the child in her arms and discovering his face said, 'My Lord, here I protest to God and as I shall answer to him at the great day of Judgement, this is your own son, and no other man's son, and as I am desirous that all here, both ladies and others bear witness, for he is so much your own son that I fear it may be the worse for him hereafter.'²

Darnley, being implicated in the murder of Rizzio, had set tongues wagging, and he was consequently forced to declare publicly that the child was his.

One of Bedford's spies tells of Darnley's jealousy and how he disliked 'that the Queen should use familiarity with man or woman, especially the ladies Argyll, Mar and Moray, who keep most company with her.'

The next to visit the Queen was the English Ambassador, Killiegrew, who arrived some eight or ten days later, bearing a message from Queen Elizabeth. Writing to Cecil, he describes how 'at 3 o'clock this afternoon Murray sent a gentleman and took me from his logging to the Castle, where the Earl of Mar's

¹ Hume Brown's *History of Scotland*, vol. ii. p. 113.

² Strickland's *Life of Mary Queen of Scots*, vol. i. p. 311.

Captain met us and by both without pause I was brought to the Queen's bedsyde where her Highness received thankfully her Majesty's letters and commendation, desiring her to excuse her proceedings further, and as soon as she could get strength I should have access again. I took leave and was brought to the young Prince sucking of his nouryce and afterwards saw him as good as naked. I mean his head, feet and hands, all to my judgement well proportioned and lyke to prove a goodly prince.¹

Of the Queen he remarked 'her delicate condition and that she spoke with a hollow cough.'

The nouryce, according to Chambers,² was the redoubtable Lady Reres; certainly it was she who took the infant to Stirling, when Mary left the Castle, and afterwards to Alloa, where the cradle and nursing chair are still preserved. Later the French Ambassador Du Cros describes the infant Prince, 'then three months old and so fat and fine for his age that by the time of his christening his Godfathers will feel the weight of bearing him in their arms.'³

The long-delayed christening took place on the 17th December in full state at Stirling, the child receiving the names of Charles James. After various banquets and other festivities, 'Our Sovereign Lady past to the Castle and there made the infant James Prince of Scotland, the Duke of Rothesay, Earl of Kyle, Carrick and Cunnyngame, and Baron of Renfrew,'⁴ thus ensuring his position.

Before the Queen and her Court left Edinburgh Castle in July 1567 for Alloa, and the 'Prince' in Lady Reres' charge for Stirling, a means had been found for the disposal of the body of the royal infant. This was first brought to light in the year 1830 by the discovery of a coffin in the wall of the royal apartments.⁵

In 1835-36 a fire broke out in that portion of the Castle, which necessitated repairs to be made to the walls.

¹ *Idem*, p. 314.

² Chambers' *Book of Days*, vol. i. p. 796.

³ Strickland's *Life of Mary Queen of Scots*, vol. i. p. 323.

⁴ *Idem*, p. 361.

⁵ 'Account of the discovery in the wall of the Ancient Palace in the Castle of Edinburgh of the remains of a child wrapped in a shroud of silk and cloth of gold and having the letter J embroidered thereon,' by Capt. J. G. Alexander, Cor. Mem. S.A.S., *Archæologia Scotica*, iv. App. 2, p. 14, Edin. 14th February, 1831.

See also *Synopsis of the Antiquarian Museum*, Edinburgh, 1849, p. 100, 19 B., 'Portions of the shroud in which the remains of an infant were wrapped, when discovered built up in the wall of the old Palace Edinburgh Castle 11th August 1830. Presented by Capt. J. G. Alexander, 16th Lancers, to the Museum of the Society of Antiquarians of Scotland.' This relic has been lost, possibly in the removal of the Society's quarters to Queen Street.

Mr. P. H. M'Kerlie, in his pamphlet on the *Earldom of Mar*, writes : 'If the new Royal residence in the Castle was created by James V., as believed, it must have been between 1524 and 1542 ; that King made no secret of his illegitimate offspring.' 'The coffin was built into the centre of the anteroom wall, now called the Crown room, which leads into Queen Mary's room . . . I was a boy at the time and being drilled in the garrison was constantly there. I was present at the fire, going into the room, and I also obtained some small fragments to add to a small museum. The wall was built up and my story remains unrevealed. From the coffin being built into the wall, concealment of the closest character was evidently the object, and being wainscotted no trace was shown.'

A short correspondence took place in the *Scotsman* the last week of December, 1888, throwing doubt upon Mr. M'Kerlie's information, which drew from him the reply that 'No one well acquainted with ancient family history, together with a knowledge of early times—even to the eighteenth century—is ignorant that changlings are known to have been substituted, and there is therefore nothing extraordinary that various surmises should have arisen as to the infant whose remains were found.' . . . 'I may state the last person I met who knew all about the discovery was the late Hon^{ble}. Augustus Erskine, uncle of the late young and regretted Earl of Mar and Kellie. This was about 5 years ago, and being a good many years my senior he reminded me that he was then grown up, with friends (military) in the garrison.'

An article in the issue of 20th December, 1888, makes the following reference to the discovery of 1830: 'Nearly in a line with the Crown room and about six feet from the pavement to the Quadrangle the wall was observed to return a hollow sound when struck. On being opened a recess was discovered measuring about 2 ft. 6 by 1 ft., containing the remains of a child enclosed in an oak coffin, evidently of great antiquity and very much decayed. The remains were found wrapped in a cloth believed to be woollen, very thick and somewhat resembling leather, and within this the remains of a richly-embroidered silk covering. Two initials were wrought upon it, and one of them an I was distinctly visible. By order of Colonel Thackeray the remains were restored and the aperture closed up.' The same information is given by Grant in his *Old and New Edinburgh*, also by the late Major Gore Booth in the *Scotsman* of 7th June, 1884, entitled 'Recent Explorations in Edinburgh Castle.' Here

they still lie. The curious enquirer can verify the spot, as it is well known to the Castle custodians.

The Hamiltons, as those most nearly affected by the issue of events, were rigorously excluded from the Castle, and apparently, beyond the general suspicions of the period, no definite information of any sort was gleaned by them.

History shows that Lady Reres continued in constant attendance on the Queen after her duties of nouryce were over. She was with her on the fatal night to Darnley at The Kirk o' Field, she rode at her side at the Battle of Langside, and when kept a prisoner at Borthwick Castle it was her eldest son, John Forbes, who carried the messages from the Queen to Sir James Balfour enjoining him to hold out the town of Edinburgh for her, and 'to fire on the Lords if they attempt to enter.'¹

John, Master of Forbes, was one of 'the assyse before whom Bothwell was tried for the murder'² of Darnley, and Arthur Forbes of Reres was amongst those who signed the Roll in the Parliament House at that time.

It was perhaps the caustic tongue and ready wit of Lady Reres that made Buchanan so bitter in his palpably untrue and coarse statements in regard to her and the Queen. Sir James Melville's description of his character shows how little reliance can be placed on his information. 'While a man of notable endowment and learning, he was easily abused, and so facile that he was led by every company that he haunted, which made him factious in his old days, for he spoke and wrote as those who were about him informed him, for he was become careless, following in many things the vulgar opinion; for he was naturally popular, and extremely revengeful against any man who offended him, which was his greatest fault.'³ By others he was plainly called 'a liar.'

That the Queen was unaware of the substitute, placed in her arms on the 19th June, is apparent by a letter written by her to Mauvissière, while a prisoner in Sir Ralph Sadler's charge at Tutbury, regarding her son's declining to associate himself with her as sovereign of Scotland.

'Without him I am and shall be of right, as long as I live, his Queen and Sovereign, but he independently of me, can only be Lord Darnley, or Earl of Lennox, that being all he can pretend

¹ Strickland's *Life of Mary Queen of Scots*, vol. i. p. 458.

² Tytler's *History*, vol. vii. p. 97.

³ Sir James Melville's *Memoirs*, p. 256.

to through his Father, whom I elevated from my subject to be my consort, never receiving anything from him.¹

It is a curious coincidence that it was the result of Cardinal Bethune's policy that eventually brought Mary and Darnley together, and it seems still more curious that the offspring of a Bethune and a Forbes should supplant Darnley's son, especially on account of the relationship which existed between the Hamiltons, Forbes and Bethunes by intermarriage.

The theory here put forward as to the 'coffin in the wall' is, I believe, the correct explanation of the mystery.

ALICE FORBES.

ON a *prima facie* consideration of the theory which the Dowager Lady Forbes so ingeniously maintains, I had some doubt whether it could stand close examination. As she has raised points of interest, I readily accede to your suggestion that a few of the difficulties which occur to one should be stated. It does not seem necessary to undertake an exhaustive criticism of detail: there are several fundamental objections which may occur also to your readers, over and above the number of assumptions which are required.

We are asked to believe that the prince died immediately after he was born: that the body was secretly buried in the wall: that the infant son of Lady Reres played the part relinquished by the true James, and, like Moses, enjoyed the unusual privilege of being suckled by his own mother in the official capacity of nurse. The identification of the prince with the remains found in the coffin is not easy. The purpose of the conspirators was, *ex hypothesi*, secrecy and concealment; yet the body was wrapped in a shroud which, according to the account given, was embroidered with two letters, one of them legible as I or J. Presumably this initial is regarded as a support to the desired identification; but, unless there was some burial superstition at work, the embroidered shroud would be a mistake which a thoughtful conspirator would not commit. The objection is not fatal, though it is grave.

¹ Labanoff's *Lettres de Marie Stuart*, 1563-1587, vol. vii. p. 107.

Another difficulty suggests itself in connexion with John Hamilton, Archbishop of St. Andrews. His policy after the death of Cardinal Betoun was consistently directed to securing for his family the first place in the realm. The projected marriage of Mary to Arran's son, which became impossible after Pinkie, was designed to ensure the desired result, since Arran was the next heir in the event of the Queen's death. At the present juncture, with the house of Lennox almost within reach of the Crown, it is hardly conceivable that Hamilton, if he had the faintest suspicion that the prince was dead, would have neglected the opportunity. He was not a very satisfactory churchman; but he had all his wits about him.

The most serious difficulty is partly suggested by evidence which Lady Forbes has furnished. She quotes a charter of 1550-1 (see *R.M.S.* iv. 584-5) which shows that John Forbes, the eldest son of Lady Reres, was then in existence. Lady Reres had two sons, John and Arthur; and, if the elder was in life at least fifteen years before the prince was born, while the second was a man in 1570 (Pitcairn, *Criminal Trials*, i. 40), it seemed important to make further investigations. Dr. Maitland Thomson pointed out a deed (*Acts and Decrees*, xxiv. 285) in which John Forbes is definitely stated to have been twenty-two years of age on July 16, 1562. He was born, therefore, on or before July 16, 1540. Hence it is startling to find the redoubtable Lady Reres giving birth to a son in 1566!

George Buchanan, as Lady Forbes indicates, did not like Lady Reres, and said extremely unpleasant things about her; but there seems to be no reason for rejecting his general description of her person. The Queen and her maid, according to an anecdote related by Buchanan, were giving Lady Reres mechanical assistance in surmounting a wall, when she came with some violence to the ground, being 'a woman verray hevie, baith be unweildie age and massie substance' (*Detection*, in Anderson's *Collections*, ii. 8). Dr. Hay Fleming points out that the incident is described as taking place in September, 1566. Lady Reres cannot have been much under forty-five.

'But,' it may be urged, 'she acted as wet-nurse to the prince, or the supposed prince.' I do not know who is the ultimate authority for the statement, which is rendered doubtful by the evidence of the official documents. In the Treasurer's account for 1566, under September 14, we find linen supplied to 'the ladie Reres and maistres nureis,' who, it is evident, were sleeping

in two beds in the prince's nursery. Again, on December 10, in the account of arrangements for the baptism, the two women are distinguished more clearly still. In the following February there is a grant of a pension (*R.S.S.* xxxvi, 54) to Helen Little and her spouse, Alexander Gray, burgess of Edinburgh, because of her good and gratuitous service *in nutritione*; and in a later writ (*R.M.S.* v. 1511) James speaks of her as tending him 'from his infancy.' The evidence points to the conclusion that Lady Reres was *gouvernante* and Helen Little *nourrice*.

What, then, is to be made of the story with which Andrew Lundy regaled John Knox at dinner? Two points should be noted. First of all, we have here Bannatyne's report of the tale he heard: consequently there is room for misunderstanding, and it is dangerous to lay too much stress upon the wording. Secondly, the statement 'she was never so troubled with no bairn that ever she bare' carries at first sight the implication that she has a child of her own. It is important to observe the general drift of the tale. Had Lady Reres been about to bear a child after so pronounced an interval, the unexpected news would surely have passed into Fife and reached Andrew Lundy's ears—and George Buchanan, looking about for something venomous to say, would hardly have been silent. Lundy, however, the burden of whose discourse seems to have been Lady Atholl's prowess in the occult, represents himself as going up to the Castle on a matter of business. He hears that the Queen is in labour, but is surprised to learn that Lady Reres is also in bed. On being admitted to her chamber, he inquires what is the matter, and learns that she has been under the management of the Countess, who has 'cassin all the pyne' of the Queen's child-birth upon her. If Lady Reres meant that her suffering had been more than doubled, she deserves to rank high among devoted women and to receive all the credit due to her loyal endurance. But her words, while they imply that she was in pain, do not necessarily mean more than that Mary was worse than she herself had ever been in similar circumstances. It seems very improbable, all things considered, that Lady Reres had a child of her own at all.

If that be so, how are we to explain the condition she was in, or alleged herself to be in? Sir Halliday Croom acutely conjectured that it might be a case of spurious pregnancy, likely enough at the time of life she had reached. That may be the solution. Again, her illness may have been due to other causes. Or, acting under the instructions of Lady Atholl, she may have

been pretending—the interview granted to Lundy forcibly suggests it—in the hope of easing the Queen.

If Lady Forbes has not cleared up the mystery of the coffin in the wall, she may fairly challenge other investigators to solve it. One may speculate but not conclude where evidence fails. I have heard it said that a distinguished professor used to propound, in this connexion, a theory of twins. Twins have done noble work in some desperate historical situations. At all events they have no bearing on the hypothesis now in question.

R. K. HANNAY.

Reviews of Books

THE HISTORY OF THE BRITISH ARMY. By the Hon. J. W. Fortescue.
Vol. VIII. 1811-1812. Pp. xxiv, 687. Med. 8vo. 23 Maps in
separate volume. London: Macmillan & Co. 1917. 30s. net.

WHEN the announcement was made that Mr. Fortescue had been selected to write an Official Military History of the present war, one touch of mis-giving inevitably diminished by a little the satisfaction with which readers of his *History of the British Army* welcomed the news. They could not but fear lest the new task might hinder the completion of the old, that the story of the British Army in the Napoleonic Wars might be left unfinished, and they felt that this would be a heavy price to pay, even for an account by Mr. Fortescue of the great fight against odds which the Old Army waged at Le Cateau and Ypres and of the mighty struggles by which their Territorial and 'New Army' successors have carried on the work so well begun. But fortunately that will not be the case. Perhaps the most pleasing thing in the new volume is that the Preface tells us the next volume is written and only waits for its maps. We are not then to be deprived of our Vittoria, our Pyrenees, our Toulouse and our Waterloo from Mr. Fortescue's pen, and even if his new task should defer indefinitely his resuming the story of the years between 1815 and 1914, there is a break in the sequence at 1815 which will leave the *History of the British Army* from 1660 to 1815 as to all intents a finished work, no fragment to be numbered with the great uncompleted like Macaulay's *History*.

Mr. Fortescue's last volume took his readers to the dramatic moment when Wellington turned to bay behind the lines of Torres Vedras, a barrier even more formidable than any 'Hindenburg line' of to-day on account of the relative inferiority of the artillery of 1810, and thereby stayed Massena's invasion of Portugal. The new instalment is almost exclusively concerned with the Peninsula: two chapters alone take us across the Atlantic to the shores of the Great Lakes, and thus the volume gains considerably in unity even if it lacks the diversity of interest which has characterized its predecessors, in which the reader has been led from Asia to America and back by way of distant tropical colonies to battlefields nearer home. The story Mr. Fortescue has to deal with, however, does not lack variety of incident or interest. Massena's retreat, the abortive effort of Wellington in 1811 to secure the fortresses on the frontier between Spain and Portugal, the hard-fought struggles of Albuera and Fuentes d'Onoro, which formed landmarks in that effort, Wellington's brilliant success against the frontier fortresses in 1812, his advance into

Spain, the astonishing triumph of Salamanca and its consequences, the recovery of Madrid, the French evacuation of Andalusia, Wellington's check at Burgos and his skilful retreat into Portugal; these form a fine theme and Mr. Fortescue's treatment of it rises to the occasion. He narrates the chief battles with his customary lucidity and felicity, and if he does not try to rival Napier in rhetoric he surpasses him in clearness and in arrangement: his story is always intelligible and is admirably illustrated by a really excellent series of maps, which are a great help to the understanding of tactical and topographical details. Once or twice perhaps, one is tempted to feel that Mr. Fortescue has tried to show more on one map than it will quite bear; we should, for example, have been grateful had he found it possible to devote a separate map to the Salamanca campaign after July 22nd, so that the manœuvres of June and July and of October and November could have been followed quite independently. However, he is fully justified in claiming for the maps 'an excellence hitherto unknown in England,' and they constitute a remarkable achievement of which he and his coadjutor, Mr. Cribb, may legitimately be proud.

One grumble, however, a reviewer must be allowed. Mr. Fortescue's work is a *History of the British Army*, not merely of its campaigns. But this volume tells one but little of the institution, of its establishments, organization and administration. He finds space rightly for explanations of the state of politics in England, but we would have willingly sacrificed the detailed account of the development of the breach between England and America for the same space, or even half of it, devoted to the internal economy of the Army. A few more appendices, giving for example the establishments and distribution of the British Army on Jan. 1st, 1812, would have been far more valuable to students of military history. Even the development of Wellington's force in the Peninsula hardly receives sufficient attention: Mr. Fortescue does not mention for instance how Howard's brigade, which had been in the First Division at Fuentes d'Onoro, came to be with Hill in October 1811, nor does he give several other important changes in organization.

However, passing on from this one shortcoming, the volume is so full of interesting and suggestive points that a reviewer is at a loss to know for which of the many he can find room in the limited space at his disposal. One of the most striking is Mr. Fortescue's explanation of the miracle, it is no less, of Albuera as being due to the intense *esprit de corps* by which the regiments were animated (p. 214). In the British Army regimental feeling and regimental independence may at times have been carried to excess, but it was because a battle was a regimental matter and because regimental feeling made every battalion strive to the last to outdo the others that Beresford's many blunders were redeemed, and that the irresolution which Soult displayed at the critical moment (p. 202) proved his undoing. Mr. Fortescue is severe on Soult. With many great qualities as a commander on the field of the battle itself he lacked resolution. In the presence of Wellington this was perhaps most marked. When he had joined Marmont in July 1811 and was facing Wellington on the Caya with a considerable advantage in numbers (p. 236), and again in November 1812, when the

combined French armies had forced Wellington back to Salamanca (p. 613), Soult displayed the same irresolution and a marked reluctance to test the measure of his formidable antagonist. But he was not the only Marshal to feel ill at ease in front of Wellington. Marmont himself, a most accomplished tactician, was anything but happy when trying to make Wellington release his grip on the Salamanca forts in June 1812, and in the manœuvring which culminated in Wellington's great victory of July 22nd the same nervousness and uneasiness may be traced. Irritated by the coolness and dexterity with which Wellington avoided the traps so skilfully laid for him, exasperated by finding himself unable to get any nearer to the tactical success which alone could give any substantial value to the prospective strategical advantage he had gained by threatening Wellington's line of communications, an advantage which would have proved of great use in case of victory but did nothing to bring about victory, Marmont lost control. His patience gave way, he sought to snatch at a prize he could not reach, and as the result he overbalanced himself and fell into disaster. Salamanca, however, Mr. Fortescue regards as falling short of a decisive victory. This was largely because Wellington, who 'at every crisis was in the right place doing the right thing' (p. 509), was too busy doing other people's work and directing every movement himself to be able to concentrate himself on his own special task. Still, if Alba de Tormes had been held by the Spaniards, as Wellington all along believed it to be, the French could not have escaped total ruin. Mr. Fortescue also thinks that Wellington should have continued his pursuit of the beaten Army of Portugal, instead of turning off to march on Madrid. Indeed he regards him as having sacrificed all hope of solid military advantage to secure the political and moral advantage of driving Joseph from the Spanish capital (p. 588). There is much to be said for this view, but it is hard to follow Mr. Fortescue when he apparently regards it as a misfortune that Soult was forced to evacuate Andalusia, and the failure of the Spaniards to rise to the occasion was in no small degree responsible for Wellington having to retreat back to Portugal. Had he gone chasing Clausel beyond the Ebro in August he would have enormously prolonged his line of communications, would have got right out of touch with Hill, and would have found it very difficult to prevent Soult and Joseph from uniting to fall on Hill's force, little over 20,000 men at the outside, in which case Wellington's communications would have been in direr peril even than Moore's in 1809. The real reason why Wellington could do no more to improve his splendid victory was lack of equipment and reinforcements. He was not strong enough after the costly captures of Ciudad Rodrigo and Badajoz, successes which had to be paid for in men because sufficient guns and trained engineers with their stores had not been provided to do more than win one great victory. With another 10,000 British infantry he would never have had to fall back to Portugal.

Mr. Fortescue, it may be gathered, is no indiscriminate eulogist of the Duke. He is very severe on his conduct of the siege of Burgos and on his earlier efforts to take Badajoz, a little overlooking perhaps the shortcomings of his equipment for sieges: he considers that but for Wellington's too

restrictive orders Hill might have gained a considerable victory over d'Erlon in June or July 1812 (p. 458): he criticises his dispositions at Fuentes (p. 174), though he praises the skill with which he retrieved it. But it is just this which makes Mr. Fortescue's high praise of Wellington so emphatic and weighty. As strategist, as tactician, as organizer and administrator, the Duke's great merits are clearly shown. He had taken the measure of his opponents and of what they could do. He had realised what was possible in the very peculiar theatre of war in which he was engaged, and that is more than can be said of Napoleon, who tried to apply to the Peninsula a system of warfare that had worked well enough in less rugged and barren countries. In Spain war could not support war, and Wellington's system of supply was based on this fact, whereas Napoleon's orders to Marmont at the time of the capture of Badajoz presupposed either that he had supplies and transport, which he had not, or else that the country was not a desert, which is just what it was (p. 420). Napier's endeavour to exculpate Napoleon at the expense of Marmont is shown to be highly unconvincing, and Mr. Fortescue's summary of the whole question of the French failures in Spain is worth quoting. 'Let the worshippers of the great Emperor say what they will, there is among the manifold blunders that ruined the French cause in the Peninsula not one that may not be traced directly to the orders of the Emperor himself' (p. 625). Yet it was because Wellington knew how to profit by his adversary's blunders that these errors proved so disastrous. Moreover, he had established a moral ascendancy, even over skilful opponents like Massena and Marmont, which was fully worth the 40,000 men at which he himself appraised the value of the Emperor's presence on the battlefield.

C. T. ATKINSON.

THE HOTHAMS, BEING THE CHRONICLES OF THE HOTHAMS OF SCARBOROUGH AND SOUTH DALTON FROM THEIR HITHERTO UNPUBLISHED FAMILY PAPERS. By A. M. W. Stirling. 2 vols. Demy 8vo. Illustrated. London: Herbert Jenkins. 1917. 24s. net.

IN the matter of output of family histories Mrs. Stirling bids fair to rival the late Sir William Fraser. She may not have the *cachet* of 'printed for private circulation' nor the glory of massive tomes printed on hand-made paper and gleaming in scarlet and gold, but on the other hand she has style and a nice sense of discrimination, which makes her books much more readable than the works of that somewhat ponderous historian. Whether the Hothams will be liked quite as much as some of her former family records is perhaps a little doubtful; but the book is an excellent piece of work, and has to do with persons who occupied prominent positions in the public life of the time. Indeed, so much so is this the case that in order to throw light on her subject the author has to go pretty far afield on the path of general history.

The book is called the Hothams, but the great bulk of it is concerned only with those members who were in possession of the baronetcy from the time of its creation in 1622 to that of its merging in the peerage in 1797. It is an old and distinguished family, and most of its members

played their parts in life bravely and well. The Hothams, indeed, are said to have come over with the Conqueror, and in a tabular pedigree given at the end of the book his descent is duly traced through some twenty-seven generations. No documentary evidence is, however, cited in support of it : there was no doubt a small parchment deed, said to have been the original grant of the Hotham estates by William the Conqueror, which was kept as a precious heirloom in the family. At a dinner party given by the fourth baronet one day, this jealously guarded document was produced and handed round the company for inspection. One of the guests, who had unfortunately dined not wisely but too well, exclaimed when he got it into his hands, 'Curse this musty parchment—it only stops the bottle,' and incontinently threw it into the fire, where it was speedily destroyed ! Whether or not they came in with the Conqueror, there is no doubt that the Hothams are a very old family, and it is stated on what seems good grounds that Scorbrough has been in the family for at least seven hundred years. From the reigns of Henry I. to that of William and Mary the estates descended from father to son or grandson without the direct line ever once failing : since then, however, the contrary has been the case, and there have been but very few generations in which the succession did not pass to brothers, uncles, or cousins.

They were really a remarkable set of people : brave, honest, accomplished, and gifted with a great amount of common sense rather than genius. The first baronet to whom we are introduced in Chapter II. was governor of Hull in 1628, but in the troublous times he and his eldest son lost their heads in both senses of the expression. Hesitating and uncertain, they failed to please either the Parliamentary or the Royalist party, and they were both executed by the former, one on the 1st and the other on the 2nd January, 1645. The second baronet fared better, and was a sturdy and consistent supporter of Dutch William. The fifth baronet had a most interesting career : he was appointed Ambassador Extraordinary to the Court of Frederick William of Prussia, the originator of that Prussian militarism which has since worked so much havoc in the world. His mission was to arrange, if possible, two marriages, one between the Crown Prince of Prussia, afterwards Frederick the Great, with the Princess Amelia of England, and another between the Prince of Wales and the Princess Wilhelmina of Prussia. Of his embassy, which was ultimately, as is well known, unsuccessful, and on that extraordinary Court to which he was accredited a long and amusing account is given. The ambassador's brother, Beaumont, who ultimately succeeded to the title, was an exceedingly attractive character and his family was a notable one. Few, if any, parents can boast that out of five sons one should rise to be a peer, another a bishop, another a baron of Exchequer, and two generals in the army. With the history of these five brothers almost the whole of the second volume is occupied ; indeed, three-fourths of it is taken up with the doings and correspondence of Charles, the eighth baronet, and a very fine gentleman he was, besides being one of no small abilities. A soldier who saw much service in his youth, he returned to England for good in 1763—was appointed Groom of the Bedchamber to George III., besides being made a

colonel and a Knight of the Bath. The young King had the highest opinion of Sir Charles, and to the end of his life held him in affectionate esteem. He wished to appoint him governor to the royal princes, but he managed to escape this not very enviable post, though he recommended his brother George, who held it for a good many years and had not his troubles to seek in consequence. Sir Charles's circle of friends were distinguished in many ways. We meet with Horace Walpole, full of the gossip of the day, Lady Suffolk, Lady Buckingham, the beautiful 'Vice Queen' of Ireland, and many others famous in the social history of the period. Sir Charles was an upright, honest, though somewhat sententious gentleman, as may be seen from the desperately long and it must be confessed somewhat heavy letter of guidance and advice he wrote to his daughter, whose winsome face is by far the most beautiful among the many fine portraits which are reproduced in the book. Whether the views and obligations of matrimony which it set forth so solemnly frightened her from becoming the wife of anybody we do not know, but she died at a good age many years after, unmarried.

It was not only in socially select circles that Sir Charles found amusement : earnest and even austere as he seems to have been in his private life he was very fond of the drama and had many theatrical acquaintances. We have letters from the Siddons, majestic and somewhat stilted as might be expected, from John Kemble, and from Eliza Farren, afterwards Countess of Derby, who was an exceptionally brilliant and amusing correspondent, and whose letters are a delight to read.

This work will take high rank among family histories, and there are few families whose representatives have during such a long stretch of years so uniformly kept up the credit of their name and the dignity of their race.

J. BALFOUR PAUL.

PORTUGAL OLD AND YOUNG : AN HISTORICAL STUDY. By George Young. Pp. viii, 342. With 4 illustrations. Cr. 8vo. Oxford : Clarendon Press. 1917. 5s. net.

THE writer of this delightful book is a true lover of Portugal, and wishes to make the reader love that beautiful country as he does himself, and by the charm of his style and his enthusiasm he has his reader to a great extent in his thrall. He traces the history of Portugal from the Roman times to the present, when, as oldest ally of England, it is now fighting side by side with Britain in France. And he shows why this is so. He tells how the alliance between England and Portugal, then a struggling kingdom only recently carved out of Galicia and the Moorish territories, began in 1147, and has lasted ever since. English troops assisted the Portuguese in their crusades with the Moors, at Aljubarotta in 1383 against the Spaniards, and have since helped them at every difficult period, save when the religious differences interfered. The first King of the House of Aviz, married Philippa of Lancaster, and the royal line for a time was greatly under English influence. The writer describes the great discoveries and conquests of Portugal under Prince Henry the Navigator and

King Manoel, and shows how the reign of the latter with his policy of Spanish marriages, rich and prosperous as it seemed to be, was really leading up to the moral bankruptcy of Portugal, when, after the loss in Africa of the visionary King Sebastian, it fell, through the death of an effete Cardinal, to swell the Spanish Empire of Philip II., and so, for a period, lost its independence. One wishes that Camoens had had more followers stirred by his song of the glories of the past to oppose the Spanish yoke, and one wonders what might not have been had Queen Elizabeth only supported Dom Antonio with more vigour.

The author is a little less convincing when he describes the Portuguese 'revolt' or War of Freedom in 1640, for he does not explain the reason satisfactorily while writing of the Portuguese 'captivity.' The reason we take it is very much the same as that which prevented Scotland being merged in England. The Portuguese must have, through Galicia or Lusitania, absorbed some forgotten race absolutely hostile in mind to Spanish *morgue*, and it was the spirit of this people which time and again separated the two countries, which, geographically, were almost one. It is strange how the marriage of Charles II. to the Portuguese Infanta still unites their two peoples further, though through it Portugal lost Bombay and much of its Indian territory, and its chief town in Morocco. Into the latter history, the Methuen Treaty—which almost gave the pleasant city of Oporto to the British, the Napoleonic changes which forced the Court to flee to Brazil, and the Peninsular War, we need not enter except to praise the way they are dealt with; we also pass the Civil wars which led to the fall of the odious Miguel and the rise of the not romantic Maria da Gloria. The Saxe-Coburg Kings are well described, and, except for the excellent phrase, 'the Court and through it the country were controlled by barons of finance, many of them German Jews, whose pillaging and plunderings were all too recent to be respectable,' the writer is temperate about their virtues and vices. He is also calm about their removal from the Throne and the discomforts of their adherents. He is illuminating on the Republic, its beginnings, policy, and doings, and we are grateful for his political instruction.

We think he is a little too insistent on the prevalence of the Jewish strain in Portugal, and not enough so about the very mixed, Oriental and African, blood in the nation, which in its native alliances has followed the deliberate policy of Albuquerque. We think also he is not a very careful genealogist. One or two of his statements need scrutiny, and Isabella the Catholic especially would be much surprised to see herself (twice) called 'sister' of 'La Beltraneja!'

A. FRANCIS STEUART.

THE IDENTIFICATION OF THE WRITER OF THE ANONYMOUS LETTER TO LORD MONTEAGLE in 1605. 4to. Pp. 28. With two facsimiles in the text and three accompanying. London: Simpkin, Marshall & Co., 1916.

THIS anonymous 'identification' of an anonymous scribe is a fascinating effort at proof. Perhaps it is too direct and simple in its definite, not to

call them dogmatic, allegations as to the elements of detection. These consist (first) of circumstantial evidences that Francis Tresham of Rushton, privy to Gunpowder Plot, was the person through whom the historic warning was given to Lord Monteaule, and (second) of a series of subtle and specialist contentions designed to establish, *comparatione literarum*, that the actual monitory letter was written by William Vavasour, a clerkly dependant, undoubtedly made use of for extremely confidential service by Tresham shortly before the latter's death as a prisoner in the Tower. It is a weighty burden of proof, but the first half seems scarcely to admit denial : the second half is in much more dubious case. The letter being in all probability in a disguised hand it is not surprising that in general effect the script, which is a well sustained unity, bears no apparent resemblance to the examples of Vavasour's handwriting reproduced.

When the individualities and gestures of the writings are examined in detail the question is whether the idiosyncrasy of the pen betrays the scribe. Points alleged are chiefly (1) the use of the long s, (2) the small i for the first person, (3) a peculiarity of t, y and h. A master of history in the period has found the contention 'probable'; even this means that the thesis fails. After repeated and patient scrutiny the present critic is unable to find probability made good by the evidence. The long s was current form, the small i quite common, and the other detective touches neither determinate nor brought home. The signature of Francis Tresham himself suggests resemblances to the anonymous communication. It was, said Fuller, 'a strange letter from a strange hand, by a strange messenger'; and the strange hand remains unidentified.

GEO. NEILSON.

THE BEGINNINGS OF ENGLISH OVERSEAS ENTERPRISE : A PRELUDE TO THE EMPIRE. By Sir C. P. Lucas, K.C.B., K.C.M.G. Pp. viii, 203. 8vo. Oxford : Clarendon Press. 1917. 6s. 6d. net.

SIR CHARLES LUCAS gives in this book an account of the true foundations of the British Empire, which are to be looked for not in the annals of England's continental wars but in the less well known records of her early trading companies. In these are to be found, on a small scale, the characteristics of British overseas expansion—private enterprise before State action, 'penetration by trade and settlement not by conquest.' Sir Charles Lucas traces the history of the three early English trading companies, the Merchants of the Staple, the Merchant Adventurers, and the Eastland Merchants. The facts about the origin of all are doubtful, but in each case the merchants established themselves in a foreign land by their own efforts, and after a time obtained charters from the king recognising their regulations. These were all regulated companies, each member paying a fee and trading on his own account, something on the lines of the organisation of the craft gilds. The Merchant Adventurers were, in fact, closely connected with the Mercers' Guild, if they did not grow out of it.

The Staplers were probably the oldest company of the three. It soon became convenient for them to have for the sale of their principal article of merchandise—wool—a fixed market, or a staple. It was also, for revenue

purposes, convenient for the government, which after a time adopted and formalised the staple system, sought privileges for the merchants abroad, and recognised their organisation. The staple towns were sometimes in England, sometimes abroad, frequently, and at last permanently, at Calais.

But the Staplers were overshadowed by their fellows and rivals, the Merchant Adventurers. Their headquarters were always abroad, in the Low Countries, and later at Hamburg, which was their sole market from 1751 until the dissolution of the company under French pressure in 1808. The Merchant Adventurers were a very powerful corporation, consisting of practically all the wholesale merchants dealing in cloth in the countries bordering on the North Sea. Their privileges were guaranteed and their government recognised in numerous charters. The governing body, consisting of a governor and twenty-four assistants elected by the General Court, *i.e.* the members at the principal mart, had its seat abroad, and all the different groups, London, Newcastle, York, Hull and Exeter were subject to it. They were a national company, the 'English nation beyond the seas,' successful rivals of the Hanse Merchants, and they were also distinctively English in their combination of private enterprise with government encouragement and regulation and in their powers of self-government—the first of the great chartered companies which have played so important a part in the growth of the Empire. Many of the Merchant Adventurers belonged also to the Eastland Company, which traded in the Baltic, but neither the history of its commerce nor of its organisation is of such interest as that of the Merchant Adventurers.

Both as an introduction to the story of British overseas enterprise and as a contribution to early commercial history this book is of much value and interest.

THEODORA KEITH.

THE HISTORY OF MOTHER SETON'S DAUGHTERS: THE SISTERS OF CHARITY OF CINCINNATI, OHIO. 1809-1917. By Sister Mary Agnes McCann, M.A. 2 volumes. London: Longmans, Green & Co. 1917. 21s. net.

THE most interesting part of this detailed narrative of *The History of Mother Seton's Daughters* is that which describes the life and work of the foundress, Mother Seton, down to her death in 1821. The subject is not an unfamiliar one to those interested in the religious life of the United States in the early nineteenth century: for the Rev. C. I. White's *Life of Mother Seton*, first published in 1853, has run through ten editions. The object of these volumes is to carry on the account of the Sisterhood of S. Vincent de Paul founded in America by Mother Seton, from the time of her death to the present date, with special reference to the branch of the Order founded in Cincinnati.

The life of Mother Seton has an interest for those who follow Scottish family history: for Mother Seton, whose maiden name was Bayley, married into the American branch of the family of Seton. Soon after her husband's death she was received into the Roman Communion in 1805, and in 1809 founded at S. Joseph's, Emmitsburg in Maryland, the first

house of the Sisters of Charity in the United States. This small foundation prospered and spread throughout the United States, until now Mother Seton's daughters are numbered by many thousands. The remarkable sanctity and simplicity of her life made a profound impression upon the religious life of her times, and steps have been taken to start the proceedings for the beatification and possibly ultimately the canonisation of Mother Seton. Her grandson, Monsignor Robert Seton, Titular Archbishop of Heliopolis, has been for many years prominent in Roman Catholic circles in America, and has held high office in the Papal Household.

The Cincinnati community was first planted in 1829, and it is to this branch that Sister Mary McCann, the authoress of these volumes, belongs. Her work as a whole, while manifestly a labour of love and a monument of persevering work, is somewhat disappointing and rather tedious. As so frequently happens, the personality of the foundress completely overshadows those of her successors. The narrative is too detailed. A very large number of letters from bishops and clergy to Sisters of the Order are printed *in extenso*, although there is nothing striking about them. Some of them are also reproduced in facsimile. The style of composition is not very careful. There has been too much use of scissors and paste, too indiscriminate a selection of documents from the archives of S. Joseph's without sufficient regard to their arrangement in systematic order. There is a good deal of information given which can really be of no value now.

But the volumes are not without merit. There runs throughout them a note of sincerity and zeal which is unmistakeable. The writer is an enthusiast, in the most literal sense; and those who care for the growth of Roman Catholic institutions in the United States will find much to interest them as they trace the remarkable development of a community which has been productive of much good.

WALTER W. SETON.

THE COMMONWEALTH AT WAR. By A. F. Pollard, M.A., Litt.D.,
Fellow of All Souls and Professor of English History in the University
of London. 8vo. Longmans, Green & Co. 1917.

THE nineteen essays included in this stimulating volume have already appeared in print in *The Times Literary Supplement*, *Westminster Gazette*, *Contemporary Review*, and *Yale Review*, in the last of which they cannot fail to have performed particular service to the cause for which the Commonwealth is battling. Their republication, Professor Pollard modestly suggests, may serve to illustrate, among other things, the 'deceitfulness of human wishes and fallibility of human judgment which a great crisis inevitably enhances.' It is, of course, inevitable that articles written hot upon the event should here and there contain *dicta* proved fallible by subsequent happenings. But Professor Pollard has been both bold and wise in refusing to trim his essays in the light of later knowledge. Indeed, few men can have written so much upon the great issues before us as they have arisen which so little needed emendation to give it permanent value as a historical document. The book is brilliantly written, a piercing

indictment of that loathsome thing which has raised its ugly form against civilization, and equally searching in its diagnosis of the moral obtuseness and political ineptitude which permits a self-centred fraction of our people to protest peace when there is no peace. The book is far from being confined to these aspects of the Commonwealth in war-time. But the essays which treat of them are those which will be read with most gratitude by all who recognise in Professor Pollard a brilliant protagonist of the Commonwealth's convictions and purpose.

C. SANFORD TERRY.

STUDIES IN ENGLISH FRANCISCAN HISTORY, being the Ford Lectures delivered in the University of Oxford in 1916 by A. G. Little, M.A., Lecturer in Palaeography in the University of Manchester. 8vo. Pp. ix, 248. Manchester : At the University Press. Longmans, Green & Co. 1917.

THE *British Society of Franciscan Studies* has done notable work in investigating sources and publishing volumes dealing with the history and literature of the Grey friars. In these six lectures Mr. A. G. Little, Chairman of the Society, takes a general survey of Medieval Franciscanism in England, its strength and weakness. Their titles are The Observance of the Vow of Poverty ; Failure of Mendicancy ; Privilege : Relation of the Friars to Monks and Priests ; Popular Preaching : 'The Fasciculus Morum' ; The Education of the Clergy : The Works of Friar John of Wales ; and The Franciscan School at Oxford : Grossteste and Roger Bacon.

Under 'Failure of Mendicancy,' the author points out that the spiritual work of the Friars tended to be neglected through the constant pressure of bodily needs. In a climate such as the English (and in a greater degree such as the Scottish), the ever present necessity of securing supplies of food and clothes resulted in religion being sacrificed to schemes for satisfying the material wants of the Order. Buildings also became larger—both Churches and Friaries—and as proving the comfortable quarters for guests that the friars could provide, we learn that 'in the fourteenth century the English Kings when in the north habitually lodged at the Grey Friars, York, and there are many instances of nobles and others having lodgings assigned them in the friaries.' It must be remembered, however, that the friar was a new and active force in religious life, and his zeal and unconventionality made for his popularity with the laity, a popularity which well-known causes extinguished gradually in the fifteenth century.

In the chapter on the education of the clergy, Friar John of Wales and his wonderfully popular treatises come under review. In the *Communiloquium* Friar John gives hints on the religious teacher's proper attitude in daily life, advocating talks face to face with all sorts and conditions of men as 'often more efficacious than public preaching or lecturing.' The volume has six valuable appendices, including a curious moralization of Chess. It is proof of Mr. Little's learned devotion to early Franciscan history and literature, and is an illuminating study of the Grey friars in England.

JOHN EDWARDS.

170 Williams: Handling of Historical Material

FOUR LECTURES ON THE HANDLING OF HISTORICAL MATERIAL. By L. F. Rushbrook Williams. Pp. x, 86. Cr. 8vo. London: Longmans, Green & Co. 3s. net.

This appropriately and admirably inaugurates a series of History publications from Allahabad University, with an analysis of the varieties of historical evidence, a statement of the requisites for critical examination, and an attempt to define conditions for success in historical writings. But we are not all convinced about the vices of Carlyle, and some will cheerfully sacrifice twenty-five Rankes for one Macaulay. Mr. Williams might have risked telling his students that history does not need to be dull. We are glad to assume with him that Buckle did not wholly die under Acton. But we miss any discussion of Lea's canon—(the negation of Acton's)—that moral judgments are not history.

GEO. NEILSON.

ITALY, MEDIAEVAL AND MODERN, A HISTORY. By E. M. Jamieson, C. M. Ady, K. D. Vernon, and C. Sanford Terry. Oxford: At the Clarendon Press. 1917.

It is justly remarked in the Preface to this volume that while Italian history is well represented in the form of monographs on particular periods and personages throughout its course, there are few works, at least in our language, which give a complete conspectus of what is certainly one of the most deeply interesting and important of all the histories of the world. Perhaps it is the very magnitude of the task which has prevented its accomplishment. Putting aside the history of classic Rome, Italy, in one way or another, has been the main field of human action in Europe from the earliest time down to our own: at first a dominant and world-embracing Empire, the seat of a tremendous spiritual power, and through every century nourishing and spreading abroad the fairest flowers and fruits of human culture. The Age of Dante, the times of the Medici, the Papacy, the Republics, the Reunited Kingdom, what splendid subjects are each of these for separate and detailed treatment, and how hard is the task to weave them into one continuous tale without finding our tapestry become too crowded, and without having, perforce, to leave aside details of the highest interest.

The authors of this volume have succeeded to a very marked degree in supplying the kind of book which is so much to be desired. If it suffers from anything, it is from compression, especially in its earlier chapters. But the knowledge is so abundant, the materials so thoroughly at command, and the style, as a whole, so engaging, that the impression left is that of fine work well and conscientiously done. It is not a mere narrative; it takes more the shape of a running commentary on Italian history from the time of the great struggles between Pope and Emperor in the thirteenth century, and before it, down to the present day, with a more detailed exposition of Italian politics in the nineteenth century, the great age of Cavour, and Garibaldi, and Victor Emmanuel.

The great names of the early Renaissance receive due honour, and not only these, but the very remarkable group of men who surrounded

Frederick II. at Palermo, and formed what might be designated an earlier Renaissance. The plan of giving separate sketches of the different communities and states, and resuming the story at intervals, tends to keep one's mind free from confusion in the great mass of detail: for it is undoubtedly difficult to do so, especially in these periods—and they do occur—in Italian history, when the daily life of the people and their rulers was alike dull and unenlightened. But from its mere mass of great names, alone, Italian history can never be other than interesting in the highest degree. And nowhere has it been more ably or more engagingly set forth than in this book in which its authors have combined a fine historical judgment with abundant scholarship.

DAVID J. MACKENZIE.

HISTORY OF SERBIA. By Harold W. V. Temperley. Pp. x, 359. Med. 8vo. London: George Bell & Sons. 1917. 10s. 6d. net.

THIS book is not only a history of Serbia and Montenegro, but is also a study of the historical development of the whole of the Jugo-Slav peoples. It is very instructive, and is written in a singularly restrained style when one considers the battles, invasions, revolts, and oppressions it deals with, for, in the author's phrase, the story of the Jugo-Slavs is 'bloody beyond ordinary bloodiness.'

The Jugo-Slavs early became split up into two great sections, of which the Croats and Dalmatians adopted the Church of Rome, the Latin alphabet, and in part, Western culture as far as they were permitted by their German oppressors; whereas the Serbians and Montenegrins acknowledged the Greek rite, and so, unfortunately for themselves, were ecclesiastically subordinate to the Byzantine Empire, and on its fall were absolutely cut off from the West by the Turkish Conquest. But the old kingdom of Serbia, in spite of its constant wars with Bulgarians, Hungarians, and Byzantines, had a great history, as we see here, and the spirit of nationality has always been strong, and, we have reason to think, will continue among the suffering people. 'Disaster,' says the writer, 'has sometimes created and has always intensified national feeling in Serbia.' The period of the Serbian zenith was from about 1190 to 1400. Stephen Dushan (1321-55), their greatest ruler, aimed at the Imperial throne of the East when cut off by death, and his death was followed by a gradual decline of Serbian power to a state of weakness, which allowed the Turkish invaders to conquer in 1389 at the battle of Kossovo, 'The Field of Blackbirds,' still sung in many sad ballads as the end of a great period of freedom.

The rest of the history deals with Turkish misrule and oppression, which was inaugurated at once by the 'tribute of children,' and the gradual acquisition of independence by Serbia and the fiery battles for freedom in Montenegro under the chiefs and vladikas. It recounts the painful feud in Serbia between the two chief families, the Karageorgevitch and the Obrenovitch, which did not end until the extinction of the latter worthless dynasty in 1903 by the brutal murder of King Alexander and Queen Draga, a murder which made way for the present king, of the rival

family, and which was not greatly disapproved of by the tumultuous subjects of the Serbian Crown. It is sad to think that the hard-won Serbian and Montenegrin independence is again under a hateful eclipse, but if history teaches anything it shows a phoenix-like power of resurrection among the Slav peoples.

A. FRANCIS STEUART.

LETTERS ON THE SPIRIT OF PATRIOTISM AND ON THE IDEA OF A PATRIOT KING. By Viscount Bolingbroke. With an Introduction by A. Hassall, Student of Christ Church. Pp. xxx, 141. Cr. 8vo. Oxford: Clarendon Press. 1917. 2s. 6d. net.

THE first of these tracts was written in France, whither the author retired in 1730. It was taken to England in 1736, and was, as Mr. Hassall points out, full of the writer's indignation 'at the baseness of his late allies, the Malcontent Whigs,' who had withdrawn from the Tory party, so that Bolingbroke's schemes for a *fusion* ended in failure. *The Idea of a Patriot King* was, on the other hand, written in 1738, and in it Bolingbroke hoped he had paved the way for 'a coalition of parties meeting on a national bottom.' The introduction to these tracts is good, and it is worth while to read the second of them to which Disraeli owed so much.

FREEDOM AFTER EJECTION. Edited by Alexander Gordon, M.A. Pp. viii, 396. 4to. Manchester: University Press. 1917. 15s. net.

THIS elaborate account of the Presbyterian and Congregational Nonconformist ministers of England and Wales, 1690-1692, is an invaluable addition to a history of their religious movements. The MS. on which it is based dates from 1690, and gives a very full account of the surviving remnant of those Nonconformists who rejoiced in 'ye Religious Liberty of Dissenters by a Law' in 1662, over 'Twenty-five hundred strong.' It deals with a short period only in the history of a Sect, but it is worth study on account of the earnestness of the ejected, and the steadfastness of their 'glorious residue.' It is excellently and sympathetically edited.

ENGLISH DOMESTIC RELATIONS. A Study of Matrimony and Family Life in Theory and Practice as Revealed by the Literature, Law and History of the Period. 1487-1653. By Chelton Latham Powell, Ph.D., New York. Oxford: Humphrey Milford. 1917. Pp. xii, 274. Demy 8vo. New York: Columbia University Press. 6s. 6d. net.

THIS is an interesting study of the English Home—'including both the contract of marriage (its making and breaking) and the subsequent life of the family,' in theory and practice (the two are not synonymous) revealed by the contemporary law, literature, and history. It is to a certain extent novel, as, though many legal tracts are known and oft quoted, the didactic 'domestic conduct' books are new to many of us, and the author's digest of them is worth reading. Spousals, marriage, and divorce—and we see how grudgingly England has admitted the last—and the attitude towards women (much improved by the example of Queen Elizabeth) all come in for comment. There are interesting resumé's of

the theory of divorce from the time of Henry VIII. to that of Milton, and the writer points out that Milton's idea of women was higher than that of many of his contemporaries, and he shows by a careful study of contemporary literature how many phases of marriage were popularly regarded. On page 117 the author falls into a curious slip, making the divorce of Henry VIII. turn on 'the question of marriage with a deceased wife's sister.' This is not a perfectly constructed book, but it is one to read with care and pleasure.

ROBERT BURNS: HOW TO KNOW HIM. By William Allan Neilson. 8vo. Pp. xiv, 332. Indianapolis: The Bobs-Merrill Company. Price \$1.50 net.

THE Scot abroad has a congenial theme when he is to explain Burns transatlantically. Professor Neilson's creed is essentially a true memory of the Scottish mind, tempered by the educative detachment from the disproportionate zeal of some of our home-bred enthusiasms. It is a reasoned estimate of a splendid vernacular spirit, not profoundly influenced by English models, not dramatic, not generally narrative expressed in song, a spirit steeped in sentiment and not touched to the quick by even cataclysmal politics. While some readers will reckon the last tenet noted—that he was 'sympathetically interested in the French Revolution'—as a restricted characterisation and will also consider his wit and satire insufficiently appraised, they may agree with the verdict that the *Jolly Beggars* was Burns's greatest imaginative triumph.

Lucien Lambeau, *Histoire des communes annexées à Paris en 1859: Charonne*, vol. i. (Paris: Leroux, 1916). Foreigners who visit the alleys of the cemetery of Père la Chaise are sufficiently absorbed by the examples of funeral art which in some cases give posthumous distinction to men and women who passed unnoticed through their lives, or by the emotions excited by the distinguished names which meet them from time to time. The more sophisticated may recall the figure of the confessor of Louis XIV. from whom the place takes its name, but it is improbable that one visitor out of ten thousand interests himself in the history of the soil which Death has made so significant. The thick quarto of M. Lambeau will appeal to the restricted public composed of local antiquaries and of students of communal origins. M. Lambeau has already dealt with the *quartiers* of Bercy, Vaugirard and Grenelle, and the continuance of his labours is probably due to the fact that they are carried on under governmental auspices. The origins of Charonne are interesting, but M. Lambeau deals with them in a very summary manner; it is apparent that his interests are largely local and personal. The volume is a respectable example of the intelligent treatment of local history.

DAVID BAIRD SMITH.

Archaeologia Aeliana (Third Series, vol. xiv., 1917, 4to, pp. xxxii, 342) covers a rich variety of Northumbrian antiquary lore. Miss M. H. Dodds with industry and care edits from the MSS. of the Butchers'

Company a full account of that Company with a long list of enrolments of freemen's sons and apprentices from 1627 until 1782. Students of similar guilds will note many byelaws, etc., cited, and particularly the freemen's oath, and the regulations of admission. 'The butchers of Newcastle,' comments Miss Dodds, 'were a most pugnacious, not to say disorderly, body, and their statute book shows a continual but ineffectual struggle to maintain good behaviour at meetings.'

Dr. R. B. Hepple pieces together the few scattered notices of early Northumbrian libraries, foremost being the fine collection which Acca possessed at Hexham in the eighth century. A biographical sketch is given by Mr. John Oxberry of Mr. W. W. Tomlinson, a genial and versatile journalist in prose and verse, whose *Guide to the County of Northumberland* has for thirty years done capital service to the enquiring tourist. The Rev. Dr. Henry Gee describes the Muggleswick conspiracy in Durham and Newcastle in 1663, a movement of desperate anabaptist character, aiming as alleged to destroy parliament and murder bishops, deans, chapters, and ministers. A series of executions in 1664 suppressed the plotters of anarchy. Mr. William Brown abridges or transcribes numerous documents relative to St. Helen's, Auckland, chiefly concerning pedigrees and descents. Dr. F. W. Dendy similarly pursues genealogy regarding descents of Hetons, Fenwicks and Dentons. A writ of 1618 records an inquisition after the death of no less a person than 'John Denton, late of Cardewe, esquire,' the first historian of Cumberland.

Mr. C. H. Hunter Blair continues from the venerable Dr. W. Greenwell's manuscript, the catalogue of seals at Durham which has already filled so many fine pages of these Newcastle transactions. The present instalment embraces upwards of 160 English and Irish ecclesiastical seals, many of them photographically reproduced with clearness and fidelity. In one plate are shewn seals of bishops of Durham, viz.: Anthony Bek (A.D. 1284-1311), Nos. 3125, 3126; Richard Kellawe (A.D. 1311-1316), Nos. 3127-3128; Lewis Beaumont (A.D. 1318-1333), Nos. 3129, 3130. Anthony Bek's head conveys no bad impression of an arrogant and meddlesome prelate.

Another plate (here reproduced by the courtesy of the Newcastle Society of Antiquaries) is the portrait of John Brand (1744-1806), the Newcastle historian known to a wider public by his delightful *Popular Antiquities*. It illustrates a supplementary notice of Brand by Mr. J. C. Hodgson, who (as is the way of that indefatigable gleaner) rescues many lost facts. Another of Mr. Hodgson's contributions is *The 'Domus Dei' of Newcastle: otherwise St. Katherine's Hospital on the Sandhill*. Roger Thornton, supposed to have come from Yorkshire, *mercator Novi Castris super Tinam*, the Dick Whittington of Newcastle, died in 1429-30, and is commemorated by an extant brass as well as by a flattering tradition which his generosity seems to have earned. By several stages between 1402 and 1424 he set agoing a hospital, the final and formal endowment and foundation whereof he made on St. Katherine's Day 1425, by a charter hitherto scarcely known to exist, but now printed in full, with several relative grants from the originals in possession of the Rev. Dr. Greenwell, whose



T. Curran del.

REV. J. BRAND, M.A.

Fellow & Sec^y of the Antiquarian Society & Author of the History of Newcastle.



services to north country history as a collector and expositor form a great chapter of archaeology. Founded as a 'work of mercy' to support thirteen 'brothers and sisters of said hospital,' the survival of the institution for over two hundred years may be a fact to rebut a well-known superstition. An appendix gives the text of five deeds. One dated 1447 mentions purprestures, etc., '*ut in stallis porechis pentesis cameris getesis aut aliis purpresturis.*' Is *getes*[is] akin to *jetty*, *jutty*, found according to Du Cange, cent. xiii, as *Giteia*, a projection from a building?

In the *English Historical Review* for October, the editor, Dr. R. L. Poole, re-examines the problem of the names and numbers of early popes, and particularly the origin of the rule that a pope's personal was not taken as his papal name. The explanation now reached is that it began because where the original name was Peter, papal modesty forbade the assumption of such a title as Peter II. Miss R. R. Reid investigates the growth of the office of Warden of the Marches towards Scotland. She has possibly paid less attention than is necessary to the Warden's duality of jurisdiction, first in his military capacity and secondly in an international tribunal, but her survey brings many fresh characteristics to light. Mr. D. A. Chart collects the facts about the Irish levies for the British Armies of the Napoleonic war, and shows that at least 150,000 Irish recruits served between 1793 and 1815. 'How well they fought,' he concludes, 'let Badajoz, Barrosa, Waterloo attest.' Mr. A. B. White, supplementing previous researches by him (see *S.H.R.* xiii, 203), now adduces further evidences from the close roll of Henry III. which definitely contrast Henry's *minor carta* of the forest liberties with his *major carta* or *magna carta* (both terms employed) of general liberties. Professor Firth edits from the MS. a narrative of the siege of Scarborough in 1644-1645 written in 1647 or 1648 by Hugh Cholmley for the use of Clarendon, then at work on his *History of the Rebellion*. Dr. M. R. James presents a hitherto unedited description of Rome by 'Magister Gregorius,' a twelfth century visitor. His *De Mirabilibus Urbis Romae* was only known to the middle ages by extracts from it made in Higden's *Polychronicon*. Dr. James collates those extracts and adds valuable annotations to the curious medieval text. This number embraces also Mr. Beaven's scrutiny of regnal dates from Alfred to Athelstan. Miss I. D. Thornley's account of 'treason by words in the fifteenth century,' and Mr. James Tait's critical account of the Lancashire Declaration of Sports by James I. in 1617.

History (for October), the quarterly journal of the Historical Association, has the first part of a revision by Professor Firth of the story of the expulsion of the Long Parliament in 1653. The fateful intervention by Cromwell interrupted a vote imperfectly recorded. Other two themes of 'revision'—is not history an everlasting revision?—are Magna Carta and the Armada. Professor Pollard thinks that the baronial revolt had certain features in common with a 'no rent' campaign. He is perhaps carried too far by Mr. Jenks's paradox about Coke. Mr. Godfrey Callender maintains that Elizabeth's own 34 ships were of the type of the famous

Revenge, long in keel and mounting mainly heavy broadside guns. One could have wished quotations of contemporary proofs. At the time the mature authorities appear clearly to have recognised that the English tactics were *ut procul missilibus instarent*, while the Spaniards still clung to the ideals of Lepanto, *ex propinquo dimicare voluerunt*. England had decisively chosen the right plan, which is in essential principle that of the navy of to-day. Mr. Callender maintains that in 1591 the *Revenge* with the guns low down, had still the same advantages as the queen's ships had had over the Armada with the high gun platforms three years before. Not long ago Mr. R. P. Hardie in his essay on *The Tobermory Argosy* (1912) expressed a further point thus—'There can be no doubt that before 1588 the English had discovered the tactical formation appropriate to broadside fire—'line ahead' as distinct from 'line abreast,' the natural arrangement for galleys.'

A valuable reprint from *The Month* (October 1917) is an article by Father J. H. Pollen, entitled *A Shakespeare Discovery: his Schoolmaster afterwards a Jesuit*. It seems to establish the probable identity of Simon Hunt, Oxford graduate of 1570, and master of the Stratford grammar school 1571-1574 with Simon Hunt, an Englishman who matriculated among other *Angli pauperes* at Douay University in 1575, 'undertook the voyage to Rome' in 1576, was there admitted a Jesuit in 1578, was subsequently appointed 'Penitentiary' or confessor of the English tongue, and died in office at St. Peter's in 1585. The chain of proofs leaves little to be desired though it is not absolute. Hunt's career is thus interpreted as that of a Protestant who definitely went over to the old faith in 1575. The honours of the discovery, which is a triumph of minor research, appear appropriately to belong to several students of both creeds. Father Pollen presents the facts and argument with generous recognition of Mr. J. W. Gray and Mrs. C. C. Stopes, but the connection with the Society of Jesus is drawn from a Douay MS. Diary of 1576-1577, and from Father Nathanael Southwell's Catalogue of Jesuits, a MS. of 1640. 'William Shakespeare,' writes Father Pollen, 'had just turned seven and a-half when he came under Simon Hunt, and when he had passed eleven Hunt was gone again. These four years were the time best suited for grounding, and that was the educational process which the poet owes to our schoolmaster.' We must, however, remember that no register, diary or catalogue has yet turned up to prove beyond simple presumption Shakespeare's education at Stratford. It may yet come.

Notes & Queries for Somerset and Dorset for September contains in the wonted miscellany of local lore a transcript of a late fifteenth century set of instructions and prayers 'for the poore men' of the Woborne Almshouse when at point of death. First God is to be invoked by the sufferer, then the Virgin, then all angels and principally his guardian angel (*precipue angelum pro sua custodia deputatum*) then apostles and saints: also he is to repeat thrice the verse recommended by Cassiodorus, *Dirupisti domine vincula mea tibi sacrificabo hostiam laudis et nomen domini Ihesu invocabo*.

In the *Aberdeen University Review* for February last, Principal Sir Donald MacAlister has printed his Murtle lecture on the Westminster Standards of the Scottish Churches. He emphasises the share that English theologians, especially men of Cambridge, had in the Shorter Catechism.

The American Historical Review for October presents a 'case of Witchcraft' in 1602 by Mr. G. L. Kittredge, who contends that the supposed malignancy of witches was the root of the craze against them. The question was incidentally examined in Wallace Notestein's book, reviewed in *S.H.R.* x. 409, but it is good to have a re-view of the purport of the vast body of psychical evidence presented by Elizabethan record.

Mr. W. T. Root enquires into the rôle of the Lords of Trades and Plantations during the years 1675 to 1696 in 'the unfolding of Britain's first empire.' Colonial evolution gained little from these much criticised predecessors of the Board of Trade.

Mr. Herbert E. Bolton treats of 'the Mission as a Frontier Institution' in the Spanish-American colonies. He points out that 'fifty million people in America are tinged with Spanish blood, still speak the Spanish language, still worship at the altar set up by the Catholic kings.' In the old Spanish settlements the Missions were a primary agency alike for creed, morals, political control and industrial development. Their civilizing and educative function made them the finest, while their ubiquity made them the foremost of the frontier agencies of Spain.

Mr. Carlton J. H. Hayes deals with a modern phase in a study entitled 'The History of German Socialism Reconsidered.' Tracing socialist action from Marx and Lassalle about 1860 down to the anti-Socialist bill which was passed in 1878 and vigorously enforced by repressive proceedings until 1890, the article emphasises the fact that the party preached no revolt: their working ideal was to be 'vocal but not violent.' Defeated at the polls in 1907 the socialists made a great recovery in 1912, a fact apparently justifying their policy of resistance only by words, which had its further natural outcome in the acceptance of the Kaiser's war budget in August 1914, and the desertion of Liebknecht when he led an attack on the second war-loan in December of the same year. German Socialism thus proved, for the time, its nullity as a political force. Its passiveness, however, which to our eyes looks like political suicide, has long been a declared first principle.

A capital suggestion is thrown out by Mr. W. L. Westermann, viz., that the Trades of Antiquity require co-ordinated historical investigation by monographs on the separate industries.

The number of the *Revue Historique* for September-October, 1917, opens with an article by M. Flach on *Les nationalités régionales de l'ancienne France*, which forecasts the early publication of the fourth volume of the author's *Origines de l'ancienne France*, and it is probable that the volume will have appeared before this notice is in print. The deliberate and untiring manner in which the penetrating and lucid mind of this distinguished historian has worked on the baffling material of the history of the institutions of medieval France awakens admiration. The first volume appeared in 1886, the second in 1893, the third in 1904, and now, after thirteen years, the fourth

is announced. The first volume was produced after a period of gestation of ten years, and the four volumes link the war of 1870 to the great struggle of our day. In France, the reputation of the author has grown slowly like a tree, and to the English speaking world, to which Fustel de Coulanges still represents the principal French contribution to the study of medieval institutions, he is not widely known. For ten students of Luchaire, you will hardly find one of M. Flach. To what is this to be attributed? The answer to this question is perhaps to be found in the third volume of M. Flach's history, which he described as the corner-stone of his building. In the preceding volumes the critical element was predominant. He displayed in them the qualities which rendered his *Études critiques sur l'histoire du Droit Romain* (1890), an effective counterblast to the theories of Fitting and Chiappelli, and gave its importance to his pamphlet on *Cujas, les Glossateurs et les Bartolistes* (1883). In his third volume, however, he enunciated his theory and brought on himself the criticism which he had made so freely. His fourth volume will probably bring matters to a decision.

M. Desdèvises du Dezert contributes a second instalment of his *Vice-rois et capitaines généraux des Indes Espagnoles*, and MM. Luchaire and Alazard provide a valuable analysis of the most important recent publications on the religious and artistic history of Italy during the seventeenth and eighteenth centuries. In a long and appreciative notice, M. J. B. Coissac deals with Mathieson's *Church and Reform in Scotland*.

The Number of the *Archivum Franciscanum Historicum* for July-October, 1915, contains the usual three divisions—*Discussiones*, *Documenta*, *Codico-graphia*. The most interesting item in the first division is an unprinted Treatise attributed by the editor to Archbishop Peckham. The manuscript is in Florence, bears the title *Quaestio Johannis Pecham*, and has for its subject, *De Pueris Oblatis In Ordine Minorum*. It is known that Peckham went to Paris about the year 1250, and remained there for twenty years. The editor of this unpublished treatise dates it from 1268 to 1272, during the period of the fiercest opposition to the Mendicant Orders in Paris, but this date is purely conjectural, and it may belong to the controversy with William of Saint Amour, which took place some years earlier. The manuscript is not mentioned by Mr. C. L. Kingsford, but it is well known that a considerable body of writings by Peckham exist in manuscript in Florence, Paris and Oxford. The accusation of child-stealing which was made against the Mendicants in the thirteenth century was directed against the Jesuits three hundred years later. The treatise under consideration is a frank and fairly stated defence, and will interest students of religious history.

The Number also contains a critical text of the *Legenda B. Galeotti Roberti de Malatestis* an interesting *Relacion de China*, by the Spanish friar, Francisco de Jesus Escalona, who spent four years there from 1636; and an instalment of the valuable description of the Franciscan Codices in the Ricardi Library in France. Particular reference may be made to No. 2783, a seventeenth century manuscript, containing a *Comœdia Agans de Fr. Archangelo Lesleao de Scotia*.

Communications

TRAPRAIN LAW. Probably few enterprises of the Society of Antiquaries of Scotland will be of more enduring interest than the series of excavations at Traprain Law, not only because of the valuable finds resulting, but more particularly because the site was already indicated by remote, and mainly legendary, historical passages of great antiquity, so that by the happy confirmations of the spade, the dim prehistoric literary verge of hagiology has now been firmly related to history. It can scarcely have been by chance that in the last issued yearly volume of the Society's Proceedings (covering the year 1915-1916), the elaborately illustrated account of the excavations at Traprain, by Mr. A. O. Curle, should have been so closely followed by the extensively pictorial description by Mr. W. T. Oldrieve, of the ancient roof of the cathedral of Glasgow. The traditional home of the mother of St. Kentigern has its fit sequence in the grand medieval edifice which was the shrine of her son. The *Vita Kentigerni* makes it clear that the *mons altissimus* of Dunpelder, or Keaduf, or Traprain, down which the maligned St. Thenew was cast, lay close to the abode of her father, the half-pagan kinglet Loth, from whom the Lothians derived their name.

It is thus a very antique chapter of history that has been unearthed in these diggings, which have disclosed the relics of successive periods of inhabitation of the slopes of the abrupt and striking eminence. There are Neolithic remains preceding remains of the Bronze age, and followed by remains of the Iron age, inclusive in the later stages of many relics, which, although manifestly of native Celtic origin, are yet decisively of Roman type. Fragments of Roman pottery at first suggested a Roman occupation of the site, but these, it has been finally accepted, owe their presence to native trading, not to direct military settlement. The scene of the exploration with the Lothian plain below is well brought out in fig. 1, as is the bronze implements in fig. 45, the variety of unglazed Roman pottery in fig. 19, and samples of iron equipments in fig. 34. Three main levels were determined. From the two lowest the bulk of the relics came, but an interesting exception is noted regarding figure 38. It represents spinning whorls and 'playing men,' the latter usually about $\frac{7}{8}$ -inch in diameter, and sometimes of stone, sometimes of Samian pottery, two of them from the level of the latest occupation, and ten from the next beneath. 'The discovery' (says the report), 'at Corbridge a few years ago, of a stone on which was cut a checkerboard, suggests that these objects were pieces in some game played with men or counters after the manner of draughts. If so,

the game was a popular pastime on 'Dunpelder.' First century Roman pottery was found on the lowest level: brass coins dating late in the fourth century came from the top level; these are significant hints of chronology. One of Mr. Oldrieve's pictures from Glasgow cathedral, shewing the delicate trefoil or cusped rafters of the choir roof, and another displaying the old timbers of the nave roof, as seen when stripped, may, in a sense, prolong our far extended vista into history from the slope of Traprain.

These proceedings are truly catholic in the types of antiquity they portray. Very fine examples, interestingly dissimilar, occur in fig. 4, giving the Newton of Lewesk sculptured stone, fig. 2, exhibiting a capital interior view of the broch of Dun Telve, at Glenelg on the Sound of Sleat, and fig. 3, which renders in approved medieval manner an ancient gun, as illustrated in a MS. of A.D. 1327.

FATHER ARCHANGEL OF SCOTLAND. The late Mr. Thomas Graves Law studied the Legend of this worthy in two papers which form pp. 332 to 376 of his *Collected Essays and Reviews* (Edinburgh, 1904). The original life of George Leslie, which Archbishop Rinuccini published at Macerata in 1644, under the title *Il Cappuccino Scozzese*, was received with enthusiasm on the Continent, and passed through numerous editions in which the original narrative was elaborately extended and embroidered. Within thirty years of its appearance, Archbishop Rinuccini's life was dramatised. 'The Roman Capuchins,' wrote Mr. Law, 'were so pleased with the story that they threw it into the form of a drama, and printed the play in 1673, under the title of *Il Cappuccino Scozzese In Scena*.' In his second paper Mr. Law is more specific. 'Meanwhile,' he wrote, 'in ignorance of the French amplified version, an enterprising son of St. Francis in Rome, Eleuterio d'Alatri, composed a drama *Il Cappuccino Scozzese In Scena*, which was published by his brother Signor Francesco Rozzi d'Alatri, in 1673.'

In a recent number of the *Archivum Franciscanum Historicum* (July-October, 1915), under the heading *Codicographia Franciscana*, an account of the Franciscan Codices in the Riccardi Library in Florence is given. Among them is included the following item: 'Cod. n. 2783² chart. mill. 288 x 200 ff. 41 saec. XVII. In principio et ad calcem terna folia insititia. In f. 1 non numerato legitur: Il Cappuccino Scozzese | in stile rappresentativo | dal P. Predicatore Generale F. | Ignazio Fantozzi | Perugino dell'Ordine de' Predicatori, confessore nel | venerabile monastero | di | S. Vincenzio | di | Prato. | L'anno 1653. Laus Deo. Ligatura in dimidia pelle; inscriptio dorsi: I. Fantozzi Il Cappuccino Scozzese (1653) | Sec. XVII.' This would appear to be an earlier unpublished dramatic version of the Life of Father Archangel than that mentioned by the late Mr. Law. It is in five acts, with fourteen characters. The first act is placed at Monymusk. The Prologue contains the following sentence: 'Degl'avvenimenti di questo Servo di Dio, e mio seguace, molto allegramente ne scrisse l'Eminentissimo mio Prelato, vero esempio di bontà e di dottrina, Giovanni Batista Rinuccini arcivescovo di Fermo. Dalle cui relazioni ha origine il rappresentamento da farsi hora a voi fedeli . . . perchè i meriti nostri



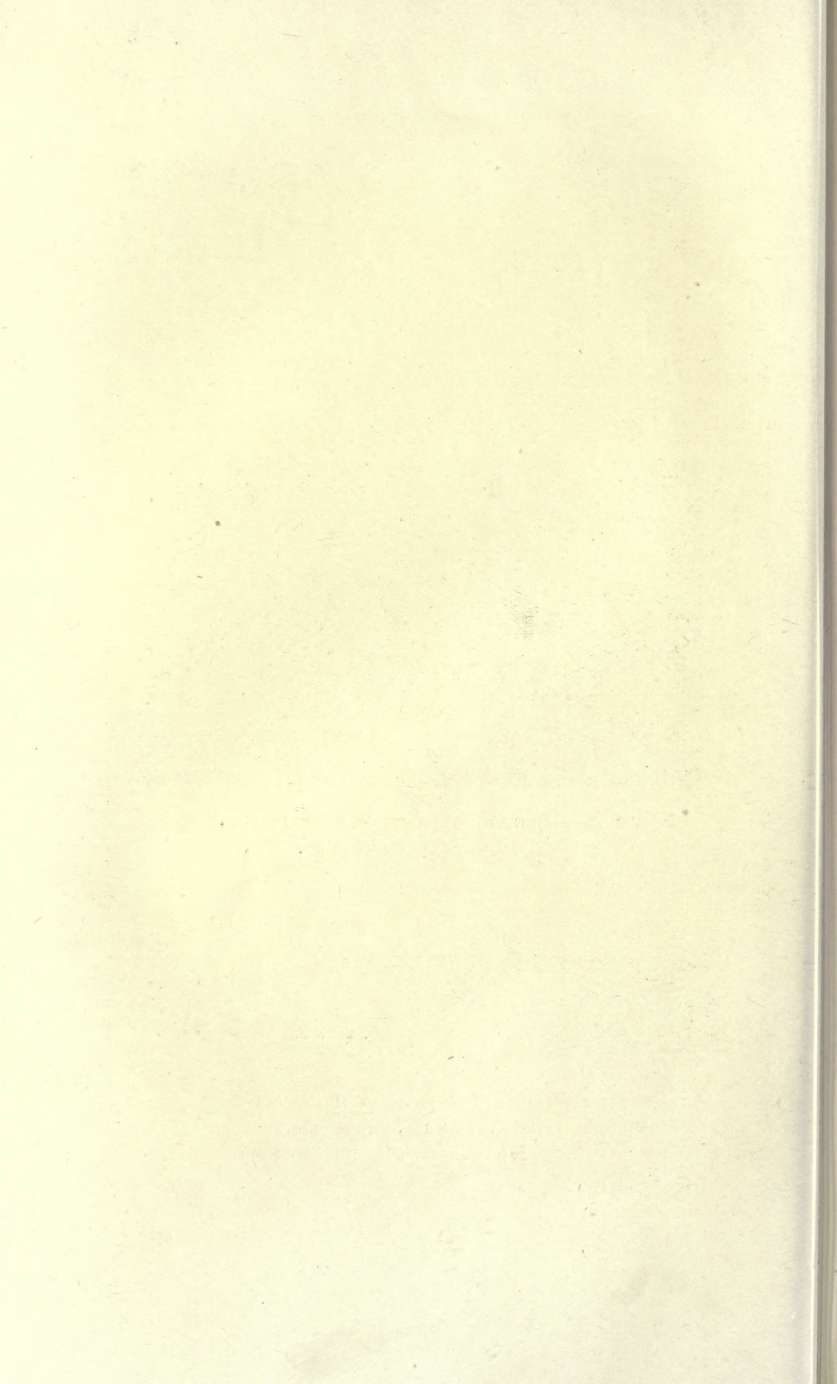
VIEW ALONG THE TERRACE ON TAPRAIN LAW.

Showing excavation in the foreground.



POINT OF A DAGGER-BLADE OF BRONZE.

Found on Taprain Law. $4\frac{1}{4}$ inches long.



si rendino più attenti all' historia, dagl' occhi vostri m'involo senza mai allontanarmi da' vostri quori, indicating some relation between the dramatist and Archbishop Rinuccini, on whose life the drama is based. No reference to this unpublished play is found in Leone Allacci's *Drammaturgia*. Whatever its merits may be as a play, its existence affords interesting evidence of the extraordinary popularity which the Legend of Father Archangel of Scotland obtained on the Continent.

DAVID BAIRD SMITH.

CARLELL AXES. In the York Memorandum Book recently published by the Surtees Society (No. 125), the editor, Miss Maud Sellers, Litt.D., has printed (p. 79) the account of an affray in the city of York which took place at the celebration of the feast of Corpus Christi in 1419, whereby the procession was disturbed and the lighted torches were broken by a crowd carrying clubs (*fustes*) and 'Carlelaxaes.' In the glossary of words (p. 302) Miss Sellers explains the English phrase, Carlelaxaes, as 'possibly an adaptation of the French *carrelet*, diminutive of *carrel*, *carreau*, file: axes with sharp points: *carle*, meaning rough, clumsy, seems also admissible.' This etymology is very ingenious, but will it stand?

Let us search for other illustrations of the usage of the same phrase. In 1402 Bishop Strickland of Carlisle purchased a 'Karlellax': in 1456 William Merryman of Carlisle, 'yoman,' was pardoned for killing William Lyster, mason, with an axe called 'a Carlell hax': in 1486 three staves (*baculi*) called 'Karlell axes' were laid up in Rose Castle for the defence of the Bishop's household: and in 1507 Christopher Atkinson of Scotby, near Carlisle, was pardoned for the manslaughter of Richard Dobynson, as he had killed him in self-defence, Dobynson having pursued and struck him with a staff called 'a Carlill ax.'

These instances are very interesting, as they all come, except that in the York Memorandum Book, from one district on the map, whose capital city still sounds on Cumberland lips as Carlell or Carle for short. Carlell, or a phonetic variant thereof, accompanies us in folk speech down the centuries as the equivalent of modern Carlisle. These axes in my opinion were called Carlell axes, because they were invented or had a vogue in Carlisle and its neighbourhood. At all events the simplest explanation of a term like this is sometimes the safest.

What the instrument was like I do not know, but it was clearly a weapon of offence as well as defence. We have a classical analogy in the 'Jedwood-axe at saddle-bow' in 'The Lay of the Last Minstrel,' the famous Jeddart Staff which figures on the ancient arms of Jedburgh, but the Carlisle axe appears to have been used by footmen only. I am unwilling to have Carlisle shorn of any of its traditional reputation for prowess in combat.

JAMES WILSON.

MAGNA CARTA COMMEMORATION ESSAYS, 1915-17. 'The starting point of the constitutional history of the English race' (as the great charter is styled by Viscount Bryce) eminently deserved the celebrations designed for 1915. Unfortunately the war intervening

curtailed almost to insignificance an ambitious public programme. Professor W. S. M'Kechnie alone had the honour of delivering before a distinguished public audience his address of a general, narrative, and introductory character. Almost all the other papers see the light now for the first time, with a preface by Viscount Bryce and an historical introduction by the Honorary Secretary of the Royal Historical Society. Possibly the net result in definite achievement of study or research is a trifle meagre. Professor M'Kechnie sees in the charter, abortive in direct effect though it was, a prototype of some such world league as may one day substitute justice for war. Professor G. B. Adams contends that Innocent III. in releasing John from the charter acted on his ecclesiastical rights alone, not feudally in virtue of the cession of England to him. Dr. J. H. Round denies the identification of the 'knights' of Cap. 2 of the charter with the 'lesser barons' of Cap. 14. Sir Paul Vinogradoff and Professor Powicke interpret differently the *lex terrae* of Cap. 39. Professor M'Ilwain, ever in quest of an elusive 'fundamental law,' reverts upon the charter the posterior light of an attempted definition of 'statute,' chiefly from the fourteenth century. Dr. Hazeltine exhibits the charter as a force of a sort on the American constitution, and Professor Altamira finds vague analogies in medieval Spain. Mr. Hilary Jenkinson closes the studies with a general survey of the financial records of King John. Although there is a paucity of definitely established new standpoints, there is much learning in these essays, befitting their septcentenary occasion as the most recent echo of what Tennyson phrased 'the manly strain of Runnymede.'

THE PROPOSED HISTORY OF GLASGOW. The *Scottish Historical Review* had great satisfaction in seeing effect handsomely given recently by the Corporation of Glasgow to the suggestion mooted in the *Review* (*S.H.R.* xiv. 353), that a public and official invitation should be given to Dr. Renwick to write a comprehensive history of Glasgow. Our readers will cordially endorse the approbation with which the community of the city, as well as the circle of historical scholars elsewhere having at heart the progress of Scottish burghal study, have welcomed the act of the Town Council in formally extending to Dr. Renwick the unique and honourable invitation. While no formal acceptance of the task appears to have been returned, there is reason to believe that already the work is tentatively in hand, and its form and scope in course of being sketched out, with due regard to the conditions best fitted to realise the general design, the success of which would not only meet a pressing want in the literature of Glasgow but would also be an occasion of public gratitude.

Clearing his path Dr. Renwick inaugurates the new effort by rounding off the old. He has completed the task of editing the Charters and Documents down to 1833: the last touch needed was to collect into an inventory the writs from 1833 until 1872. With the usual patient promptitude therefore there appears an Abstract.¹ This work is prefaced by a few pages which outline

¹ *Abstract of Charters and Documents relating to the City of Glasgow, A.D. 1833-1872.* Compiled by Robert Renwick. Pp. xxiv. 181. Glasgow: Printed for the Corporation of Glasgow, 1917.

the evolution expressed in the catalogue of Deeds and Acts of Parliament numbered from 1849 to 2350 exhibiting chronologically the emergence and development of civic enterprises for gas and water supply, parks, churches, markets, Clyde navigation, bridges, etc., down to the dawn of the tramways. Appended are a toll table, probably dating back to 1572, and lists of city church ministers, lord provosts, and members of Parliament from 1833 until 1872. So now the unwearied archivist is emancipated, and free for the further high adventure to which he is called.

SIR ANDREW MELVILL, 1624-1706. Does a portrait exist of Sir Andrew Melvill—soldier of fortune—whose memoirs were published in Amsterdam in 1704? He was born in 1624, and was son of John Melvill. He served in Flanders 1647-48; at Worcester 1651; Poland 1655-1660; Hungary 1664. He married Mlle. Lamotte, lady-in-waiting to the Electress Sophia, and came to England in 1660. M.D. at Oxford (*Wood's Fasti*), 25th February, 1681. In 1685 he was invited by Sir John Cochrane to join Argyle's expedition (letter given in Sir William Fraser's *The Melvilles, Earls of Melville*). Died 1706.

I should be glad to hear of a portrait, or to have any further information.

Vigo Street, London, W.

JOHN LANE.

SIR JOHN BALLANTINE'S KNIGHTHOOD. The mention of the family of Ballantine in the last issue of the *Review* (*S.H.R.* xv. 88), reminds me that a notable Scot of that ilk came into Cumberland soon after the Restoration of Charles II., and married one of the richest heiresses in the county. There was a mystery about his antecedents which caused the county magnates to be rather sceptical of his right to the knighthood which he claimed. The Scot I refer to was Sir John Ballantine, who married the heiress of Crookdake, a manor in the parish of Bromfield, in full view of the Solway on the western coast. There he settled in 1663 with his wife at Crookdake Hall, became a justice of the peace, afterwards high sheriff of the county, spent a useful public life, had a family of six children, and ultimately died in honoured old age.

But I am not concerned with the man or his pedigree. I transcribe a monumental inscription in his parish church, an inscription, be it observed, which was composed in my judgment at least a century and a half after the good Knight's death. The monumental brass was put up 'In memory of Sir John Ballantine, K^{nt} of Crookdake Hall in this parish, who died May 1705, son and heir of John Ballantine, Esq., of Corehouse, N.B., Lieut-Colonel of Stewart's horse, 1650, and his wife Miss Lockhart of Lee: he was the descendant and representative of Sir Richard of Bannock line of y^e Corhous, 1452. Also in memory of Dame Anne his wife, daughter and heir of William Musgrave, Esq^r, of Crookdake, who died 5th June 1691: she was the last representative of the lines of Musgrave and Lowther of Crookdake and eldest co-representative of those of Colvil and Tilliol of Scaleby Castle and Ireby Demesne.' There are symptoms of the mid-Victorian genealogist about this inflated memorial.

But the thing about Sir John Ballantine which interested his contemporaries most, was his claim to knighthood. The suspicion was so strong, that the wire-pullers communicated with the College of Arms in London, and the reply served only to deepen the distrust of Sir John's title. Here it is and I am committing it, I believe, for the first time to printer's ink: 'Wee, the officers of Armes, whose names are subscribed, do hereby certifie that having searcht into y^e Books and Records of our Colledge we do not find that at any time since his Ma^{ties} happy Restoration there hath passed under y^e great Seale of England a Patent for Baronet, or that y^e order of Knighthood was conferred on John Ballantine of either of counties of Northumberland or Cumberland. Given at y^e Colledge of Armes, London, the 7th day of November, 1679, annoque R[egni] R[egis] Caroli 2^{di} nunc Anglie etc. Tricesimo primo. Rob[er]t Devenish, Yorke Herald, Reg[iste]r of the Colledge of Armes. Gr[egori]y King, Rouge dragon, pursu[ivan]t of Armes.'

The time was approaching when the active justice of the peace of Crookdake Hall might reasonably expect to be sheriff of his adopted county, and his right to the title must be established before the day arrived. Another appeal was made to Sir William Dugdale, the chief censor of the purity of English titles. His reply, dated from the Heralds' College, London, on 3rd June, 1682, was in the same strain as that of his subordinates a few years before. There was no memorial in the office of Sir John Ballantine's knighthood. He was one among others whose names he had on a list who assumed that title, but had never received the honour from this King. He had also a note of a greater number of titular Baronets, who had warrants from the late King (Charles I.) to pass patents for that title, but who had proceeded no further therein. Knights made by a commissioner, he told his correspondent, were of the same standing as those made by the King himself.

In due course the aspersion on his integrity became known to the worthy Knight of Crookdake, who determined to silence once for all the slanders of his traducers. He had no difficulty in producing a certificate from Alexander Areskine, Lyon King of Arms, that Sir John Ballantine had been knighted by Charles II. in 1663, and that the patent was recorded in the Scottish Herald Office. Many years ago I saw Lyon's certificate, which I then regarded as genuine, but unfortunately I either omitted to transcribe it or else lost my transcript. At the present moment I have at hand only a note of the occurrence.

It will be seen that the old prejudice against colonizing Scots was not quite extinct in Cumberland in the latter part of the seventeenth century. The most curious feature of the incident, as it strikes a layman, was the neglect of Garter in not communicating with Lyon when the second application was made to his office. Was 'red tape' of such early origin in our public institutions? At all events full justice was afterwards done to this knightly Scot, who like many of his countrymen found a home on the southern shore of the Solway.

JAMES WILSON.

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‘The British Empire’

WORDS are the reflections of facts. Take a familiar phrase like ‘the British Empire’ and trace its history. Each new shade of meaning it acquired sprang out of the political conditions of a particular moment. According to the *New English Dictionary* the word ‘empire’ meant in Henry VIII.’s time ‘a country of which the sovereign owes no allegiance to any foreign superior.’ In this sense Parliament employed it when they shook off the supremacy of the Pope, and declared in the Statute of Appeals ‘This realm of England is an empire.’¹ A little later the word came to signify a composite state formed by the union of two or more states. When the Protector Somerset projected the union of England and Scotland, he talked of the two peoples as ‘knit into one nation,’ and spoke of making ‘of one isle one realm.’ To meet the objections of Scottish nationalists he proposed that the names England and English, Scotland and Scottish, should be abolished, and that the United Kingdom should be called the Empire and its sovereign the Emperor of Great Britain.²

Somerset’s dream was realised in 1603 by the union of the crowns when James I. became King of England. The state formed by this union was at once described as an ‘empire.’ A pamphlet calls the union ‘the beginning of the happiest empire

¹ Froude, *History of England*, i. 428.

² Pollard, *England under Protector Somerset*, pp. 148, 150, 163, 165, quoting Ode de Selve’s *Correspondence Politique*, p. 268.

that ever was.'¹ James himself in his speech on March 31, 1607, twice uses the word. 'My meaning in seeking union is only to advance the greatness of your Empire seated here in England,' and again, referring to the argument that certain English trading towns would lose by the union, he says 'If the Empire gain, and become the greater, it is no matter.'²

King James wished to give the new state a new name and call it 'Greater Brittany,' but the objections of the lawyers obliged him to withdraw the proposal. 'I avowe the name of Britanny,' he said. . . . 'I am not ashamed of my project, neither have I deferred it out of a liking of the judges reasons or yours. . . . But I have remitted the name till after the thing be done, lest quirks in law might take other hold than is meant.' Nevertheless without waiting for the completion of the negotiations for an incorporating union, he issued a proclamation on November 15, 1604, declaring that 'our imperial monarchy of these two great kingdoms' was to 'keep in all ensuing ages the united denomination of the invincible Monarchy of Great Britain,' and assuming himself 'by force of our royal prerogative' the title of King of Great Britain.³

The new name was not popular at first, save with courtiers and poets.

Shake hands with Union, O thou mighty state,
Now thou art all Great Britain, and no more
No Scot, no English now, nor no debate ;
No borders but the ocean and the shore,

sang Samuel Daniel in his *Panegyric Congratulatory* to the King.⁴ The name gradually made its way into use, but two other names also were occasionally applied to the composite state. One was 'British Empire.' John Dee, in a petition to James I. presented on June 5, 1604, styled him 'the most blessed and triumphant monarch that ever this Britysh Empire enjoyed.'⁵ The other was 'Britannic Empire.' Milton closed his pamphlet *Of Reformation in England*, printed in June, 1641, with this invocation to God, 'O thou that . . . didst build up this Britannick Empire to a glorious and enviable heighth with all

¹ *The Happy Union of England and Scotland*, 1604, Anon.

² *His Majesties Speech to Both the Houses of Parliament*, etc. 1607.

³ Bruce, *Report on the Union*, appendix, pp. xxxv, xlvi, lxxi ; Spedding, *Life and Letters of Bacon*, iii. 191-200, 206, 225, 235, 239.

⁴ Published in 1603, *Works*, ed. Grosart, i. 143. ⁵ Hearne's *Collections*, i. 64.

her Daughter Islands about her, stay us in this felicity.’¹ By these ‘daughter islands’ Milton meant the Isle of Man, the Channel Islands, and perhaps Ireland, which was regarded as a British colony; but it is clear that he did not mean the new colonies in the West Indies, and still less those on the American mainland.

The question to be solved is when these colonies came to be included in the phrase ‘British Empire’ or ‘Britannic Empire’? Who first employed it in this sense? Edward Littleton of Barbados speaks of ‘the English Empire’ in 1689,² and in 1708, a few months after Great Britain became the legal denomination of the two kingdoms of England and Scotland (May 1, 1707), John Oldmixon published a book entitled *The British Empire in America, containing the History of the Discovery, Settlement, Progress and present state of all the British Colonies on the Continent and Islands of America*. In it he several times speaks of them not as an appendage to the Empire, but as part of it. In one passage he computes their population at 350,000 persons, and ‘the rest of the subjects of the British Empire’ at eight millions. In another he says: ‘Our Colonies in America are so far from being a loss to us, that there are no hands in the British Empire more usefully employed for the profit and glory of the commonwealth.’³ However, the phrase was not used officially, nor was it part of the common political vocabulary of the day. I have searched in vain for it in the writings of Bolingbroke, the speeches of Walpole and the Parliamentary debates of the early part of the eighteenth century. It did not come into general use till the reign of George III.

At the close of the Seven Years’ War in 1763 the people of Great Britain numbered about eight millions; there were some two million British subjects in Ireland, and two or two and a half million more in our American colonies; to these the treaty of Paris added some 60,000 or 70,000 Frenchmen in Canada, while perhaps twenty million natives of India had passed directly or indirectly under British rule. The eight millions began to realise that Great Britain had become a world state, and that it was, in Burke’s phrase, ‘part of a great empire extended by our virtue and our fortune to the farthest limits of the east and the west.’⁴ Pownall, the late governor of Massachusetts, in a book on the

¹ Milton’s *Works*, ed. Mitford, 1851, iii. 69.

² *The Groans of the Plantations*, p. 26.

³ Vol. i. pp. xxx, xxxvii.

⁴ *Speech at Bristol*, 3 Nov. 1774; *Works*, iii. 237.

Administration of the Colonies,¹ urged that Great Britain should 'be no more considered as the kingdom of this Isle only with many appendages of provinces colonies, settlements and other extraneous parts,' but rather 'as a grand marine dominion consisting of our possessions in the Atlantic and in America united into a one empire in a one centre, where the seat of government is.' As the consciousness of these facts spread, politicians needed a term to describe this aggregate of states and races, and the phrase 'British Empire,' hitherto uncommon, passed into general use.

The controversy about the right of Great Britain to tax the American colonies for imperial purposes did more than anything else to familiarise people with the two words. Lord Mansfield, for instance, in the debate on the repeal of the Stamp Act, on February 10, 1766, declared: 'The British legislature as to the power of making laws, represents the whole British Empire, and has authority to bind every part.' Echoing Mansfield the House of Commons in their address of November 8, 1768, promised to maintain entire and inviolate the supreme authority of the legislature of Great Britain over every part of the 'British Empire.'² Lord Hillsborough, the Secretary for the Colonies, in his circular letter of May 13, 1769, announced that it was not the king's intention to lay any further taxes on the colonies, and spoke of restoring the mutual confidence between them and Great Britain 'upon which the safety and glory of the British Empire depends.'³

With more hesitation George III. himself adopted the phrase. In his speech to Parliament on November 25, 1762, he spoke of 'an immense territory added to the Empire of Great Britain,' but after that he relapsed into talking of 'my kingdoms' (Nov. 15, 1763), or 'my dominions' (Jan. 10, 1765), and it was not till November 30, 1774, that he used the words 'British Empire.'⁴ In Chatham's speeches the phrase is first used on January 14, 1766, and it is employed again May 1, 1771, and February 1, 1775.⁵ Burke's *Short Account of a late Short Administration*, published in 1766, opens with the statement that Rockingham's government, by repealing the Stamp Act, had composed 'the distractions of the British Empire,' and the speech on Conciliation

¹ 2nd Ed. 1768, p. 9. The book was originally published in 1765.

² *Parliamentary History*, xvi. 174, 474.

³ Grafton, *Memoirs*, p. 233.

⁴ *Parliamentary History*, xv. 1234, 1331; xvi. 2, 80, 235; xviii. 34.

⁵ Williams, *Life of Chatham*, ii. 192, 305; *Parliamentary History*, xvii. 220; xviii. 199, 203.

with America, delivered on March 22, 1775, is entirely devoted to the exposition of his ideas concerning the general policy of the ‘British Empire.’ He defines it there as ‘the aggregate of many states under one common head,’ and as ‘a great political union of communities.’ To Burke, too, we owe the elaboration of the distinction between Parliament as ‘the local legislature of this island’ and Parliament in ‘her imperial character,’ which was set forth in his speech on American taxation on April 19, 1774.¹

More instances could be added, but it is sufficiently clear that between 1765 and 1775 the phrase came into general use, and that it was made familiar by the disputes about the taxation of the American colonies.

C. H. FIRTH.

¹ *Works*, iii. 1, 221, 242, 263.

James I., Bishop Cameron, and the Papacy

THROUGHOUT the reign of James I., almost from the very beginning of his active rule, there was a quarrel between the Crown and the Papacy which has not received the attention due to its significance in the development of events between the Schism and the Reformation. Indeed, our historians have never given any intelligible explanation of the controversy. This neglect can be traced primarily to an assumption by Lord Hailes, accepted and perpetuated by the authority of Joseph Robertson. In the preface to his *Statuta Ecclesiae Scoticanæ* Robertson collected materials for the history of the quarrel; but he failed to see, as he might have done, that the cause he assigned to it was not only insufficient but actually mistaken.

He tells us that a Provincial Council seems to have met during a Parliament at Perth in the summer of 1427. This Parliament passed an ordinance 'curtailing the cost and abridging the forms of process in civil causes against churchmen in the spiritual courts; and, as if the Church had only to register the decree, ordained that it should be forthwith enacted by the Provincial Council.' The ground of the last assertion is the final clause of the act—*et quod istud statuatur de presenti auctoritate Consilii Provincialis*.¹ Sir George Mackenzie says that 'this Act . . . seems to have been first made in a Provincial Synod'; while Lord Hailes, with what Robertson regards as 'a truer appreciation of the circumstances,' attributes the statute to laymen, and ventures to brand certain expressions as 'not ecclesiastical Latin'.² Robertson then states that 'the boldness of the Scottish legislature, in thus dealing with ecclesiastical affairs, appears to have startled the Papal Court,' and he traces the ensuing controversy to this enactment. It is interesting to observe that Bishop Dowden, referring incidentally to the affair, is more or less conscious of a difficulty, and points out that the allusion to the Provincial Council was some recognition of its claim to be consulted.³

¹ *Statuta*, i. 81.

² *Ibid.*

³ *Medieval Church in Scotland*, 207; in *Bishops of Scotland*, 320, Robertson's account is accepted. Dr. MacEwen's *History of the Church in Scotland*, 338, perpetuates the misconception: his subsequent narrative is unsatisfactory.

Sir George Mackenzie was right. The clause just quoted can scarcely mean 'that this be statute forthwith by the authority of the Provincial Council': it means 'that this be statute as now authorised by the Provincial Council.'¹ This was no case of interference by the civil power with the courts spiritual. The trouble began over matters much more likely to arouse alarm at Rome, matters which bring the history of the Scottish Church into relation with tendencies and events elsewhere.

The Schism had one very practical effect in the department of finance. The French cardinals elected Clement VII., and subjected their country to exactions all the more distressing by reason of the narrowed field within which they must be levied. It was in the minds of the French that the project of a General Council gradually matured. Benedict XIII., who succeeded Clement as Antipope, would not resign. French obedience was withdrawn in 1398: restored in 1403, when it was seen that the Crown aspired to usurp the position of exorbitant power vacated by the Papacy: withdrawn again before resort was had, in 1409, to the Council of Pisa. That assembly was predominantly French. The Council of Constance (1415) was, on the other hand, representative of western nationality: it voted by nations: national divisions actually proved to be its undoing. Henry V. of England was about to invade France, and the French ranged themselves with the Italians. Reformation was postponed for the election of a Pope. Amid the rejoicings prompted by the healing of the Schism, Martin V. was able to adopt the rules of Chancery which it had been one of the main purposes of the Council to purify, and weakened the general demand for reform by entering into separate concordats. 'Thus it was no longer Christendom, no longer the whole Church, no longer the Council, the representative of the Church, which was confronted with the Pope. Each kingdom stood alone to make the best terms in its power.'²

In 1418 and 1422 France prohibited the sending of money to the Roman Court; but in 1425 the Pope prevailed upon the youth of Charles VII. in order to obtain the recognition of his authority. As for England, though she had national statutes, the

¹ The writer was led to question the interpretation put upon the Latin by the fact that the story as told by Robertson and repeated by Dowden, MacEwen, and other writers, is not very intelligible, leaves the obviously important and insistent acts against 'barratry' quite in the air, and does not explain the protracted vigour of the controversy.

² Milman, *Latin Christianity*, viii. 317.

infancy of Henry VI. weakened her defence. In 1426 Martin urged the repeal of the acts of provisors and *praemunire*. Chichele was peremptorily bidden oppose and ignore them. His conduct, like that of Parliament, was evasive rather than courageous; so that the Papacy gained successes which could hardly have been achieved under the eye of a vigorous ruling monarch.

Scotland withdrew her obedience from Benedict XIII. and transferred it to Martin V. a few months after he issued from the Council of Constance. Our information regarding the state of matters in the years before 1418 is scanty; but it would appear that, while Benedict was not the man to relax his claims and miss his opportunities during a regency, the Schism itself encouraged or permitted action derogatory of the papal power. In 1401 Parliament enacted that appeals in cases of excommunication should be from the Bishop through the Conservator to the Provincial Council, which was to be the final court so long as the Schism should endure.¹ It is worthy of notice that in 1398 and 1408, when France withdrew from any obedience, a Provincial Council was accepted there as the ultimate resort. Scotland, though adhering to Benedict, was tending towards nationalism. In 1417, on a vacancy in the Priory of St. Andrews, the majority of the canons seemed to believe that the Pope chosen at Constance would recognise the right of free election for which the Gallican Church had been contending.²

There is no trace of a concordat between Martin V. and the Scots. Before the return of James I. the civil power had neither the will nor the ability to fight: after he began to rule, papal policy does not seem to have been such as to provoke a battle over the prelacies. When James III. in 1487 obtained a definite right to nominate candidates for provision, it was not so much a new and unwonted privilege as the recognition, under specific conditions, of a practice which had already prevailed.³ At present the trouble was that the general system of reservations had a disintegrating effect throughout the national Church, and had financial consequences for the whole realm. In the situation which confronted James I. in 1424 finance was a very important factor. The country had suffered from maladministration during the regency; and now a large sum was required for ransom. The *Liber Pluscardensis* indicates the difficulty there was in finding

¹ *Statuta*, i. 78.

² *Sc. Hist. Rev.* xiii. 321 ff.

³ *Archbishops of St. Andrews*, i. 157.

money: Bower devotes a whole chapter to the question of taxation. The King had the expense of domestic enterprises to consider, and to provide himself, as his policy developed, against a quarrel with England. Any serious drain of Scottish money to Rome, when even the spiritual returns were problematical, demanded the attention which similar evils had long been receiving elsewhere.¹

The practice of reservation, upon which the controversy developed, need not be explained at length. A glance at the subject-index of the *Calendar of Papal Registers* is sufficient to illustrate the various devices by which benefices were swept into the net. Under the stimulus of competition the sums offered by candidates in annates or first fruits tended to rise, and there were also the expenses of the incessant litigation at Rome; while the ordinaries saw themselves deprived of their power. The trade might have its attractions when a man's career was in the making: it could wear a different aspect when surveyed from an episcopal see.

The Parliament of 1424 began by declining to tolerate a pension purchased from the Pope out of the deanery of Aberdeen.² This reflection on proceedings at Rome was followed by an act forbidding clerks to pass or send procurators over sea without royal sanction: they were not to purchase or levy any pension. As a preventive measure a heavy duty was imposed upon exported money. In March, 1425-6, the question of this duty again came up, and the act was renewed. John Cameron, the King's secretary, seems to have got into trouble, no doubt over these acts, and incurred the charge of infringing ecclesiastical liberty.³ Meanwhile Glasgow had become vacant; and Martin V. consented to provide Cameron (April, 1426) only after receiving a promise that he would mend his ways; but before his consecration Parliament ordained that clerks going to the Continent should make exchange for their expenses and certify the Chancellor (Cameron himself) of their proceedings. The tendency of the legislation became clearer

¹ The Rolls of the English Parliament allude constantly to the export of money: see especially iii. 126 (1381-2), for the opinions of the officers of the Mint on the part played by the Court of Rome.

² Cf. *Cal. of Papal Registers*, vii. 262. Dismembering of benefices by pension was an evil which the Crown failed to eradicate and ended by propagating: it was the 'purchase' at Rome that offended.

³ *Statuta*, i. 85 n. 2: this is a point in his evidence which Robertson overlooked: Cameron was under a cloud *before* the supposed transgression of the Parliament in 1427.

still in March, 1427-8, when clerks were required to explain satisfactorily to their ordinaries and the Chancellor the objects of their journey, undertake to do no 'barratry,' and obtain letters of licence. 'Barrators' were to underly the act relating to those who took money out of the realm; and that act was to apply to clerks already under conviction, who were not to be furnished with means while they remained abroad.

At Rome Cameron was held responsible for the promulgation of these statutes. We must suppose, too, that the Lords of Council, of whose acts we have no record, took steps to deal with 'barrators,' as they did in later times. Encouraged by the King and supported by some of the prelates, the Chancellor ventured to ignore certain papal reservations and, as Bishop of Glasgow, to collate to reserved benefices. Martin V. ordered two cardinals to report upon the facts; and it was decided to cite the offender.¹

The emissary chosen was William Croyser, Archdeacon of Teviotdale. He had been regent in the new University of St. Andrews, and in 1414 he left for Paris to study theology. Any one who has the curiosity to follow his career as displayed in the *Calendar of Papal Registers* will find ample illustration of the abuses now in question. It is not surprising that in 1426 his complicated operations involved him in a charge of crimes against the Camera. King James petitioned in his favour; but the papal restoration of his benefices, which had been taken from him, and a quarrel with Cameron over his archidiaconal jurisdiction, must have contributed to make him an instrument of Roman policy.² In the summer of 1429 Croyser passed northwards on his mission.³ Cameron was at present engaged in diplomacy with the English, and could not be spared. James sent a bishop and an archdeacon to explain his grievances, to excuse his Chancellor's non-appearance, and to take all necessary steps in the interests of the realm.⁴ He intended to fight. His minister had been cited to Rome: he would retaliate by summoning the papal messenger before a national court for some specific infringement of the acts against 'barratry.' The envoys carried a formal citation which etiquette or nervousness prevented them from delivering in person. They handed it to a resident Scottish priest, who was told that it was the King's order and must be executed. The unfortunate man had to obey, was reported to the papal authorities, and found himself committed to prison. The royal envoys were requested to see that the citation

¹ C.P.R. vii. 18.

² *Ibid.* 464; *Reg. Glasg.* ii. 319.

³ *Rot. Scot.* June 20.

⁴ *Statuta*, i. 82-3.

was annulled, and were apparently informed that this must be a condition, if proceedings against Cameron were to be relinquished.¹ The Bishop of Glasgow, who promised to seek the abolition of the objectionable statutes, was pardoned on May 6, 1430.² By granting him a faculty to reserve fifty benefices of any patronage for collation to persons to be named by the King, Martin V. doubtless prided himself on having bought off the opposition without giving up the papal claim of right.³

With the accession of Eugenius IV. the quarrel was immediately renewed. The Archdeacon of Lothian died, and the Pope invited controversy by granting the benefice to Croyser.⁴ In May, 1431, that ecclesiastic was exempted from the jurisdiction of his ordinaries, received a mandate to exact his fruits, and was taken under the papal protection.⁵ This was a challenge to the King and the Bishop of Glasgow. Croyser was to enjoy the emoluments of two archdeaconries, not to speak of other benefices, and was to be retained at Rome in the Pope's service.

Eugenius began his career as Pope with the determination to dissolve the reforming Council of Basel: not until December, 1433, was the bull of dissolution revoked. In the circumstances it was natural that James should gravitate towards the side of the Council. He did not, however, take immediate action, hoping, it may be, for a diplomatic success. In 1432 Cameron obtained safe-conducts from England to proceed to Basel and, in the second instance, to Rome;⁶ but the journey does not seem to have been undertaken. In the following spring Croyser and Turnbull, the future Bishop of Glasgow, were sent as nuncios to Scotland.⁷ Turnbull, who appears to have been trusted by James,⁸ probably went in support of the unpopular archdeacon; but, as they carried a citation for the Chancellor, the visit served only to commend the cause of the Council. James wrote to Basel, promising to send representatives, and explaining that hitherto he had been prevented by difficulties.⁹ A summons was issued ordering Croyser to appear before Parliament on the charge of treason; and the fruits of his benefices were sequestered on his failure to comply.¹⁰ It may have been at this stage that Eugenius again sent Turnbull, who was the King's procurator at the Roman Court and is

¹ *C.P.R.* viii. 344.

² *Ibid.* vii. 18.

³ *Ibid.* viii. 203-4, 398.

⁴ *Ibid.* 422.

⁵ *Ibid.* 333-4.

⁶ *Rot. Scot.* June 6 and Nov. 30.

⁷ *C.P.R.* viii. 281; *Rot. Scot.* April 29.

⁸ *C.P.R.* viii. 510.

⁹ June 22, 1433; *Statuta*, ii. 248.

¹⁰ *Statuta*, i. 84.

described as having already undertaken arduous and expensive labours in negotiation, to attempt a settlement.¹ The effort did not succeed : Croyser was publicly condemned as a traitor, and his goods were declared escheat.²

The movements of Cameron, in the meantime, are obscure. He had a safe-conduct through England for a journey to Rome on October 13, 1433.³ It is stated that he appeared at the Council of Basel along with other Scottish representatives :⁴ it is certain that he reached the papal court. When next we catch sight of him there has been a most remarkable transformation. The Scottish Chancellor, so long in ill odour, had become a papal *referendarius*, whose duty it would be to report confidentially on the favours sought by petitioners. He was now regarded as suitably disposed for a return to Scotland. On May 15, 1435, he received a safe-conduct, possibly as the forerunner of Croyser, whose safe-conduct was issued a few days later.⁵ On June 12 Eugenius wrote to the Scottish Privy Seal, pointing out that Croyser had lost the archdeaconry of Teviotdale because he had defended ecclesiastical liberty and the rights of the Roman See, and hoping that the King would be persuaded to change his policy. Similar letters were directed to the papal collector in Scotland, to the three estates, and to the Cardinal of Santa Croce, who was acting as legate for the pacification of France.⁶

Cameron reached Bruges, where we find him in the company of the Abbot of Arbroath. Instructions had come from James to ask the Pope for a special legate to settle ecclesiastical affairs in Scotland, and the two prelates undertook to pay 1000 gold florins for expenses.⁷ The sequence of diplomatic events is not easy to detect.⁸ In the Council at Basel the extremists had gained the upper hand—in June, 1435, they carried the abolition of annates, thus declaring war on the Pope—and the King of Scots may have been inclined to an accommodation with Eugenius. Something, however, in Cameron's conduct had annoyed him : acceptance of office at the papal court, weakness in the affair of Croyser, or the large sum promised to finance the mission. The

¹ *C.P.R.* viii. 510.

² *Statuta*, i. 84.

³ *Rot. Scot.*

⁴ Robertson, *History of the Christian Church*, viii. 82 ; cf. *Statuta*, ii. 248.

⁵ *C.P.R.* viii. 282, 284.

⁶ *Ibid.* 234, 284.

⁷ *Statuta*, i. 86 ; *C.P.R.* viii. 289-90.

⁸ It is possible that Cameron delivered the request for a legate when he was at the papal court, before the middle of May ; but the promise of money for expenses was probably made on the return journey.

Cardinal of Santa Croce judged it advisable to send his secretary, Aeneas Sylvius, to Scotland. An object of his journey was, as he himself tells us, 'to restore a certain prelate to the King's favour.'¹ International politics further complicated the situation. There was a well-founded suspicion in England that more was on foot than the composing of a quarrel between James and the Pope. France was recovering herself: Philip of Burgundy was on the eve of the Treaty of Arras, by which he deserted the English and allied himself with the French: the King of Scots and his merchants were deeply interested in the Flanders trade, and could not be indifferent to the new situation: a Scottish princess, too, was about to marry the Dauphin. Aeneas was not suffered to pass, returned to Bruges, and found his way to the north direct from the Continent.²

He did not succeed, apparently, in removing the King's irritation with Cameron, or in persuading him to abandon his attitude to the Archdeacon of Teviotdale. On March 8, 1435-6,³ the Pope recounted the history of the case, insinuated that the blame really lay with the Bishop of Glasgow and his supporters, announced that the proceedings of the civil courts were annulled by Apostolic authority, and intimated the penalties of disobedience. Again, on April 2, Eugenius wrote, dwelling more emphatically on the sinister part played by Cameron, representing James as more sinned against than sinning, urging him to repeal the objectionable acts of Parliament and quash the sentences against Croyser.⁴ The two letters indicate that the Pope was trying to manipulate the situation so that the Bishop of Glasgow should be forced to separate himself from the King.

A month or two later Eugenius, writing from Bologna, where troubles in Rome had compelled him to establish his residence,

¹ *Statuta*, i. 91. Primrose, *Medieval Glasgow*, 68 f., regards Aeneas as an intercessor for Croyser. He was undoubtedly acting also on Cameron's behalf, as the sequence of events indicates. MacEwen (341) states that 'the relations of Aeneas to the papacy at that time make it impossible to believe that he was despatched by Eugenius on Cameron's business.' As a matter of fact, he was sent by his master, Santa Croce, probably from France; and the Cardinal was one of those charged by Eugenius to see that Croyser was reinstated (cf. *G.P.R.* viii. 234, 284). MacEwen also says 'it can scarcely be doubted' that Aeneas visited Scotland as agent of the antipapalists in the Council of Basel. The additional business was international and political.

² *Statuta*, i. 91.

³ *Ibid.* 84. This is the true date, not May, 1435; *G.P.R.* viii. 286.

⁴ *Statuta*, i. 85.

explained to James how he had been prevented by distractions from appointing a legate, and announced that he was sending the Bishop of Urbino as nuncio to reform ecclesiastical affairs in Scotland. The tone of the letter was significantly benevolent. James had acted like 'a good prince and a devout' in making his request.¹ On the same day, July 10, the Bishop of Glasgow and the Abbot of Arbroath were empowered to levy from the Scottish clergy the 1000 ducats which, under the Pope's order, they had already delivered to Urbino. Eugenius desired, he said, to provide for their indemnity, lest they should pay out of their own pockets for what was to be a blessing to the whole realm. This language reveals the situation. James had been forced to ask for papal intervention; but the Pope was in no great hurry to be gracious. He desired a tangible diplomatic return in the withdrawal of proceedings against Croyser: not 'distractions' but calculations of policy had been the cause of delay; and he sought to enlist the interest of Cameron and Panter by giving them a heavy stake in the success of the mission, for it was a condition that the mandate to recover the money should become operative only when the 'visitation and reformation' had been completed.² Cameron was in a most uncomfortable position; and it was probably with mixed feelings he learned that he was not to return to Scotland without permission from the Pope or Urbino.

We are not precisely informed as to what Urbino was to achieve. One writer speaks of 'restoring ecclesiastical discipline and composing other matters of the most extreme gravity.'³ James and his councillors were determined regarding the export of money. The last recorded parliamentary act of the reign, a few weeks before the nuncio arrived, absolutely prohibited the taking out of gold and silver, coined or uncoined. After the murder of the King, which prevented Urbino's formal reception, Eugenius wrote as if the objects of the mission might still be promoted.⁴ It seems to have been internal disorder which compelled James to seek the papal intervention; and the Pope used the opportunity to insist upon the withdrawal of sentences against Croyser. The quarrel of the protagonists must have stirred controversy among the clergy, and must have produced differences such as became marked later in the century, between the supporters of a national policy and those who preferred to acknowledge the

¹ *Statuta*, i. 86.

² *Ibid.* 87; *C.P.R.* viii. 289-90.

³ *Statuta*, i. 86.

⁴ *Ibid.* 87-8.

Roman claims. These differences were further complicated by the struggle of Pope and Council, destined to end in the setting up of the rival Felix V. In France the Crown and the prelates availed themselves of a train of events damaging to the prestige of the Papacy: the Pragmatic Sanction of Bourges, in 1438, was to be a decisive success for the Gallican Church. In Scotland, James and a number of his churchmen had been tending in the same direction. But there was less unanimity. The ignoring of papal mandates for collation, in which Cameron had been the leading offender, can only have added to the squabbling and confusion which the system of reservation had already caused. Export of money by 'barrators' was an impoverishment of the realm: the attractions of the Roman market were disastrous to the ecclesiastical efficiency which James really had at heart; but there must have been those who feared the domination of the Crown, and whose reverence for the Holy See prepared them to abide by the evils they knew. Moreover, the Council of Basel had not yet come to an open rupture with Eugenius; and there were many, as it afterwards appeared, who looked to the action of the Council to secure a papal reform and maintain the nationality of the Scottish Church under a catholic and constitutional authority.

The part which Cameron played is in some respects clear. He was an antipapalist; and while he was in Scotland he neither sought nor gained from the Pope the personal rewards which fell to the complaisant. As Chancellor he was the minister and adviser of the Crown: as Bishop of Glasgow he sought to vindicate what appeared to be the rightful liberties of the Church. That he was supporting James merely in order to defeat the exorbitant claims of the Pope would be an assumption unsupported by direct evidence; yet it is the conclusion suggested by the circumstances of the case. He probably looked to the Council of Basel in the expectation of reform, and was disappointed. His proceedings on the Continent, were they fully known, would reveal his character and explain his career.¹ Why did he accept office at the papal court and incur the resentment of his King? Was it from self-interest? Or was it on grounds of ecclesiastical policy? The former alternative is difficult to reconcile with the rest of his conduct; and we may prefer to suppose that he was acting, in an almost impossible situation, for what seemed the interest of the Scottish Church.

¹ We do not know, for instance, whether it was on his advice that James asked for a legate.

Cameron was not to return home without permission. It is unlikely that he spoke with James again. Even if proceedings against Croyser had not been abandoned as the condition of Urbino's visit, the death of the King inevitably decided this round in the struggle between the Crown and the Papacy. Yet Cameron did not immediately cease to be Chancellor. The Earl of Douglas, when he took up the government, retained the services of the man who in 1423 had been his secretary.¹ There is good reason to suppose that the bishop reverted to his old attitude of hostility to the papal claims. A nuncio passed into Scotland in 1438 on an errand which is not stated.² On May 3, 1439, if the record may be trusted, Cameron was acting as Chancellor at Stirling;³ next day, at Newark, Crichton was with the Earl as avowed holder of the office.⁴ The death of Douglas in June was soon followed by a visit from the familiar William Croyser. He was armed with a faculty to absolve the Bishop of Glasgow from excommunication, even for neglect of papal mandates, and from perjury incurred by breaking promises he had sworn to perform. Croyser was also to receive an oath of fealty to the Pope and the Roman Church.⁵

Thus ended Cameron's career, so far as this controversy was concerned. The next great churchman whose activities dominated Scottish ecclesiastical history, James Kennedy, was of a different way of thinking, and had matters of internal policy to absorb his energies. Eugenius, too, was indulgent, and ran no risk of arousing enmity.

As for Croyser, he cuts a somewhat poor figure. Adhering to the Council of Basel, he was rewarded with a French priory by Felix V.: lost Teviotdale: repented: was rehabilitated, probably by Kennedy; and lived to settle, in 1452, the relation of his jurisdiction to that of the Bishop of Glasgow, now William Turnbull, his old colleague and fellow-traveller.⁶

R. K. HANNAY.

¹ *Statuta*, i. 82.

² *Rot. Scot.* Nov. 19.

³ *R.M.S.*

⁴ *Douglas Book*, iii. 424.

⁵ *C.P.R.* viii. 294; *Rot. Scot.* Feb. 28, 1439-40.

⁶ *C.P.R.* ix. 174; x. 529; viii. 238; *Reg. Glasg.* ii. 394.

The Haunting of Blantyre Craig

‘UPON ane precipice close unto Clyde among pleasant woods just opposite to the Castle of Bothwell’ still stand fragments of the ancient Priory of Blantyre. Founded in the thirteenth century as a house of the Canons Regular of St. Augustine the Priory and its possessions fell, at the Reformation, into the hands of Walter Stewart, son of Sir John Stewart of Minto, and, through his mother, nearly related to the recalcitrant Commendator of Crossraguel whom the Kennedys roasted in the Black Vault of Dunure.

This Walter Stewart, who was a man of much importance in his time, also acquired from the Dunbars of Enterkin, the temporal barony of Blantyre, and was in 1606 created Lord Blantyre.

He died in 1617, and in 1641 his representative was his grandson, Alexander 4th Lord Blantyre.

The ordinary peerage writers tell but little of this Alexander. He married, while still under age, Margaret Shaw, daughter of the Laird of Greenock. He took part in the engagement, that attempt to save King Charles which so greatly incensed the extreme party among the Presbyterians, and only escaped serious consequences by pleading his youth and giving satisfaction to the General Assembly.

There is, however, ground for believing that Alexander 4th Lord Blantyre was a more interesting person than may be gathered from this discreet summary of his career, even though he can hardly be regarded as worthily representing his highly respectable grandfather.

In his ‘Supplication to the Estates of Scotland anent the engagement,’ he pleaded that he had been drawn into evil courses by ‘perswasione of perverse counsale and out of ane vane and chyldisch desyr to see the ordour and fashione of armes,’ and in spite of passing years and of many warnings this ‘vane and chyldisch desyr’ continued to trouble him. In short, he seems to have been and to have remained a rolling stone.

Sometime about 1649 his marriage with Margaret Shaw took place, and for a while they seem to have lived happily together, though his means were so straitened that in 1650 he succeeded in securing exemption from 'lending of any soumes of money to the publick'—an indication that taxation by way of benevolences or forced loans was not confined to King Charles and the malignants. His restless spirit, however, led him to join the forces of Huntly, in whose capitulation to General Overton at Aberdeen in November 1651 he was included. And a couple of years later he and other west country gentlemen were about to join Glencairn when Lilburne swooped down and apprehended them. Thereafter, when the strong hand of Cromwell had made fighting impossible, Lord Blantyre took up sheep farming in the south country, where he suffered much molestation from moss troopers and got into further financial difficulties, with the result that the good old remedy of interdiction was put in force to prevent the ruin of the family. In 1659 he had a troop of horse under Monk, whom he accompanied into England, and after the Restoration he tried without success to obtain some post about the Court. In 1662 a new idea struck him, and along with a certain Sandy Hall he went to England as a horse couper—Sandy being put forward as the couper, while his Lordship posed as the couper's man! As usual the adventure was a financial failure.

For some time Lord Blantyre seems to have practically deserted his wife and four children, who lived at the Craig of Blantyre, as the old Priory had come to be called, under certain articles of agreement, while he lived at his other house at Cardonald. Such was the state of things in the summer of 1663.

The Craig of Blantyre was not a particularly attractive residence, for, as my lady complained 'besides the solitariness of it the most part of the rooms being underground makes the air of it exceedingly noxious,' and one of the children had died. But apparently Lady Blantyre had no other place to go to, while her husband spent his time partly at Cardonald and partly in the congenial society of the 'sojers' at Dumbarton. Then dreadful things happened.

On 14th July strange sounds began to be heard in the old Priory, and these were followed by 'the casting of stones, great and small, peats and coals (the doors and windows being all close), whereby the servants of the family and others that came in the night time and some that came in the day to bear them company, have gotten stroakes.' The confusion was further increased by 'apples and peers fleeing up and downe the house in daylight.'

And worst of all, one bright moonlight night, when the servants were sitting round a fire 'there came downe watter from a chimneyheid and almost slockened on the fire to the which chimneyheid none could hav gone without a long ladder and no ladder was neer it.' Little wonder that my lady packed up and fled the house with her children, and that the story went abroad that there was 'ane evil spirit or something of that kind' (note the Scots caution) 'turbulent in the Craig of Blantyre.'

When this startling intelligence reached Greenock, the Laird happened to be away in Edinburgh, so his doer, Mr. Christopher Morrison, was at once despatched to ascertain the truth for the information of my lady's friends. On his arrival, Mr. Christopher found things even worse than he had expected. The servants were all preparing to fly from the house. Not merely were they scared out of their wits by the apples and peers and other phenomena, but 'one of the women by one stroake on the heid by a great stone was strucken dead for a long time on Saturday last in the afternoon.' To reassure them, if possible, Mr. Christopher himself stayed in the house for a couple of days, but he had to admit that their terror was only too well founded.

All he could do was to persuade them to stay in the place during the day and at night take refuge in the neighbouring farm house of Mr. John Cruiks. He had as little doubt, moreover, of the cause as he had of the existence of the disturbances.

The idea of practical joking on the part of any living person is not suggested by Mr. Christopher, nor did his thoughts ever turn to the possible walking of some unquiet monk, annoyed by the profanation of his beloved priory. In their nature and origin he was clear that the disturbances were diabolical, and the only question was as to who could have been in negotiation with the enemy of mankind. With little hesitation Mr. Christopher points to a certain John Mathie as the villain of the piece. This John Mathie was the cook at Blantyre Craig, and had been so for some time. In discussing with the other servants the relations between my lord and my lady, he had expressed himself most disdainfully with regard to the latter—even calling her 'a waister.' He had also ventured to treat my lady with personal discourtesy, quite unbecoming his position as cook. He had, moreover, a certain dangerous flippancy of tongue, for when John Keiper, who had suffered badly from a 'stroake' enquired 'what garrt you gar your gaist hurt me with a stane?' he retorted 'that he had little to do where he was.' This was of course an open

and shameless avowal of guilt, and it was confirmed by the fact that when Lord Blantyre arrived at the Craig after his wife's departure there was no more casting of stones, the apples and peers ceased 'fleeing up and downe,' and things generally returned to their old tranquillity. John Mathie was furthermore a man with a past—'a most prophane godless rude and drunkensome fellow.' He professed skill in diseases, and once when a woman in Glasgow was only complaining of 'the each,' he gave her a belt to wear about the body, 'after the using whereof she died within a short time and very suddenly.' He was thus obviously a warlock, and a malevolent one forbye, at least so far as my lady was concerned.

After these distressing experiences Lady Blantyre raised an action for aliment against her husband, alleging many things against him, and in particular, that the house he had given her to live in 'is troubled with ane evill spirit or somewhat of the kynd so that the same is no ways habitable.' In the long run she got Cardonald as a residence and the Craig of Blantyre was left in peace.

What became of John Mathie does not appear. Probably he remained on at the Craig and cooked for my lord. But the view is strenuously urged that a man thus plainly having 'interassurance and conversation with familiar spirits and devills' ought not to be suffered 'to live amongst Christians, but should have his last tryall.'

J. R. N. MACPHAIL.

The Appellate Jurisdiction of the Scottish Parliament

ANY inquiry regarding the history of the Scottish parliament is attended with many and great difficulties: and it seems to us that the method of attacking these difficulties which is most likely to succeed is to examine the functions exercised by parliament one by one, in the hope that such an examination will assist to a better understanding of the institution as a whole. In pursuance of this method we shall attempt in the following pages to trace the history of the appellate jurisdiction of parliament in civil causes. We shall seek for the origins of this jurisdiction in the twilight of a period when parliament as a representative assembly did not exist; and we shall have something to say in regard to the early procedure in appeal cases, as its forms seem to throw some light upon the main question.

I.

During the reigns of David I., Malcolm IV., and William the Lion the royal court of justice presented two outstanding features. Of these the first was that it was a migratory court. The king's frequent changes of residence appear to have been due mainly to two causes,—the calls of public business, of which the administration of justice was one and perhaps the most important, and the need of providing for the support of the royal retinue, composed of some, at all events, of the great officers of state, and of a numerous band of churchmen, nobles and courtiers, with their followers.¹ The charters of King David show how frequent these changes were; ²—they were still more frequent in King William's reign; ³—and the designations of the witnesses indicate that the

¹ C. Innes, *Scotland in the Middle Ages*, Edinburgh, 1860, p. 121. Of course, it is not suggested that the court ceased to be migratory until long after William's reign.

² A. C. Lawrie, *Early Scottish Charters prior to A.D. 1153*, Glasgow, 1905, *passim*.

³ E. W. Robertson, *Scotland under her Early Kings*, Edinburgh, 1862, ii. 130; Innes, p. 120.

chancellor, constable and chamberlain were in constant attendance upon the royal person ;¹ while in King William's reign the local judges attended the king during his stay in their districts.²

The second characteristic of the court was that it served at once as a court of appeal and a court of first instance. In David's reign, the chancellor, justiciar, constable and chamberlain, the sheriffs, where sheriffs had been appointed,³ and other royal judges,—such as 'Constantinus, Earl of Fife, a great judge in Scotland, and Meldoinneth son of Machedath, a judge worthy and discrete,'⁴—exercised jurisdictions as the king's representatives ; and churchmen, nobles, barons and other freeholders held their own courts. In addition, the king himself took a prominent part in the judicial work of the kingdom. We are told that he sat at his palace gate to hear the complaints of the poor and unprotected ;⁵ while, in some of his grants to religious houses, he reserved to himself the 'royal justice,'⁶ or provided that his judge should be present in the churchman's court to see that justice was done.⁷ He conducted perambulations in person,⁸ and is said to have made regulations for the conduct of such proceedings ;⁹ and he prohibited the lieges from demanding anything of him or making any complaint to him, until they had made the demand of their lord, or unless the lord or his sheriff had failed in doing justice.¹⁰ It is to be observed that it is of the king as judge that we hear rather than of a 'curia regis,' although the latter is mentioned in the 'assise' attributed to King David.¹¹

¹ Lawrie, *ut sup. cit.*

² *Assise Reg. Will.* c. 26.

³ C. Innes, *Lectures on Scotch Legal Antiquities*, Edinburgh, 1872, p. 222.

⁴ *Registrum Cartarum Prioratus S. Andree* (Bannatyne Club), Edinburgh, p. 117 ; Lawrie, pp. 66, 330.

⁵ Fordun, v. 49.

⁶ 'si abbas in curia sua aliqua negligentia de justicia deciderit' (*Registrum de Dunfermlyn* (Bannatyne Club), Edinburgh, 1842, No. 1).

⁷ 'quod iudex meus illius provincie cum hominibus qui illuc placitare venerint intersit ut placita et justicie juste tractentur' (*Registrum de Dunfermlyn*, No. 15). 'Iudex meus' was probably the Earl of Fife (Lawrie, p. 346).

⁸ *Registrum S. Marie de Neubottle* (Bannatyne Club), Edinburgh, No. 18. See *Liber S. Marie de Melros* (Bannatyne Club), i. 136, and Lawrie, p. 73.

⁹ See *Liber de Aberbrothoc* (Bannatyne Club), pt. i. p. 229.

¹⁰ or unless the matter in issue was one of the pleas of the crown ; *Ass. Reg. David*, c. 24.

¹¹ *Ass. Reg. David*, cc. 2, 15. 'Any court held in the king's name by any of the king's delegates is 'curia regis'' (F. Pollock and F. W. Maitland, *The History of English Law before the Time of Edward I.* 2nd ed. Cambridge, 1898, i. 153).

It is otherwise in William's reign. In the record of his 'curia' we find entries relating to cases decided in the presence of the king, the bishops and the king's 'probi homines,'¹ and to inquests conducted by the king, certain bishops and the king's good men;² and numerous notices of quitclaims, concords and settlements 'in presentia regis et curia,' or 'in plena curia,' or 'in presentia regis et optimatum suorum in plenaria curia sua.'³

Innes observes that 'the attendance, *in fact*, in the king's court seems to have consisted chiefly of a few churchmen, the great officers of state and a portion of the nobility and great barons'; and his observation is borne out by the lists of witnesses to some of the transactions in court.⁴ It is true that all the king's tenants-in-chief, some of whom bore special titles, such as earl, bishop or abbot, under which they are generally referred to, were bound to give suit and presence in the royal court;⁵ but in many cases they were freed from the obligation by the terms of their infeftments. The freeholder's infeftment often provided for attendance at the nearest local court in satisfaction of the burden incident to his tenure,⁶ as, for example, in a grant by Robert I., where the burden was limited to the giving of one suit only in the court of the sheriffdom of Berwick at the head court held annually after Easter.⁷ The giving of suit and service was regarded not as a privilege but as a burden, and exemption from it was always looked upon as a benefit and was sometimes granted as a reward.⁸ And when we consider the difficulties and

¹ *Fol. Acts*, i. 386.

² *Fol. Acts*, i. 386-87.

³ *Fol. Acts*, i. 386-90.

⁴ *The Middle Ages in Scotland*, pp. 208 ff.

⁵ J. H. Round, 'The House of Lords,' *The Antiquary*, x. 240. According to Pollock and Maitland (i. 233 note³, see p. 258), in the thirteenth century, the term 'in capite' is merely equivalent to 'immediately,' 'sine medio.' In later days the term 'tenure in capite' was sometimes used as though it were equivalent to 'tenure in capite of the crown,' and even to 'tenure in capite of the crown by knight service' (see Round, *loc. cit.*). The use first mentioned and the former of the two uses last mentioned would include, apparently, the royal Burgess or the holder by 'Scottish service' (see Robertson, ii. 445). As to 'Scottish service,' see *Highland Papers*, ed. J. R. N. Macphail (Scott. Hist. Society), Edinburgh, 1916, ii. 227 ff. As to the assimilation of such tenures to feudal forms, see W. F. Skene, *Celtic Scotland*, Edinburgh, 1876-80, iii. 236. Great tenants-in-chief sometimes used the term 'barones' for their under tenants (Round, x. 239; *Highland Papers*, ii. 241; Stubbs, i. 365 f.).

⁶ *Ibidem*.

⁷ *R.M.S.* i. No. 7.

⁸ W. Stubbs, *The Constitutional History of England*, Oxford, 1875, i. 377 note; see p. 12 of the writer's article, 'The Suitors of the Sheriff Court,' *The Scottish Historical Review*, xiv.

dangers of travel in the Scotland of this period, and the length of time which a journey occupied, we shall not be surprised at the reluctance of the smaller freeholders to attend, except when their attendance was necessitated by their own interest.¹ Besides, even if they had attended, they would have had little influence in an assembly of magnates.² Insistence on the performance of the obligation was not as essential in the royal as in the inferior court. In the case of the former, 'debilitate' of court, arising from an insufficiency of suitors, was hardly a pressing danger; and it seems not improbable that at many sittings of the royal court only those freeholders attended who were specially summoned, and only those were specially summoned whose presence was thought to be necessary or desirable.³

The record of the 'curia' of Alexander II. shows transactions of much the same character as in that of David. In the 'acta' of Alexander III., however, a change is observable. The expression 'curia regis' is replaced by that of 'consilium' or 'concilium' or 'colloquium';⁴ and the nature of the business done suggests a council rather than a law-court. It is true that in the earlier reigns the 'curia' was something more than a court of justice, for its sittings were utilised for the transaction of business other than that of deciding cases. Thus in William's reign we find that the grant of the church of Molyn by the Earl of Atholl was made 'ipso rege presente, episcopis, abbatibus, comitibus et probis hominibus regni astantibus';⁵ and Uchtred de Bingouere declared Malcolm, Earl of Fife, to be his heir in the king's presence and in his full court.⁶ In short, the 'curia' served not only as a law-court but as a public register. But it was something more than these. It was, when business required, the seat of a council or parliament. 'Parliament,' according to its original meaning, was simply a consultation; 'and, when there was anything of sufficient impor-

¹ Cp. Pollock and Maitland, i. 537f., 543, 547.

² Cp. J. H. Round, 'The House of Lords,' *The Antiquary*, xi. 162.

³ See c. 19 of the 'Quoniam Attachamenta' (*Fol. Acts*, i. 651), which deals with the attendance of vassals at the courts of their lords. Where the diets at which attendance was required were specified in the vassal's charter, a summons to attend was, of course, unnecessary. A form of summons 'ad colloquium nostrum' (see next note), attributed to the reign of Robert I., is given in the *Folio Acts*, i. 102, see p. 54. See also Stubbs, i. 370.

⁴ A 'colloquium' was held in the preceding reign (*Fol. Acts*, i. 408). In England, the term was frequently used of sessions of the national council (Stubbs, i. 570).

⁵ *Fol. Acts*, i. 387.

⁶ *Fol. Acts*, i. 390.

tance to enact or consult about . . . a parliament or consultation was held,—sometimes, as in the reign of Alexander II., after the coronation ; occasionally in an assembly of both estates expressly convened ; but most frequently at the assizes, when the royal court was present at ‘the county town’ or capital of the sheriffdom.’¹

The history of the national councils presents great difficulties. Such councils are said to have been held in the reigns of David, Malcolm and William ; but it is more than doubtful whether such a designation is really applicable to many of the assemblies to which it has been applied. In David’s reign grants were made and concords were concluded in the presence of or with the affirmation of bishops, earls and barons ;² but neither the nature of the business done nor the position of the persons present suggests the meeting of a national conference. What they do suggest is a conclave of king and courtiers rather than a general council. Again, much importance has been attached to the use of certain words of style in some of the charters of King David and the four kings who followed him.³ In them the king is said to make the grant ‘auctoritate regia et potestate . . . episcoporum, comitum, baronumque regni mei confirmatione et testimonio, clero etiam adquiescente et populo,’ and it has been argued that these words indicate the assent of a national council if not of a parliament. The words are those of a monkish scribe, using apparently a common form ; and it seems to us to be out of the question to accept them as conclusive evidence of a state of facts, unless they are corroborated by independent confirmatory evidence.⁴

King William’s ‘assise’ bear to be made sometimes by earls, barons and judges of Scotland,⁵ sometimes by the counsel of his great men,⁶ and sometimes with the counsel of his kingdom.⁷ On other occasions the legislators are said to be the prelates, earls, barons and freeholders,⁸ or the bishops, abbots, earls, barons and all other ‘gudemen’ of the kingdom,⁹ or the bishops, abbots, earls, barons, thanes and all the community of the kingdom.¹⁰ Sometimes only the ‘consilium communitatis’¹¹ is

¹ Robertson, ii. 148. ² *Fol. Acts*, i. 359 ; Lawrie, pp. 140, 146, 400, 403.

³ *Fol. Acts*, i. 357, 359, 363, 385, 406, 427.

⁴ See Lawrie, pp. 323, 384.

⁵ *Ass. Reg. Will.* c. 10, cp. c. 21.

⁶ *Ib.* c. 27.

⁷ *Ib.* cc. 25, 35.

⁸ *Ib.* c. 12, cp. cc. 36, 37.

⁹ *Ib.* c. 16. ‘Gude men,’ ‘probi homines,’ mean either vassals or subjects (Innes, *Lectures on Scotch Legal Antiquities*, p. 36).

¹⁰ *Ass. Reg. Will.* c. 20.

¹¹ *Ib.* cc. 24, 29.

named. The last-mentioned form of expression is found in two 'assise,' of which one is entitled 'de terra data per dominum regem de dominico suo,'¹ and the other 'de seditione regis vel regni,'² and it would be remarkable indeed if ordinances relating to matters of this nature were made by the king and commons alone. It has been suggested that some light is thrown on the meaning of the term 'communitas' by the 'assisa de magnatibus jus facientibus de malefactoribus,'³ which bishops, earls, thanes 'et tota communitas' swore firmly to maintain under a penalty which is thus expressed: 'et dominus rex curias suas in vadio posuit ut qui convictus fuerit et assisam hanc infregerit perpetuo curiam suam amittet'; and it has been inferred from the terms of this penal clause that by 'communitas' the body of the freeholders is indicated. The validity of the inference may be doubted, for the words may mean no more than that those who had courts and broke the assize should lose them. However this may be, the fact is worth noting that, except in one instance of later date,⁴ there is, so far as we are aware, not a single case in which an enumeration which closes with the word 'communitas' mentions freeholders. In the exceptional case just referred to the words are 'comites, barones et libere tenentes ac tota communitas regni Scocie.' 'Communitas' is a 'large vague word,'⁵ and is always to be construed according to the context in which it occurs. Sometimes it is used of freeholders, sometimes of burghs, sometimes of estates, and in many of the letters written by the guardians of the realm to the kings of France and England it means the whole Scottish people.⁶

When we turn to the 'statuta' of Alexander II. we find a similar diversity of expression. The councils of William and Alexander III. are not infrequently described as 'concilia magnatum,'⁷ and Fordun refers to the three estates and to parliament,⁸ and to the 'magnum concilium' of 1211,⁹ in which, according to Lord

¹ *Ass. Reg. Will.* c. 24.

² *Ib.* c. 29.

³ *Ib.* c. 20. This point has been taken by Professor Rait, *The Scottish Parliament before the Union of the Crowns*, London, 1901, p. 16.

⁴ See a letter to Pope John, dated 6th April, 1320 (*Fol. Acts*, i. 474).

⁵ Pollock and Maitland, i. 494. See Stubbs, ii. 166 f.; Robertson, ii. 137; Innes, *Scotland in the Middle Ages*, p. 208, 211.

⁶ *Fol. Acts*, i. 442, 454, cp. 459.

⁷ See *Fol. Acts*, i. 64-9, where the references are given.

⁸ ix. 1, 27.

⁹ viii. 73.

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Hailes,¹ the 'burgenses' gave suit and presence; while, Wynton applies the term parliament, for the first time in his chronicle, to an assembly held at Scone in 1285, at which the 'statis off Scotland gadryd wase.'²

In 1289 the word parliament is used of the English parliament.³ The record relating to the year 1293 refers to 'placita apud Scone . . . coram ipso rege et ejus consilio in parlamento';⁴ and in 1295 King John appointed procurators, in reference to the marriage of his son, with the approval of bishops and nobles, the seals 'communitatum villarum de Aberdene, Perth, Strivelin, Edinburgensis, Rokysburgi et Berewici,' being appended to the document.⁵ In the record of the parliaments of 1314, 1315, and 1318,⁶ the 'tota communitas regni' or 'ceteri de communitate' are mentioned along with prelates, nobles and barons; and at Cambuskenneth on 15th July, 1326, 'cum comitibus, baronibus, burgensibus et ceteris omnibus liberetenentibus,' the burgesses, according to the view generally accepted on grounds which in our opinion have not been sufficiently examined, took their place in parliament for the first time and joined with the other estates in granting to the king the tenth penny on all rents, according to the old extent.⁷

In the parliamentary record of the reign of David II., we find notices of decrees in appeal cases decided by the parliament,⁸ and entries giving the details of cases heard by the parliament as an appellate tribunal.⁹ In the parliament held at Perth on 6th March, 1368-69,¹⁰ committees were appointed, of which one was concerned solely with the consideration of appeals known as 'judicia contradicta';¹¹ and, in the following year, this committee's jurisdiction was extended to include 'questiones et querelas alias que per parlamentum debeant terminari.'¹² The 'questiones et querele' included not only complaints regarding irregularities of procedure, negligence and denial of justice in the inferior courts, but cases brought before the committee as a court of first instance; and a similar jurisdiction, except as regards 'falsing dooms,' was exercised by the king's council. In some of the later parliaments

¹ *Annals of Scotland*, Edinburgh, 1799, i. 154 note.

² Wynton, ed. D. Laing, Edinburgh, 1878, viii, 1 (Macpherson's note).

³ *Fol. Acts*, i. 442.

⁴ *Fol. Acts*, i. 445.

⁵ *Fol. Acts*, i. 451-53.

⁶ *Fol. Acts*, i. 464-65.

⁷ *Fol. Acts*, i. 475.

⁸ *Fol. Acts*, i. 521. See *R.M.S.* i. 557-58 and p. xi.

⁹ *Fol. Acts*, i. 504 ff.

¹⁰ *Fol. Acts*, i. 506.

¹¹ *Ibidem*.

¹² *Fol. Acts*, i. 507.

there were two committees, of which the one dealt with the 'judicia contradicta,' and the other with the 'questiones et querele.' Thus, in the record of parliament for 1542-43, 1543 and 1544,¹ we find entered a committee for the discussion of dooms, and a committee entitled 'auditores ad causas,' 'domini electi ad causas' or 'for the discussion of causes.' Of these the latter was, in the years mentioned, composed of the 'domini sessionis et collegii Justicie.' Although these committees were generally invested with the full power of parliament,² yet there are instances in which parliament reduced their decrees,³ and in which cases of difficulty were referred by them to parliament.⁴ After 1544 they disappear from the record.

It is difficult from the consideration of the evidence relating to assemblies so variously constituted to form any distinct notion of their specific characteristics, differences and limitations. We seem, however, to find, as early as the reign of David I., traces of the existence of three institutions: the king's personal council, the 'curia regis,' and the general council. Of these the first appears to have been composed of churchmen, the great officers of state, and selected members of the band of courtiers who were in constant attendance upon the king. It resembled a court rather than a council, and appears to have been the precursor of the secret or privy council.⁵ In the 'curia regis' the king's tenants-in-chief were bound to give suit and presence, and it was to all appearance this body which formed the personnel of general councils, called into being by the exigencies of the moment and passing out of existence as soon as their work was completed.⁶ In the reigns of William and Alexander II. the 'curia' was at once council and court of justice, while, in the following reign, this double function was exercised by 'colloquia' and 'concilia,' and the business done was, so far as recorded, appropriate to a council rather than to a court. Still, the court was the nucleus of the council, and gave to the composite body, of which each was an element, the distinctive character of a judicial institution. That such was its character

¹ *Fol. Acts*, ii. 411, 428, 446.

² *Fol. Acts*, ii. 114, 117, 122, 211; *Act. Dom. Aud.* 137, 141, 142, 144.

³ *Fol. Acts*, ii. 132.

⁴ *Ibidem*. The parliament's decision is given at p. 141. See the case of Kennedy of Blarquhen (*Act. Dom. Cons. et Sess.* vi. fol. 68; *Fol. Acts*, ii. 349).

⁵ See *Fol. Acts*, i. 546-47; ii. 219; iv. 440.

⁶ See J. H. Round, 'The House of Lords,' *The Antiquary*, x. 242.

is made very apparent by the record of parliament from the reign of James I. of Scotland to that of Charles I. It opens, in very many instances, with words appropriate to the sitting of a feudal court, of which the following may be taken as a sample: 'Quo die, vocatis omnibus et singulis dominis regni prelati, episcopis, abbatibus, prioribus, et magnificis regni comitibus, baronibus, libere tenentibus et burgorum commissariis, absentes in rotulis sectarum designantur et in amerciamentis debitis judicantur.'¹ In the parliament held on 15th July, 1641, the entry runs: 'sectis vocatis et curia legitime affirmata';² and on and after 20th July of that year the style reads: 'the rolles called and prayeres said.'³ Further, the judgment of parliament on the cases submitted to it was pronounced by its deemster;⁴ and in a case decided in 1478 the deemster's doom is followed by these words: 'quod quidem iudicium dominus noster rex superscriptus in statu regali et loco tribunali sedens vive vocis oraculo affirmavit.'⁵

'The parliament of old,' writes Sir George Mackenzie,⁶ 'was only the king's baron court, in which all freeholders were obliged to give suit and presence in the same manner that men appear yet at other head courts.' It was, Hume⁷ observes, 'the paramount feudal court of the king and his freeholders.'

II.

When we examine what appear to be the earliest sources of the history of appeals we are confronted with an initial difficulty. We find an 'assisa' attributed to David I., of which the terms suggest that the king re-heard cases where the baron or sheriff had failed to do justice,⁸ but we are in doubt whether it belongs to his reign. We know that in certain grants to churchmen he reserved to himself the royal justice,⁹ but we do not know what procedure he followed. Skene ascribes to William the Lion an ordinance relating to 'judicia contradicta,' but the ascription is

¹ *Fol. Acts*, ii. 87. Similar words are used in the record of a general council held at Perth on 1st March 1427-28 (*Fol. Acts*, ii. 15).

² *Fol. Acts*, v. 308.

³ *Fol. Acts*, v. 314.

⁴ See *Fol. Acts*, Index, s.v. 'Dempster of Parliament.' ⁵ *Fol. Acts*, ii. 117.

⁶ *Works*, Edinburgh, 1722, ii. 281.

⁷ *Commentaries on the Law of Scotland respecting Crimes*, Edinburgh, 1844, ii. 5, 9 note ¹.

⁸ See note 10, p. 206, and relative text.

⁹ See note 6, p. 206, and relative text.

made on the authority of a single manuscript and conflicts with other and better authority.¹ Certain legal fragments provide for the punishment of the judge who maliciously delays justice or who has been convicted of giving false judgment, but they do not indicate the period to which they belong.² And when we come to the 'Regiam Majestatem' we find that its date is matter of controversy and uncertainty.³ Upon the difficulty last mentioned some little light is thrown by the evidence which we are about to consider. The passage in the 'Regiam Majestatem' which refers to 'judicia contradicta' introduces trial by battle as part of the procedure. Trial by battle forms no part of the procedure as presented to us either by statutes, cases or treatises of the fourteenth and fifteenth centuries. And, accordingly, the inference is plain that the law relating to the falsing of dooms contained in the 'Regiam Majestatem,' if not the 'Regiam Majestatem' itself, belongs to an earlier period.

An examination of the evidence shows us that at least three forms of procedure were recognised in Scottish practice, all of which bore some resemblance to procedure by way of appeal. Recourse was had to the first where the judgment of an inferior court had been 'falsit' or 'againsaid' (contradicted); to the second when an inferior court had failed to do justice; and to the third when the assizers on an inquest had acted ignorantly or with 'partial malice.' The first form is spoken of by the Scottish writers who deal with it as an appeal; but it differed, as we shall see, in many respects from what is understood by that term in modern practice.

According to Germanic law, both on the continent and in England, a party who thought himself aggrieved by a judgment might impugn it.⁴ In Anglo-Saxon law he was said 'dom forsacan';⁵ while, on the continent, one of the most common expressions applied to his act was 'contradicere,' or its old French or low German equivalent. The constitution of the court seems

¹ 'Fragmenta Collecta,' cc. 4, 6, 10 (*Fol. Acts*, i. 260, 742).

² 'Fragmenta Collecta,' cc. 14, 15 (*Fol. Acts*, i. 743), 34 (*Ib.* i. 754).

³ See G. Neilson, *Trial by Combat*, 1890, p. 104. Dr. Neilson adopts the 'working theory' that the 'Regiam Majestatem' or the law which it contains is to be assigned to the opening years of the thirteenth century.

⁴ This subject receives full treatment from H. Brunner, *Deutsche Rechtsgeschichte*, Leipzig, 1887-92, ii. 355 ff.

⁵ *Ancient Laws and Institutions of England* (Record edition), 1840; 'Laws of Edgar,' i. 3; 'Laws of Cnut,' ii. 15.

to have been very similar to that of the early Scottish sheriff court. The sheriff and suitors had each their counterpart. There was the presiding officer ('der Richter') and there were those who made the judgment ('die Urteilverfänder').¹ It was the duty of the latter to declare the law applicable to the cases conducted before them on the demand of the parties; and the contradiction of the judgment pronounced by them imported the charge that they had refused to comply with this demand and had refused of set purpose. The gravamen of the charge was not an assertion that they were ignorant of the law, but the assertion that they would not declare it,—that, in short, they refused to do justice. Frequently it was made matter of regulation that the contradiction must be made at once,—on the spot 'stante pede' or 'standes fusses e er hinder sich trede,'—or at any rate before the contradictor had retired from the judge's presence.² It was not sufficient for him to contradict the judgment; he was bound to propose a counter-judgment; and the contradiction resolved itself into a legal contest between the contradictor and the judges as to which was the better judgment. The party in whose favour the judgment was took no part in the proceedings; and generally the contest was decided by battle. The assizes of Jerusalem present an extreme case. According to their provisions, whoever falsified the judgment of the court was bound to do battle with all its members. If he vanquished them all in a single day, they were hanged; and he was hanged if he failed so to do.³

This mode of procedure is the subject of a passage of the 'Regiam Majestatem,'⁴ reproduced from the work of Glanvill.⁵ A court, it is said, is not bound to defend its record by battle, but it is bound to defend its judgment. If, therefore, a court is charged with making false judgment, and if he who delivered the judgment is ready to deny the charge, and if he who made the charge is ready to prove it, the matter is one which may very properly be decided by battle. The proper person to defend the judgment was, according to the same authorities, he who pronounced it; but Pollock and Maitland⁶ favour the view that a champion was

¹ See article cited in note 8, p. 207.

² J. Grimm, *Deutsche Rechtsgeschichte*, 3rd Aufl. Göttingen, 1881, p. 866.

³ *Les Assises de Jerusalem*, ed. M. le Comte de Beugnot, Paris, 1841, 'Assises de la Haute Cour,' c. 110.

⁴ iii. 21; *Fol. Acts*, i. 628.

⁵ viii. 9.

⁶ ii. 667. Champions are mentioned in *Reg. Maj.* iii. 20; *Fragm. Coll.* cc. 28, 29 (*Fol. Acts*, i. 746); *St. Alex. II.* c. 8 (*Fol. Acts*, i. 400).

kept in the pay of the court to defend its judgments. Nothing is said in the 'Regiam Majestatem' as to the time when the contradiction was to be made; but we find in the ordinance, attributed by Skene on the authority of a single manuscript to King William, which deals with 'judicia contradicta,' a reproduction of the old German regulation: the contradiction must be made before the contradictor 'turnis the tais of his fet quhar the helis stud';¹ and a somewhat similar provision found its way into a statute of 1429.²

In the acts of the reigns of Robert I. and David II. we find reports of cases of 'falsing dooms,' which throw some light upon the form of the proceedings. Thus, in 1321, judgment was given by the serjeant of Colybaynestoun in the justice court at Lanark in a process on a brieve of mortancestry. It was contradicted, and the contradictors found pledges before the king at Forfar 'ad falsandum judicium.' The justices were ordained to attach the serjeant by pledges to appear before the king and council to defend his judgment, to warn the contradictors of the time and place of the diet, and to attend themselves with the process and summonses. Further, they were directed to reseise the contradictors in their lands, seeing that they had found pledges.³ Three cases were decided in 1368, of which that of John de Lyndesay shows that something more was required of the contradictor than a simple negation or denial. He was required to state the reasons upon which his contradiction was based.⁴ From the case of William of Borthwic it appears that the parties or their prolocutors appeared in parliament, discussed their own and their opponents' pleas and submitted arguments;⁵ and in one of the appeals heard in 1370 the parliament gave judgment in the absence of the parties, and fined them for non-appearance.⁶

In the parliament held at Perth on 6th March, 1368-69, regulations were made regarding the procedure in these appeals. They provided that the judicial parliamentary committee, to which we have referred above, should consider, in presence of the king and the parties, the latter's averments and arguments and should report their judgment to parliament in presence of the king on a day fixed for that purpose at its close.⁷

¹ See note 1, p. 214, and relative text.

² See note 2, p. 217, and relative text.

³ *Fol. Acts*, i. 479.

⁴ *Fol. Acts*, i. 505.

⁵ *Ibidem*.

⁶ *Fol. Acts*, i. 536.

⁷ *Fol. Acts*, i. 507. A similiar provision was enacted in the following year (*Ib.* i. 508).

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In a case decided in 1383 the form of contradiction used stated that the judgment contradicted 'nullum est, si iudicium dici debeat, in se putridum est et corruptum';¹ while, by an act of 1429, the contradictor was bound to affirm and give pledge that the judgment was 'falss stinkand and rottyn in the self,' and to make his contradiction before he removed out of the place where he stood when the judgment was pronounced. 'That salbe within the tyme that a man may gang esily xl payss, and that to be comptit eftir the consideracione of the Juge ande the courte.'² By the statute 1503, c. 46, the form was changed to 'I am grettumly hurt and injurit be the sade dume, therefore I appele,' etc.³

From the terms of a statute of 1471 we learn that this form of procedure applied not only to final but to interlocutory judgments. Accordingly, where a defender at the outset of the proceedings in the inferior court stated several dilatory or peremptory pleas or exceptions, the judgment upon each of these could be appealed from court to court.⁴

Several cases came before parliament in 1469, 1476 and 1478.⁵ In one of these, where the appeal from a justice ayre had been sustained, it is stated that 'ilk soytour of the said dome and thar lordis ilk man be himself is in ane amerciament of the court of parliament sic as efferis to be takin in the said Justice ayer, and in ane unlaw of the said ayer for thaim, and in ane unlaw of the parliament amang thaim al sic as efferis of law';⁶ and the decision was pronounced by the deemster of parliament⁷ in presence of the king 'cum corona in capite suo et sceptro in manu sedentis in cathedra justicie parliamenti.'⁸

The mode of procedure in these appeals was finally regulated

¹ *Registrum Episcopatus Moraviensis* (Bannatyne Club), Edinburgh, 1837, p. 193. Some interesting particulars regarding procedure will be found at pp. 208, 210.

² c. 6 (*Fol. Acts*, ii. 18). See note 1, p. 214, and relative text.

³ *Fol. Acts*, ii. 254.

⁴ *Fol. Acts*, ii. 101. See Kaimes, *Historical Law Tracts*, Edinburgh, 1758, i. 389.

⁵ *Fol. Acts*, ii. 94, 114, 117.

⁶ *Fol. Acts*, ii. 114. 'The original assizours were thus amerced individually as 'temere jurantes,' and amerced collectively to the Court of the Justice, and the same to that of the Parliament' (J. Glassford, *Remarks on the Constitution and Procedure of the Scottish Courts of Law*, Edinburgh, 1812, p. 269 note¹).

⁷ The decision was pronounced by the deemster in all three cases.

⁸ Cp. *Fol. Acts*, ii. 117.

by a statute of 1503-4,¹ which provided that when any doom was 'falsit' on dilatory or peremptory exceptions or otherwise in the pursuit of the brieve of right,² the contradictor should within fifteen days present the process to the justice clerk, that a justice ayre should be held forty days thereafter for discussing and 'ending' the doom, that the justice clerk should direct the sheriff to warn both the parties of the day fixed for holding the court, and that the freeholders and suitors should attend the court, and give judgment on the doom. If the doom were 'falsit' in the justice ayre, the contradictor was required to come within fifteen days to the clerk of the king's council, when the king deputed thirty or forty persons, more or less, with power 'as it war in ane parliament' to discuss the doom, and finally determine it. This diet also was on forty days *inducie*; and the parties were required to give in their reasons within that period. If the doom had been 'falsit' before the provost and bailies of a burgh, the contradictor was required to bring the process to the chamberlain, who should fix a court of the four burghs within fifteen days for discussing and ending the doom. Similarly, when the doom had been 'falsit' before a baron or freeholder, the contradictor was required to come to the sheriff or immediate superior. If it had been 'falsit' in the court of the four burghs or in the sheriff court, the contradictor had 'like process to the court's immediate superior.'³

Erskine⁴ observes that from the passing of a statute of 1487, to which we shall advert presently, this form of appeal fell gradually into disuse until it gave place to other methods of redress, namely, advocacy, reduction and suspension. It is somewhat difficult to accept this view in face of the elaborate

¹ *Fol. Acts*, ii. 254.

² In a passage reproduced from Glanvill (vi. 8), the 'Regiam Majestatem' (ii. 13) provides for the transference of proceedings on a brief of right from the sheriff court to the king's court or the court of the justiciar. It is thought that in practice this transference took place by way of falsing the doom.

³ As to the appeal to the court of the Bishop of St. Andrews, when a judgment given in the court 'domini præpositi Kelediorum seu alicujus baroniæ infra cursum apri' was contradicted, see Lawrie, p. 432. 'Judicia contradicta' are dealt with in the 'Quoniam Attachiamenta,' c. 9 (*Fol. Acts*, i. 649). See also the 'Iter Camerarii,' c. 28 (*Ib.* i. 701). Further details are to be found in 'The Forme and Maner of Baron Courts,' cc. 15, 17, 33 (Skene's edition), in several MS. treatises (referred to in *Fol. Acts*, i. 188, 190, 192, 197, 201, 202), and in Habakkuk Bisset's MS. 'Rolmentis of Courtis.'

⁴ *Inst.* iv. 2. 39. See Stair, *Inst.* ii. 3. 63; Mackenzie, i. 182.

provisions of the act of 1503, and of the fact that a committee for the discussion of dooms was appointed as late as 1544.

The second form of which we have spoken made its appearance in enactments of which the aim was twofold. Their aim was to relieve the king's court of business appropriate to a court of first instance, and, at the same time, to secure that justice should not suffer. Thus, it was provided in a statute of 1424 that complaints should be determined by the judges to whose courts they properly belonged,—by the justiciar, chamberlain, sheriff, burgh bailie, baron or spiritual judge, as the case might be, and that, if the judge refused to do justice, the party aggrieved should have recourse to the king, who 'sall se rygorusly punyst sic jugis that it be ensampill till all utheris,'¹—an enactment which recalls the assize of David I. referred to above.² In 1425 the session was established and empowered finally to dispose of all 'complayntis, causs and querellis that may be determynit befor the kingis consal';³ and in 1457 its judgment was made final, 'bot ony remeide of appellacione to the king or to the parliament.'⁴ Notwithstanding the statute of 1425 above referred to, matters of private right ('certa acta tangencia partes') continued to come before the parliament,⁵ and in 1435 a committee 'ad causas' was chosen.⁶ In 1469 it was enacted that if the judge ordinary failed to do justice or administered partial justice, he might be summoned by the party aggrieved before the king and council, with whom it lay to punish him if the charge were established, and, if the wrong were failure to do justice, to 'ger minster justice' to him.⁷ By an act of 1487 it was declared that if any complaint of an officer's 'wrangwis and inordinat' proceedings were substantiated against him, he should be punished, and the process should be 'reducit and annullit';⁸ and it was further provided that, notwithstanding anything contained in it, the process of falsing dooms should remain competent to those who preferred to employ it. In the following year these provisions, so far as they directed that all causes should pass before the judges ordinary, were repealed.⁹

The third form of procedure, which resembles an appeal, was

¹ *Fol. Acts*, ii. 8.

² See note 10, p. 206, and relative text.

⁴ *Fol. Acts*, ii. 48.

⁶ *Fol. Acts*, ii. 22.

⁸ *Fol. Acts*, ii. 177.

³ *Fol. Acts*, ii. 11.

⁵ *Fol. Acts*, ii. 31. See Glassford, p. 211.

⁷ *Fol. Acts*, ii. 94. See Kaimes, i. 396.

⁹ *Fol. Acts*, ii. 183. See Kaimes, i. 390.

instituted in 1471,¹ in order to provide a remedy where the jurors on an inquest had erred either through ignorance or 'partial malice.' This remedy empowered the aggrieved party to summons the members of the inquest before the king and council; and if he established his complaint, the jurors were punished as 'temere jurantes super assissam.'² By the same statute this summons of error was made incompetent in the case of pleadable brieves;³ and the determination of the inquest on proof of error was made void.⁴

III.

The statutes and cases which we have been considering show that this process of falsing dooms possesses two marked characteristics. Of these the first is that it proceeds on an adaptation of feudal principles; for in every case the judgment of the inferior court is submitted to the court next superior until, if the contradictor have sufficient perseverance, it eventually reaches the supreme court—the parliament. The second is that it proceeds by way of assize. The suitors of the sheriff court, justice court and chamberlain's court, and the freeholders in parliament are assizers. But the assizers in parliament differed in one most important respect from those in the inferior courts. The latter were, as we have seen, witnesses as well as judges. They made the judgment, but they were selected, not only for their legal capacity and acquirements, but because they best knew the facts and circumstances in dispute. It was impossible for the freeholders in parliament, save in exceptional cases, to have such local knowledge as that possessed by the men of the neighbourhood ('de vicineto'); and it was, perhaps, partly due to this fact, as well as to the feudal principles on which these courts were modelled, that the parliament, its judicial committees, the lords of the council, and the session and daily council, declined to entertain, as courts of first instance, pleas regarding fee and heritage. It is also to be kept in view that a practice had arisen of giving attendance

¹ *Fol. Acts*, ii. 100. See the Acts 1491, c. 18; 1496, c. 6; and 1617, c. 13 (*Fol. Acts*, ii. 227; ii. 238; iv. 544).

² See the passage in *Reg. Maj.* i. 13 (*Fol. Acts*, i. 602), reproduced from Glanvill, ii. 19.

³ See Glassford, p. 217. A list of pleadable brieves is given in the 'Quoniam Attachiamenta,' c. 33 (*Fol. Acts*, i. 653).

⁴ The complainant is thus restored to his original position. See Kaimes, i. 408 ff.

in parliament by proxy.¹ The proxy differed from the suitor entered in the sheriff court in that his attendance satisfied the obligation of giving suit and presence, and freed his principal from the necessity of giving either. And when, as in some cases,² the proxy appointed had no connection with the locality in which his principal resided, he was unable to contribute anything of local knowledge. If the distinction to which we have adverted made itself felt in the court of full parliament, it must have produced a still more pronounced effect in a committee limited to a chosen few. How the institution of the great assize in 1503 affected the judicial committee we are unable to say. The latter continued to be appointed from time to time; and we find in it traces of the form of an assize so long as the king or his deputy was present. But with their disappearance from its sittings, it tended to become a body of judges—a chamber separated from the parliament to which it owed its authority.

It will have been observed that the notion which lay at the root of all these modes of appeal was that there had been a failure of justice; and the aim of the act of 1487 seems to have been to provide that the party aggrieved should have two alternative remedies, of which the one,—the falsing of dooms,—climbed slowly from court to court, while the other reached the supreme court *per saltum*. It seems to have been an adaptation of this latter remedy which we find in later days in the form of 'protestation for remeid of law,'³ by which it was sought to submit judgments of the court of session to the review of parliament. The right to appeal and its extent gave rise to difference of opinion at the time when Lord Stair wrote his *Institutes*, and became the subject of a dispute which was settled at the Revolution by the claim of right. Instances of such protestations are recorded, of

¹ The record of the parliament held at Scone on 12th June, 1368, shows that the practice was a recognised practice: 'Convocatis prelati, proceribus et burgensibus qui tunc voluerunt et potuerunt personaliter interesse, aliis per commissarios comparentibus...' (*Fol. Acts*, i. 503). See an abbot's 'litera attorney,' probably attributable to the reign of Robert I. (*ib.* i. 54, 103). As to the subsequent enactments relating to this matter, see *Fol. Acts*, Index *s.v.* 'Parliament, Proxies in.'

² In 1633 the Bishop of Dunkeld attended for himself and as proxy of the Bishop of Caithness (*Fol. Acts*, v. 7, 11).

³ 'The distinction between *protesting* for remeid of law and *appealing* consisted only in this, that in the one form process and execution still went on, while in the other all proceedings were stopt, until the appeal should be discussed' (*The Acts of Sederunt . . . in May, 1532, to January, 1538*, Edinburgh, 1811, Pref. by Sir Hay Campbell, p. xxxii).

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which two belong to the years 1562 and 1567¹ respectively, while others are to be found in the pages of Fountainhall;² and a full account of the whole controversy is supplied by Sir George Mackenzie in his *Memoirs*.³

PHILIP J. HAMILTON-GRIERSON.

¹ *Books of Sederunt of the Lords of Council and Session*, ii. fol. 45 ; *Act. Dom. Conc. et Sess.* xxix. fol. 37.

² e.g. *Decisions*, Edinburgh, 1759, i. 508. There are numerous instances after 1595.

³ A list of the authorities on the subject of this controversy will be found in Æ. J. G. Mackay, *The Practice of the Court of Session*, Edinburgh, 1877, i. 39 ff.

The Old Chapels of Orkney

II

ONLY after the first part of this paper¹ had gone to press did its writer turn to a source of information he ought to have thought of before, and consult the *New Statistical Account* (published in 1842). Two interesting and important additions to the existing literature on the subject came to light thereby. One, relating to the parish of St. Andrews, gives a second bit of direct evidence proving the relationship of chapels to urislands.

‘In different parts of the parish,’ says the minister, ‘are to be found ruins, now almost levelled with the ground, which are called chapels. We could particularise at least four, each in a separate division of the parish, called an *ursland*, and situated near, or in the midst of a considerable extent of good ground.’

We have thus in the parish of St. Andrews direct positive proof that the lawrikmen were appointed to the urislands and that the chapels stood each in an urisland, and tradition remembers the burial districts under the name of urislands; and we further know their exact extent and that they were only approximately true urislands, and did not actually each contain 18 pennylands.

As the parish kirk is separately dealt with in the account, this passage also confirms my conjecture as to the existence of a fourth chapel (that of Sabay, now only indicated by the place-name ‘Chapel Taing’).

The other fresh information is contained in the account of Lady Parish, in Sanday, and gives a number of interesting facts. Most of them must be left till the North Isles can be overtaken, but the following passage may be quoted for its general import, and for its author’s anticipation of my own views on the reasons for the choice of chapel sites:

‘They (the chapels) are all surrounded by, or in the immediate vicinity of, good land, and generally near a well or fresh water loch. None of them are found on the moor or hill ground.

¹ See *S.H.R.* xv. 89.

Several have been built close by the ruins of other buildings ; such situations may have been chosen for the ready access to stones which they afford, . . .

Coming to the general conclusions to be drawn from this survey of the parishes over the greater part of Orkney, there can be no doubt now that the chapel districts, burial districts, and lawrikman or roithman districts were identical, and that they were based, as a rule anyhow, on the urislands.

But there seems to be another conclusion which follows just as certainly from the various facts, and this is that though the chapels were secular in their origin, and remained for the most part secular, yet they must have been used for public worship by the inhabitants of the district, and in all probability were intended for that purpose. Their very distribution seems to make this conclusion unavoidable. The presence of the burial-grounds confirms it. The fact that only in a very few cases is a chapel found in the same district as the parish kirk is significant. And, finally, we have a few surviving pieces of tradition which agree in regarding the ancient chapels as places of public worship for the neighbourhood.

There is, for instance, the statement of Low, already quoted, regarding their use for matins and vespers. We have also seen the tradition of the Kirk of Lian and its clergyman. And then there is a quaint tradition associated with the chapel of Beaquoy, in Birsay. They say that the 'priest' (that is what they still call him) occupied his leisure time in making 'caisies,' or straw baskets. He made a caisie, in fact, every day of the week, except Sunday. But he was a little absent-minded, and one day when busy at his usual employment he was astonished to see the people trooping towards the chapel. Hurriedly he counted his caisies—and found he was making his seventh !

Since writing these lines, yet another piece of evidence has come to light in the account of Lady Parish alluded to above. The writer states that 'none of these chapels have exceeded twelve feet in length, and from eight to nine in breadth,' dimensions much below the ordinary size of chapel on the mainland. Further, he names seven of these chapels, and seems to indicate that there were others still. Even seven (besides the parish kirk) is a very large number for a parish the size of Lady, and the conclusion seems obvious that the small dimensions were due to the large supply of kirks in proportion to the population, and that they were therefore built for public worship. And it is note-

worthy that the same feature of numerous chapels, of a very small size in the case of two out of the only three that can now be measured, has already been seen in Orphir.

A system, therefore, of privately built and owned chapels, each serving as the little church for the people of a small district, was then the old order of things in Orkney.

THE ORIGIN OF THE CHAPEL SYSTEM

When we seek for analogies to guide us in dealing with the unwritten constitutional and ecclesiastical history of Orkney, we turn naturally to two places: to the old mother country of Norway, and to the sister colony of Iceland. And, different as they were in certain features of their constitutions, yet in church matters both Norway and Iceland show us essentially the same design, so that it may safely be taken that this design will be found in the Orkneys likewise.

In Norway the state of the case about the year 1191 is very explicitly described in this passage from King Sverri's Saga (chap. 117): 'About this time much discussion arose between King Sverri and the Archbishop . . . one subject of dispute between them was the old law and practice by which the King and the bonder should build churches, if they wished, at their own homesteads and their own cost, and should themselves have control of the churches and appoint priests thereto. But the Archbishop claimed rule and authority in each church as soon as it was consecrated, and over all those whom he permitted to officiate there.' The dispute terminated in the Archbishop leaving the town 'in the utmost haste,' and fleeing to Denmark, where 'he abode in comfort for a long time.' Many a medieval monarch must have envied King Sverri his happy knack of handling the clergy.

It is clear, then, that in Norway at the end of the twelfth century the King and the landowners were still in the saddle, where they had been set 'by old law and practice.'

In Iceland we find the same system of the greater lay landowners building and continuing to control the churches, except that here the spiritual power eventually prevailed and secured not only the kirks, but the valuable estates with which they were endowed. In Iceland we also have some glimpses of the actual process of church building, which show how the laity were egged on by the early clerics to take the very steps which afterwards gave the Church so much leeway to make up.

Christianity crossed the North Atlantic and reached that sub-arctic island in the last years of the tenth century. After a brief conflict, the efforts of a few zealous missionaries conquered the commonwealth completely, and straightway the chieftains, who had hitherto been the priests and upholders of the heathen temples, took to church-building with the fervid energy of proselytes. In this pious work they were given a very remarkable word of encouragement, for we read in *Eyrbyggja Saga*, 'This promise by the clergy made men very eager in church-building, (namely) that a man should have room in the Kingdom of Heaven for as many men as could stand in the church he had built.'

Thus inspired, they built so diligently that the *Saga* goes on to inform us, 'but there were no priests to perform hours at the churches, though they were built, for there were few in Iceland at that time.' In short, Christianity had arrived ahead of the clergy, and in consequence the churches were for a long time afterwards run very much as the old temples used to be, simply by the chief lay families.

Returning to Orkney, we know that Christianity was only introduced there in the year 1000; that the first bishop who apparently resided in the islands, certainly the first to be acknowledged by the chapter, only began his episcopate in the twelfth century; and that the influence of the Church and its effect on everyday affairs must have been small down to the thirteenth century, since the very detailed *Saga* which covers the whole twelfth century hardly mentions it as a factor. Yet before the end of that century Orkney had produced two lay saints.

A system of chapels founded and maintained by the leading laymen seems therefore to be the natural result of these conditions, exactly as it was in Norway and Iceland, and that it actually was the result is abundantly clear from the facts we have just surveyed.

GROWTH OF AN ECCLESIASTICAL SYSTEM

How the parish kirks arose and gradually supplanted the chapels, and the bishop obtained control of these and of all the clergy, is a problem on which the available data certainly do not throw enough light to enable one to give any sort of assured, much less dogmatic, answer. At the same time, they do give certain hints and suggestions which are well worth making some

brief reference to, if only to tempt some better qualified authority into the field. The following very tentative deductions apply necessarily only to the Mainland and South Ronaldsay, since for them alone any sufficient data are as yet available.

One factor that seems of decided importance is the existence of large bishopric estates in certain parishes at an early date. The two early rentals give one an idea of where these lay, simply through their not referring to them at all. In the case of most bishopric land the complaint is made that the scatts or duties were included in the earl's or king's 'auld rental,' and have been wrongfully withheld by the bishop and the 'kirkmen.' The 1492 rental is particularly specific on this question, giving lists of such lands at the end of each parish entry. Now, no such claim is ever made with regard to the large bishopric estates in Birsay and in the eastern half of St. Ola, so one may take it that these were original endowments first of the bishopric when established at Birsay and then at Kirkwall.

These parishes would naturally from the beginning be centres of strong Church influence, and in St. Ola I have so far found no trace of any secular chapels, while in Birsay a very large tract of country lay under the parish kirk, with chapels dotted only in the outlying districts.

In Evie and Deerness there were also large bishopric estates, and though the scatts of these were claimed by the king, lands so extensive must have taken a long time to accumulate, and the influence of the Church must probably be dated as early. In both cases we have seen that there were few chapel sites, and the peculiar connection of each site with bishopric land has been noted in Deerness.

The next circumstance that seems significant is the conjunction from the earliest known date (before the Reformation) of another parish with each of these (except St. Ola) to form a charge. Birsay had Harray, Evie had Rendall, and Deerness had St. Andrews. The suggestion which I venture to make is that the Church was content to extend her influence gradually and as opportunity arose into these conjoined parishes, finding perhaps a permanent habitation in one of the chapels at a comparatively late date.

In the mainland there were two other such conjoined charges, Stenness with Orphir, and Sandwick (North and South) with Stromness. Here again a peculiarity has already been noted in one parish of each of these couples: the large parish kirk districts

in both Stenness and North Sandwick, with the feature of the separate bailie in one case and the prebendary in the other. In both cases there is also another rather singular feature. In the other half of the parish—the chapel half—two of the largest landowning and most influential of the old native families had their seats; two such families in each instance, both owning allegiance, as it were, to the one chapel. Now, it seems at least very probable that in both cases these were two branches of some great family of ‘gœðings’ (chieftains holding office and rank under the earl), and it may well be that the relationship of the early bishops, William and Bjarni, to so many of these Orkney chieftains was used by them to obtain a Church establishment in the other half of the parish. Anyhow we have a certain conjuncture of circumstances which will at least bear that as a possible interpretation.

In South Ronaldsay we find the two parishes conjoined with the island parish of Burray, and only in two instances (apart from St. Ola, which included Kirkwall and its cathedral) did single parishes form a charge—Holm and Firth. There are no data for any explanation of these; nor, indeed, would one be justified in laying too much stress on any of the explanations I have attempted. They are only suggestions which can but claim to put the facts, so far as they are known, into some sort of relationship to one another.

Another little gleam of light (though it does not illumine very widely) is thrown by the two legacies of the lands on which the kirks of Evie and Stenness stood. In both these cases we know that the lands in question were odal, and yet that the churches on them actually were the parish kirks when the bequests were made, for they were given to ‘The Kirk of Evie’ and ‘The Crose Kirk in Stanehoue’ respectively, and in each case the scatts were subsequently withheld by the parish vicar. And we can also get some rough idea of the dates at which these gifts were given. The Rental of 1502-03, in which both are recorded, states that the Evie land was bequeathed by ‘Johne of Guendaleis grandsire (great grandfather) callit Guidbrand,’ which puts the date as round about 1400; while in the Stenness case the fact that the benefactress was merely styled ‘ane uthale woman’ shows that she had lived and died so long previously that her name was no longer remembered by all and sundry. And this, so far as it goes, is consistent with the belief that those were two parishes in which the Church had established herself at an early date.

THE AGE OF THE PARISHES

All this implies that the parishes existed before there was any ecclesiastical system, and there is one pretty conclusive piece of evidence which proves that, though the chapels were antecedent to the ecclesiastical parishes, yet parishes as geographical units must have been older even than the districts. Again and again when we pass from one parish into another we pass likewise from one system of division into another. Going, for instance, from Firth with its quasi-urislands we come into Harray with its true urislands. Crossing from thence to Stenness we find two large divisions, while going over the Orphir border we get six small 'quarters,' and thus it always is as one passes from parish to parish. Obviously, therefore, parish boundaries existed before the districts were definitely arranged.

And this is backed by an argument from the true technical urislands, the eighteen pennylands laid out for the gathering of scatt. These fit into the parishes in such a way that it seems practically certain that the parishes were designed at least as early as scatt was laid upon the islands, and that takes one to the very beginnings of the Norse earldom.

What, then, were the parishes originally? The view that they were the units of representation when the early island lawthing was created has been treated in some detail in another essay on this subject,¹ and all the facts we have just reviewed go far to show that they can have been nothing else.

THE CHAPEL DISTRICTS

We have already seen that the provision of those early secular chapels was far from haphazard. They were attached to definite districts, and on the very interesting question of the origin and exact significance of these districts a few conclusions can be pretty safely drawn.

It has been shown that they were natural geographical areas as a general rule; yet their standard size in each parish and the frequent coincidence of this standard with the urisland of the scatt gatherer show that they must certainly have passed through the hands of some constitution-reforming ruler. No natural process could have given such results, and very possibly one passage in the *Orkneyinga Saga* may give the clue to the actual man.

¹ Introduction to *Records of the Earldom of Orkney*, Scot. Hist. Soc.

In chapter 55, under the date 1116-26, we learn that Earl Hakon Paulson 'set up in Orkney new laws (*lög*) which pleased the bonder much better than those which had been before.' The term *lög* meant 'law' in the wide sense, and was frequently used for 'constitution,' and it seems much more likely that this was its sense here, for all the evidence and probabilities are against the supposition that any change in the Orkney laws, sweeping enough to justify the above passage, took place at any time.

Further, we know that in parish after parish the districts were made identical with the urislands, and it is quite certain that the word 'urisland' was first used as a technical term for a given taxable area, and was then borrowed and applied to the district, simply as a district, which happened to coincide with it.

Now, a study of the urislands, quite apart from their connection with these districts, enforces the same geographical conclusion with regard to them. So long as it was not too glaringly inconsistent with equity, an *eyrir*, or ounce of silver, seems to have been laid on each group of adjacent townships (or on one town if it were large enough) simply for convenience sake. For such a plan would greatly simplify the work of assessment. And one proof that this actually was the case is to be seen in the subsequent wide difference in value between two urislands of the same type and in the selfsame parish; a difference often far too great to be accounted for on the theory of improvements effected in one of the cases by the primitive methods of agriculture then in use.

The probable root of the connection between districts and urislands would then seem to be thus: That when it came to defining the districts systematically the urislands (being themselves in so many cases natural areas) were taken as the standard wherever it was possible. Hence in numerous parishes they were identical, in others where the districts approximated more or less to urislands they took the name, and to-day the term urisland is only remembered as a district, and its original significance as an area of taxation has long since been absolutely forgotten.

All this throws a new light on that passage in *Hakon's Saga* often quoted as being the only early allusion to the Orkney urislands, a light which is reflected back on to the problem of the districts. The passage occurs in chapter 328, describing the king's winter in Orkney after the Largs expedition, and runs:

'King Hakon then made a list of the urislands (*eyris-lönd*) for his lendirmen and company chiefs for their support, to keep the bands that were with them, and so with all the urislands.' And

then a few lines later : ' but the other lendirmen and ship captains were in the country on those urislands which were allotted to them.'

It seems much more probable that the allusion is to the urislands as districts than to the urislands as taxable areas. For one thing the King of Norway had nothing to do with the minutiae of the Orkney fiscal arrangements, and for another there seems more practical point in his billeting his men on the districts.

That these districts were thus defined for the purpose of readjusting the representation of the bonder at the Lawthing and other chief courts seems to follow from their known connection with the lawrikmen or roithmen in subsequent centuries. And from the widely varying number of districts in different parishes we may conclude that in all probability the new system provided for only so many representatives per parish attending the head *thing* at any one time, however many or however few the districts in it were.

Finally, looking to the evidence of the roithmen's names in the extant decrees at the beginning of the sixteenth century, it would seem as though the theory of parish representation gradually fell into desuetude, and that though district representation still continued, only such districts as had odallers wealthy enough to leave home and constantly attend 'ogangs' and courts far and near actually contributed a roithman (except possibly to local courts).

This at least seems the likeliest interpretation of the course of events from the origin of districts to the final decay of the old constitution.

One thing more we can safely add. These little kirks were obviously built by the one man recognised as the proper person to build a kirk for the neighbourhood. And in a society based entirely on land this would obviously be the greatest landowner. But each odaller was but a sharer in the lands and redemption rights of his kin, and we know enough about the odal family estates in later times to be certain that in those earlier and palmier days the estate of a greater family would absorb the best part of an urisland (often far more than that). The districts may thus be looked upon as originally groups of landowning kinsmen, or as the spheres of influence of the *stórmenn* or magnates—the heads of houses.

From this it follows that districts of a sort—groups of odal kinsmen roughly expressed in land—must have existed from the very beginning, and what Earl Hakon (if it were he) presumably

did was to redress to some extent inequalities in these, and distribute the legislative and judicial power among a greater number of the 'best' families (for we find it was 'the best landed men' who represented these districts in later records). And in order to understand the popularity of such a measure it must be remembered that a 'best' family in that old Norse society included divers quite small portioners, not to speak of well-descended, impecunious gentlemen with remote redemption rights. It was, in fact, a miniature clan.

Following this clue of spheres of family influence, it seems probable that the larger districts found here and there, where one kirk supplied a considerably wider area than usual, were originally associated with outstanding chieftains. And as some confirmation of this conjecture, we actually find that as late as the end of the Norse régime every chapel or kirk in any of these extra large districts, which can be directly connected with a known family, was still associated with one of the most important and wide-acred surviving in Orkney. The instances I have in mind are the chapels of Ireland, Kirkness, and St. Thomas in Rendall, and the kirk of Paplay. When it is remembered that such larger kirk-areas are only very occasionally met with, and that six out of the ten largest landowning families are found within the bounds of these four districts, this bit of direct evidence acquires some significance.

Of the foregoing conclusions some are frankly tentative—deductions that appear reasonable, given the facts available (which are few enough, but still are indubitable facts). But that the chapels had the same secular origin as the early churches of Norway and Iceland, and were, like them, mostly founded and maintained by the chief landowners, that the chapel districts were intimately connected with the representation of the bonder at the Lawthing by those landowners, and that the districts were based, generally speaking, on the urislands; all these conclusions seem inevitable on the evidence.

J. STORER CLOUSTON.

Old Kirks and Chapels in Orkney

O.S.=6 inch to mile Ordnance Survey.
b.g.=Burial Ground marked in O.S.

Stat. Acc.=*Old Statistical Account*.
Comm.'s=Communicants in 1627.

A. SOUTH ISLES.

SOUTH RONALDSAY, NORTH PARISH.

References. *Adjacent Place-Names.*

Parish Church.

St. Peter's, East Side.

Chapels.

- | | |
|---------------------------------------|--------------------|
| 1. St. Colm in Hoxay. | O.S., Report 1627. |
| 2. St. Margaret, Ronaldsvoe. | O.S., Report 1627. |
| 3. St. Colm, Grimness. | O.S., Report 1627. |
| 4. St. Ola, Widewall, b.g. | O.S., Report 1627. |
| 5. St. Ninian, Stows, East Side, b.g. | O.S., Report 1627. |

No confirma-
tion from
place-names
necessary.

SOUTH RONALDSAY, SOUTH PARISH.

Parish Church.

St. Mary, Burwick.

Chapels.

- | | |
|--------------------------------|--------------------|
| 1. Rood, Sandwick, b.g. | O.S., Report 1627. |
| 2. St. Colm, Burwick, b.g. | O.S., Report 1627. |
| 3. Our Lady, Halcro, b.g. | O.S., Report 1627. |
| 4. St. Andrews, Windwick, b.g. | O.S., Report 1627. |

Total *dispersed kirks*=10 (the two at Burwick being closely adjacent).

Communicants 1627, '5 or 6 hundred.'

Chapel.

SWONA.

- | | |
|-----------------|--------------------|
| 1. St. Peter's. | O.S., Report 1627. |
|-----------------|--------------------|

Chapel.

PENTLAND SKERRIES.

- | | |
|-----------------|--------------|
| 1. St. Peter's. | Report 1627. |
|-----------------|--------------|

Parish Church.

BURRAY.

St. Lawrence.	O.S.
---------------	------

No chapels discoverable. Communicants 1627=100.

234 Old Kirks and Chapels in Orkney

References.

Adjacent Place-Names.

Parish Church.

FLOTTA.

Dedication ? on Kirk Bay.

O.S.

Kirk Bay.

(The site of a chapel is marked on O.S., but so close to parish church as to suggest it was really the old parish kirk.)

Parish Church.

WALLS.

St. Columba, Osmond Wall.

O.S., Proc. of Soc.

Kirk Hope.

Antiq., xxxii. 50.

Chapels.

1. Red Kirk, in north of S. Walls. O.S. Burn of Redkirk.
2. Snelsetter. Tradition only, see Moodie Book.
3. Chapel at Brims, b.g. O.S. Kirkgeo.
4. Fara. O.S. Kirka Taing.

(St. John's at Seatter ? Was there an old dedication here ? The present dedication suggests it.)

Total kirks, 5 or 6. Comm.'s 1627 = 453.

Hoy.

Parish kirk, but no sign of chapels.

Chapels.

GRAEMSAY.

1. St. Colm's, on N.W. point. O.S.
2. (St. Bride's) at Corrigall. O.S.

Bride's Noust
(hence dedica-
tion inferred :
site only given
in O.S.).

B. MAINLAND.

ST. ANDREWS.

Parish Church.

St. Andrews, Tankerness.

Chapels.

1. Essenquoy. Records of Earl of Orkney, p. 240.
2. St. Ninian, Tolhop. O.S., St. Andrews Bailie Court Book (Kirkwall Record Room).
3. Sabay, site not given, inferred from place-name. O.S., place-name only. Chapel Taing, under house of Sabay.
4. St. Peter's Kirk, Campston. O.S. St. Peter's Pool.

Total kirks, 5. Comm.'s 1627 = 325.

Old Kirks and Chapels in Orkney 235

References.

Adjacent Place-Names.

Parish Church.

HOLM.

St. Nicolas.

Chapel.

1. Lambholm. O.S. Kirk Point.
2. St. Nicolas near Graemshall. O.S.

Comm.'s 1627 = 200.

Parish Church.

DEERNESS.

Sandwick.

Chapels.

1. Brough of Durness. O.S., many records.
2. Cornholm. O.S.
3. Newark.
4. Kirbister.

Comm.'s 1627 = 268.

Parish Church.

ST. OLA.

St. Olaf and St. Magnus—no record of chapels.

Parish Church.

ORPHIR.

Bu of Orphir.

O.S., remains still here.

Chapels.

1. Orakirk. O.S., I. Omand, Orakirk.
Orkney Herald,
29th Aug., 1906.
2. Houton Head. Omand (as above).
3. Bay of Myre. Omand (as above).
4. Swanbistor, b.g. O.S.
5. Groundwater. O.S. Kirkshed.
6. Oback in Tuskbister. Statistical Account and
present tradition.
7. Cava, b.g. Barry, 2nd edition,
p. 43.
8. Kirk o' Lian in Kirbister.

Parish Church.

STROMNESS.

In Innertown.

O.S., ruins still there.

Chapels.

1. Breckness, in Outertown, b.g. O.S., Craven, ii. 166.
2. St. Mary's, Quhome. O.S.
3. Kirbister. O.S.
4. Bu of Cairston.

Total kirks, 4. Comm.'s 1627 = 480.

236 Old Kirks and Chapels in Orkney

References.

Adjacent Place-Names.

SOUTH SANDWICK.

*No Parish Church apart from
N. Sandwick.*

Chapels.

- | | | |
|--------------------------------|-----------------------|-----------|
| 1. Voy, b.g. | O.S. | |
| 2. Lyking, b.g. | O.S. | |
| 3. Tenston, St. Duthac's, b.g. | O.S., also on record. | Dochouse. |
| 4. Yesnabie, b.g. | O.S. | |
| 5. Skail. | Craven, ii. 175. | |

Parish Church.

NORTH SANDWICK.

St. Peter's, North Dyke.

Chapels.

- | | | |
|--------------|----------------------------------------|-----------|
| 1. Kirkness. | O.S., Ecclesiological
Notes on Man. | Kirkness. |
|--------------|----------------------------------------|-----------|

Total kirks in Sandwick, 7. Comm.'s 1627 = 700.

Parish Church.

BIRSAY.

Christ Kirk, Barony.

Chapels.

- | | | |
|----------------------|-------------------------|------------------|
| 1. Marwick, b.g. | O.S. | |
| 2. Ingsay. | O.S. | |
| 3. Hundland. | O.S. | |
| 4. Hillside. | O.S. | Burn of Kirkgeo. |
| 5. Kirbister. | O.S. | |
| 6. Beaquoy, b.g. | O.S. | |
| 7. Greenay, b.g. | O.S. | |
| 8. Chapel in Brough. | O.S., and many records. | |
| 9. Etheriegeo. | | |

Parish Church.

HARRAY.

St. Michael's.

Many records.

Chapels.

- | | | |
|---------------------------|------|-----------|
| 1. Mary Kirk, Rusland. | O.S. | Kirkquoy. |
| 2. St. Mary's, Grimeston. | O.S. | |
| 3. In Corston. | | |
| 4. In Netherbrough. | | |
| 5. Kirk of Cletton. | | |

Total kirks (apart from Brough), 15. Comm.'s 1627 (combined parish) = 800.

Old Kirks and Chapels in Orkney 237

References.

Adjacent Place-Names.

STENNESS.

Parish Church.

Cross Kirk, Stenness.

Chapel.

1. Ireland.

O.S.

Comm.'s 1627 = 140.

FIRTH.

Parish Church.

Firth.

Chapels.

1. Burness.

O.S.

2. Wasdale.

O.S.

3. Redland.

Old Lore Miscellany, Kirk Sheed.
vol. iii. p. 155.

4. Grimbister.

5. Black Chapel in Firth.

Total kirks, 14. Comm.'s 1627 = 200.

EVIE.

Parish Church.

St. Nicolas, in Stenso (or Garth). O.S.

Chapels.

1. St. Peter's, Inner Costa, b.g. O.S.

2. Kirk of Norrensdale, Woodwick. O.S.

Comm.'s 1627 = 220.

RENDALL.

Parish Church.

Gorsness.

O.S.

Chapels.

1. St. Thomas, Hall of Rendall. O.S.

2. St. Mary, Isbister. O.S.

3. The 'Kirk of Cot.'

Comm.'s 1627 = 180.

C. NORTH ISLES.

SHAPANSAY.

Parish Church.

Our Lady, Elwick.

O.S.

Kirk Banks.

Chapels.

1. Linton.

O.S.

Kirton, Kirk-
hill, Kirkiber.

2. Ettiesholm.

O.S., Stat. Account.

Kirkgeo.

Comm.'s 1627 = 250. Old Stat. Acc. says, 'Several little chapels in various parts of the parish.'

238 Old Kirks and Chapels in Orkney

References.

Adjacent Place-Names.

Parish Church.

In Outer Westness.

Chapels.

1. Frotoft. O.S.
2. Knarston. O.S.
3. Scockness. O.S.
4. St. Colm's, Langskaill. O.S.
5. Brettaness, Loch of Wasbister. O.S.
6. Holm in Loch of Wasbister. O.S.
7. Corse Kirk, Wasbister. O.S.

ROWSAY.

O.S., ruins still there.

Church Knowe.
Kirk Noust,
Kirkgeo.

N.B.—Of these, No. 2 and No. 7 seem to have been the other two 'kirks of old' enumerated in the old report on Orkney Kirks (Craven, ii. 232), but presumably must be counted as 'chapels' in Wallace's computation, for he only gives thirty-one parish kirks, which means only one in Rowsay. Nos. 5 and 6 are so close to 4 and 7 that they can scarcely have been separate places of public worship. This would leave six such places in Rowsay.

Parish Church.

St. Magnus Kirk.

EGILSAY.

Chapel.

1. Chapel of Wyre.

WYRE.

O.S., still there.

Chapel.

1. Chapel of Monastery.

ENHALLOW.

O.S., still there.

Total kirks, Rowsay, Egilsay, and Wyre, 8. Comm.'s 1627=400.

Parish Churches.

- A. St. Mary, Pierowall.
- B. Cross, Tuquoy.

WESTRAY.

O.S., ruins still there.
O.S.

Chapel.

1. Peterkirk, Rapness.

O.S.

Point of Peter-
kirk.

Parish Church.

In Benorth the Yard.

PAPA WESTRAY.

Still in use (only in-
stance apart from
Cathedral).

Chapel.

1. St. Tredwall, Besouth the Yard. O.S., and many records.

Total kirks, 5 (Westray and Papa). Comm.'s 1627=498; indicating about two or three lost chapels.

Old Kirks and Chapels in Orkney 239

References. *Adjacent Place-Names.*

Parish Church. NORTH RONALDSAY.

St. Ola, on present site. O.S., Blaeu's Atlas
(which gives the
dedication).

Chapels.

- | | | |
|----------------------------------------|------|--------------------------------------|
| 1. Bride's Kirk. | O.S. | Bridesness. |
| 2. Chapel just east of Loch of Garsow. | O.S. | Kirk Taing,
near light-
house. |

Parish Church.

Virgin Mary, East Side. EDAY.
O.S., Stat. Acc.

Kirk Taing.
Chapel Hill
near by. (Was
there a chapel
too?)

Chapel.

- | | |
|------------------------------|------------------|
| 1. Hannah's Kirk, Greentoft. | O.S., Stat. Acc. |
|------------------------------|------------------|

Chapel.

- | | |
|---------------------------|-------------------------------------------------------------------|
| 1. Chapel on Pharay, b.g. | PHARAY.
O.S., Stat. Acc. (which
calls it a parish
kirk). |
|---------------------------|-------------------------------------------------------------------|

Parish Churches.

- | | | |
|-------------------------------------|--------------------------------------------------------------------------------------------------------|-------------|
| A. St. Peter's, near Whitehall. | STRONSAY.
O.S. | |
| B. Lay Kirk, near Rothiesholm, b.g. | O.S. | |
| C. St. Nicolas Kirk at Holland. | O.S. (Dedication not
given in O.S., but
Blaeu's Atlas puts
St. Nicolas Kirk on
this site.) | Mells Kirk. |

Chapels.

- | | |
|----------------------------------|---------------------|
| 1. Chapel at Well of Kildinguie. | O.S. |
| 2. St. Nicolas on Papa Stronsay. | O.S. and Stat. Acc. |
| 3. St. Bride's on Papa Stronsay. | O.S. and Stat. Acc. |
| 4. Auskerry. | O.S. and Stat. Acc. |
| 5. Linga Meikle. | Stat. Acc. |

N.B.—There were 'at least' two more chapels on Stronsay itself in 1790 (Stat. Acc.), giving six kirks, apart from those on Papa and Holms. Comm.'s 1627 = 637.

SANDAY.—I. BURNESS.

Parish Church.

St. Columba, near Scar. Mackenzie's charts.

Chapels.

- | | | |
|------------------------------|------|----------|
| 1. Holms of Ire. | O.S. | |
| 2. Chapel on West Side, b.g. | O.S. | Kirkgeo. |

Only two practicable kirks. Comm.'s 1627 = 210.

240 Old Kirks and Chapels in Orkney

References.

Adjacent Place-Names.

Parish Church.
Cross Kirk, Backaskaill Bay.

II. CROSS.

O.S.

Chapels.

1. Lambaness.
2. Stove.

O.S.

O.S. (Also records.
Built in 1714, but
very probably on
older site. No other
kirk near.)

3. Chapel at Brough, not shown but inferred from place-name.

O.S.

Chapel Head.

Four kirks. Comm.'s 1627 = 260.

Parish Church.

III. LADY.

Lady Kirk, at head of bay by Ellsness.

O.S.

Chapels.

1. Tresness, not shown, but inferred from place-names.
2. Clet, site not shown, but mentioned by Wallace. (Place-name shown in O.S.)
3. St. Peter's, Sellibister.
4. Arstas.
5. Lopness, inferred from burial ground, which alone is marked in O.S.

O.S.

O.S., Wallace.

O.S.

O.S., Mackenzie.

O.S.

Kirk Taing,
Kirk Banks.
Kirk Taing.

Kirks, 6. Comm.'s 1627 = 320.

Note.—These make up the 102 mentioned early in this paper. The numbers of communicants in 1627 were originally included in the list in order to give some basis for calculating the probabilities of there being other chapels yet undiscovered. As the subject has developed, I question whether it is a safe basis. The figures are more instructive in parishes where all the chapels may be taken as found, when they give some idea of the proportion of kirks to population (it being always remembered that the figures are for the year 1627, while the chapels of course were pre-Reformation).

It may also be mentioned that a considerable number of the sites have been personally verified since the list was drawn up. This is the case in every instance where no authority is quoted.

J. STORER CLOUSTON.

The Dennistouns of Dennistoun

‘UPON the Grief lies the Barony of Dennistoun, of which the Castle of Finlaystoun was the principal messuage. When the Denzeltouns obtained their lands is not certain ; but that from the proper name of their predecessor they assumed both sirname and designation is without all doubt.’¹ Thus Crawford, in his *History of Renfrew*. In support of his statement he refers to the original charter of the Barony of Houstoun (*temp.* Malcolm the IV. before 1165) which is there said to be bounded with ‘the lands of Danziel.’² Hence the name de Danzielstoun, or Denzelstoun, subsequently modified into Dennistoun. Sir Hugh de Danzielstoun was witness to a charter from the Earl of Lennox, *temp.* Alexander III. and the same knight appears in the Ragman Roll as submitting to Edward I. in 1296. He was father of Janeta or Joanna, who married Sir Adam More of Rowallan : their daughter Elizabeth married Robert, the Steward of Scotland, afterwards Robert II., and was mother of Robert III. It was this connection with the Royal House of Stewart that gave rise to the boast of the Dennistouns, ‘Kings from us, not we from Kings.’ Sir John de Danzielstoun, son of Sir Hugh, was Sheriff of Perthshire in 1358, and of Dumbartonshire in the following year, an office he held till succeeded in it by his son Sir Robert. He was also for a number of years Keeper of Dumbarton Castle. He married Mary, daughter of Malcolm, Earl of Wigtown, by whom he had, with other children, his successor, Sir Robert de Danzielstoun, knight, who was one of the

¹ In the map in Crawford’s *History*, which is stated to be copied from Blaeu’s Atlas, Amsterdam, 1654, there are two Dennistouns marked : one close to Barlagow (Barlogan), a little to the S.E. of Kilmakoban (Kilmalcolm), the other ‘Dennistoun Mil,’ near the Gryfe, lying to the south of the first named. These seem to correspond to the North and South Dennistouns, given in the Ordnance Survey Map, on the modern road from Bridge of Weir to Kilmalcolm.

² *A General Description of the Shire of Renfrew, including an account of the Noble and Ancient Families, etc.*, by George Crawford, 2nd Edition, p. 94. Paisley : J. H. Crichton. 1818.

hostages, in 1357, for the payment to Edward III. of the ransom for the release of David II. He seems to have held various offices, including that of Sheriff of Levenax, and Keeper of Dumbarton Castle. On his death in 1399 he left two daughters, between whom his large estates were divided, viz., Margaret, who married Sir William Cunninghame of Kilmaurs, and brought into that family the lands and baronies of Danzielstoun and Finlaystoun in Renfrewshire, Kilmaronock in Dumbartonshire, and Glencairn in Dumfriesshire, from the last of which her descendants took the title of their Earldom. The other daughter, Elizabeth, married Sir Robert Maxwell of Calderwood, and succeeded to Mauldisly, Law, Kilcadzow, and Stanley. Owing to this alliance this family of Maxwells quartered the arms of the Danzielstouns, Argent, a bend azure, with their family coat.¹

While the paternal estates were thus divided between the co-heiresses the male line of the family was carried on by William, afterwards Sir William de Danzelstoun, third son of Sir John, and first of Colgrain. He gives his consent to a grant made by his father, in 1377, in favour of the Church of Glasgow, in which he is designated 'Dominus de Colgrane et de Cambesescan.' He seems to have been of the household of Prince David, and in consideration of his services received a pension of twenty merks. It is supposed that by aid, or in lieu of this pension he acquired the lands of Cameron and Auchendennan, which were long held by his descendants. Of these Cameron was disposed of to the Laird of Luss in 1612, and it seems probable that Auchendennan was also sold about that time. John Dennistoun, who succeeded to Colgrain and the Camiseskans in 1638, was a devoted and influential Royalist, for which he suffered when Scotland was under the rule of the Commonwealth. He held a Commission under the Earl of Glencairn, and died in 1655 from the effects of a wound received in the Highland Expedition. As he left no son the estate of Colgrain fell to the representative of John Dennistoun, brother of his great grandfather. From this time on the property passed from father to son until 1836, when it was sold by Mr. James Dennistoun to Colin Campbell, a son of John Campbell, senior, of Morriston. He was a partner in the well known West India House founded by his father, and brother of Colonel Campbell of Possil.

¹ The Maxwell arms were blazoned as above, but the Dennistouns bear Argent, a bend *sable*.

The Dennistouns of Colgrain were at times closely connected with Glasgow. James Dennistoun, who succeeded to the estate in 1756, was one of the leading American merchants, and during the latter part of his life resided in Glasgow, where he died in 1796. His first wife was a daughter of John Baird of Craigton, merchant in Glasgow, one of their daughters marrying Andrew Buchanan of Ardenconnal. By his second wife, Mary Lyon, he had several children, two of whom were well known in this city, viz., Robert Dennistoun, merchant, who married a daughter of Archibald Campbell of Jura, and was father of James Robert Dennistoun ('Ruffy'), and grandfather of the late Admiral Peel Dennistoun, Mrs. John Guthrie Smith, and Mrs. John MacLeod Campbell of Saddell. The other was Richard Dennistoun, who resided at Kelvingrove House, only recently pulled down, and married a daughter of James Alston of Westerton. James Dennistoun, who succeeded his father in 1796, was convener of Dumbartonshire, and Colonel of the County Local Militia. He married (1) Margaret, daughter of James Donald of Geilston (brother of Robert Donald of Mountblow, Provost of Glasgow in 1776, 1777), by whom he had one son, and (2) Margaret, daughter of Robert Dreghorn of Blochairn, merchant in Glasgow. By her he had four daughters, co-heiresses of their maternal grandfather, and also of their uncle Robert Dreghorn of Ruchill, the well-known 'Bob Dragon.' In the privately printed *Account of the Family of Dennistoun and Colgrain* (Glasgow: 1906) it is stated that his second wife was daughter of Allan Dreghorn, but this seems to be a mistake. According to the *Glasgow Journal* of 25th October, 1764, Allan Dreghorn died on the 19th of that month, while the following paragraph appeared in the *Glasgow Mercury* of 20th October, 1785:—

'On Thursday the 13th inst. was married in this City, by the Revd. Mr. Taylor of St. Enoch's, James Dennistoun, Younger of Colgrain, Esq., to Miss Margaret Dreghorn (Bob's sister), daughter of the late Robert Dreghorn of Blochairn, Esq.'¹

Mr. Dennistoun was succeeded by his only son, James, in 1816. He married Mary, daughter of George Oswald of Auchencruive, by whom he had thirteen children. In 1828 Mr. Dennistoun, having established his descent as heir male of Sir John de Danzielstoun (see above) was authorized by the Lord Lyon to bear the arms proper to the chief of his house, and thereupon assumed as his designation Dennistoun of Dennistoun.

¹ *Glasgow Past and Present*, vol. III. 89. (Glasgow, 1884).

The arms are blazoned, Argent, a bend sable. Supporters: Dexter, a lion gules, armed and langued azure; sinister, an antelope argent, unguled and horned or. Crest, a dexter arm in pale proper, clothed gules, holding an antique shield sable charged with a mullet or. His son, James Dennistoun of Dennistoun, (1803-1855), was well-known for his literary and antiquarian tastes, while he took a special interest in the genealogy of the old families connected with Dumbartonshire, the results of which were largely embodied in Irving's History of that County. He edited several of the publications of the Bannatyne and Maitland Clubs, including the *Cartularium Comitatus de Levenax*, the *Colness Collection*, and the *Cochrane Correspondence*. Mr. Dennistoun, who married a daughter of James Wolfe Murray, Lord Cringletie, sold Colgrain and Camiseskan in 1836 to Mr. Colin Campbell, and afterwards purchased Dennistoun Mains in Renfrewshire, the property which gave name to his House. Subsequently he lived a good deal abroad, and devoted a great part of his time to art and art literature, publishing in 1852 the *Memoirs of the Dukes of Urbino*. He died in 1855, and was buried in the Grey Friars' Churchyard, Edinburgh. His manuscript collections, which filled eleven volumes, were left to the Library of the Faculty of Advocates, where they are now preserved.

As he left no children the representation of the family devolved on his death upon his nephew, James Wallis Dennistoun, only son of his brother George. He entered the Navy in 1854, and saw service in the Baltic under Admirals Sir Charles Napier and Sir Richard Dundas, retiring from the Navy with the rank of Commander in 1865. He married a daughter of Henry Gore Booth (second son of Sir Robert Gore Booth, Bart.), and his wife Isabella, daughter of James Smith of Jordanhill. By this marriage he had a daughter, who is married to the Right Revd. H. Hensley Henson, late Dean of Durham, and now Bishop of Hereford, and a son, James George Dennistoun of Dennistoun, Major in the Royal Artillery. This gentleman is now the representative of the old family of Dennistoun of Dennistoun and Colgrain.

T. F. DONALD.

The Duke of Tuscany and his Shipwrecked Cargo

IN October, 1587, Ferdinand de Medici, laying aside the purple of the cardinal, succeeded his brother Francesco in the throne of Tuscany, and married Christine of Lorraine, granddaughter of Catharine de Medici. In 1591 he was invited to occupy the fortress of Château D'If in pledge for whatever Catholic king the French might choose, and accordingly Tuscan troops and stores were shipped from Leghorn, which served to frustrate the designs of Spain and Savoy. Possibly in connection with this venture the munitions and other goods mentioned in this inventory were purchased. The grand Duke was also interested in the Anglo-Dutch smuggling trade with the Indies, and later, when the finances of Florence became affected through the repudiation of that centre by the Spanish Crown, he found compensation by opening up active commerce with England and the Baltic provinces. This case of spoliation of a ship and goods of a friendly ruler was taken up by the Privy Council on 12th May, 1591, and their proceedings therein are recorded in the Privy Council Register under the following dates, 26th May, 4th Augt. and 29th Dec. 1591, 18th March 1594-5 and 29th Dec. 1595; and the Protestation here recorded is so far as known the closing act in the matter. It may be observed that the inventories in the Privy Council Register and the one here given vary in regard both to items and quantities.

JOHN MACLEOD.

INVENTORY.

Protestation by Robert Fleschour, William Rolok, Thomas Ogilvie, James Fleschour, and John Rotray merchandis and burgesses of Dundie that the day of compearance being past and none compearing to pursue they be not held to answer to the summons raised against them at the instance of Ambrosius Leiricei procurator for Ferdinand Great Duke of Tuscan for the spoliation by them in February 1590 of certain merchandice &c., furth of a ship of Danskine called the Great Jonas pertaining to certain burgesses of Danskine whereof Antonius Brighers was Master, the cargo of which was loaded at Danskine by the agents of the said Great

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Duke for conveyance to the port of Lybrue in Italy for the use of himself and his subjects, but owing to storm of weather the vessel was driven on the coasts of Zetland where the protestors committed the said spoliation. In the summons it is declared that whether the defenders compear or not the Lords of Council will proceed to administer justice in the said matter because said Ferdinand Duke of Tuscan is ane stranger friend and confederate to our realme and ought to have summary process. The Lords admit the said protestation and find said Ambrosius liable in expenses.

The goods &c., taken from the said ship were 'Ane hundrith and fiftie lastis of quheit in giral price of ilk last ane hundrith dolouris price of ilk dolour xlvj^s viij^d scotis money inde xxxv thowsand poundis scotis.

Item xxiiij barrellis of quheit price ane hundrith dolouris price of the dolour xlvj^s viij^d Inde ij^c xxxiiij^{li} xiiij^s iiij^d scotis money.

Item twa peices of brasin ordinance weand xxvj^c lxj pound wecht Danskene wecht price of the saidis peices with thair carieg and furnitouris ane hundrith dolouris price of the dolour xlvj^s viij^d Inde ane thowsand twa hundrith xiiij^{li} vj^s viij^d scotis money.

Item xx lastis of boutit flour comptane xii barrellis for the last price of ilk last xlv dolouris price of ilk dolour xlvj^s viij^d Inde ij^m j^c lib scotis.

Item xxvij greit hundrith of plait copper price of ilk hundrith xx dolouris price of ilk dolour xlvj^s viij^d Inde j^m ij^c lx^{li} scotis money.

Item thrie hundrith xxxvij peices of swanis copper maid in service iiij mik tyild stanes weand lxxx twae great hundrith price of ilk ane hundrith dolouris price of ilk dolour xlvj^s viij^d Inde thrie thowsand twa hundrith liij^{li} xiiij^s iiij^d scotis money.

Item twa hundrith Danskyne wecht of sindrie sortis of yron bullotis of Artailzearie price of ilk hundrith v dolaris and ane half inde ij^m viij^c xxiiij^{li} v^s viij^d scotis money.

Item twa hundrith stane Danskyne wecht of mader to lit rid price viij^c and xx dolouris price of ilk dolour xlvj^s viij^d Inde ij^m ix^c xiiij^{li} vj^s viij^d scotis money.

Item twa pakis of lint price thairof ane hundrith and ten dolouris price of ilk dolour xlvj^s viij^d Inde ij^c vj^{li} xiiij^s iiij^d scotis money.

Item ane great Ely vertue quharin was v^c bukskinis and schamdenis iiij elan skinis or buffill hydys ane fair great beasene and ane lawer baith fyne schillell work set aff with personages and historeis and thrie dussane bord knyffis heftit with fyne lammer price of all vj^c dolouris price of ilk dolour xlvj^s viij^d Inde j^m iiij^c poundis scotis money.

Item ane beir trie quhairin was pactit xliij latine buikis bound in parschment treiting of the genealogeis of the kingis of Poll with certane historeis of the Kingis of Moscouia and Tartaria price of the haille j^c ten dolouris price of ilk dolour xlvj^s viij^d Inde ij^c lvj^{li} xiiij^s iiij^d.

Item twa barrellis ane fullit with holene scheise and the uther full of butter price thairof xv dolouris price of ilk dolour xlvj^s viij^d Inde xxxv^{li} scotis money.'

Reviews of Books

BENEDICT IX. AND GREGORY VI. By R. Lane Poole. Pp. 37. Royal 8vo. London: Humphrey Milford. 1917.

IMPERIAL INFLUENCES ON THE FORMS OF PAPAL DOCUMENTS. By R. Lane Poole. Pp. 13. Royal 8vo. London: Humphrey Milford. 1917.

THE modest dimensions of these *tirages à part* from the *Proceedings of the British Academy* give no indication of their value. They form interesting contributions to the study of medieval history, and bear witness to the continued absorption of a well-trained mind in the critical examination of historical material. The number of English-speaking students interested in the chronology of the Popes of the eleventh century and in the history of the Papal chancery is limited, but even readers to whom the subjects of the pamphlets are unfamiliar cannot but benefit by an observation of their method and treatment. The first pamphlet provides an addition to the author's important examination of Papal chronology which appeared in a recent number of the *English Historical Review*, and the second is in the nature of an *excursus* to Mr. Lane Poole's *Papal Chancery*. His study of the reigns of Benedict IX. and Gregory VI. and incidentally of Sylvester III., and of the Synods of Sutri and Rome which the Emperor Henry III. held in 1046 is based on a critical examination of the sources and on an attempt to eliminate and discount the Hildebrandine tradition which was subsequently evolved in consequence of the cult which Gregory VII. professed for the Pope whose name he adopted. 'The history of the Tusculan Popes,' writes Mr. Lane Poole, 'has in truth been contaminated by the fact that their dynasty was followed by a reaction.' The reaction to which he refers followed on a period during which the Papacy was an *appanage* of the Crescentii and the Counts of Tusculum. In an interesting appendix he reconstructs the early history of the latter house, and furnishes a footnote to history which students will place by the side of M. Paul Fabre's *Etude sur le Liber Censuum* and M. Georges Degard's *La fin de la seigneurie de Tusculum*. His examination of what may be described as the constitutional history of Benedict, Gregory, and Sylvester is of negative character, but it clears up some aspects of a confused struggle which has been obscured by the partisan writers of the succeeding generation and by the imperialist tendencies of German historians. To the general reader the most interesting part of Mr. Lane Poole's essay will be found in the concluding pages in which he discusses the relationship between Gregory VI. and Hildebrand, with special reference to their common Jewish origin.

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The maxim *Pecunia non olet* found a characteristic refutation in the experiences of the former.

The second of Mr. Lane Poole's pamphlets deals with *Imperial Influences on the Forms of Papal Documents* during the period from the eighth to the eleventh century. The subject touches points, such as the influence of the Frankish kings, which tempt the student to draw unwarranted generalisations, and the author's reserve is amply justified by the pitfalls which he avoids. He is satisfied to note the changes in the forms of Papal documents during these centuries, and to suggest the possible relations between the development of the Papal chancery and the influence of the Empire, so far as these can be traced from the documents which have been preserved. The regnal year of the Emperor was not replaced by the year of the pontificate until thirty years after the Lombard conquest, and the first reference to the regnal year of the Frankish king is found in a charter of seventeen years later. This new chronology lasted for over a century until the collapse of the Empire under Louis III. It was restored in the time of Otto the Great, and after suffering some limitations was finally dropped by Pope Leo IX., whose pontificate marks an important stage in the history of the Papal chancery. Mr. Lane Poole also finds imperial influence in the employment of the year of the Incarnation, and in the history of this as well as of the foregoing usage he notes the interesting part played by Anglo-Saxon documents. Turning from chronology to the form in which it was expressed, he traces the gradual emancipation of the Popes from the College of Notaries, the history of the *Benevalete* and the *Rota* and of the substitution of the minuscule for the curial land. To a considerable extent the changes which took place were influenced by the practice of the Imperial chancery, but the uncertain fortunes of the Empire and its intermittent influence in Italy safeguarded the growing independence of the Papacy. Leo IX. was thus able to emancipate himself from the traditional influence of the Roman notaries by adopting imperial usages, and at the same time to create a chancery which was free from his day to develop on independent lines.

DAVID BAIRD SMITH.

LANCASHIRE QUARTER SESSIONS RECORDS. Vol. I. Quarter Session Rolls, 1590-1606. Edited by James Tait, M.A. Chetham Society. Vol. 77. New Series. Pp. xlv, 332. Small 4to. Manchester. 1917.

THE latest volume issued by the Chetham Society is a first instalment of *Lancashire Quarter Sessions Rolls*, edited by the President of the Society. It is the first of these Lancashire Rolls to be published, though antiquarian societies in other parts of England have printed some of those for their own counties.

The years covered by this volume are from 1590 to 1606, and only extracts of the rolls in question are included. They are almost as early in date as any now known to exist, for until the seventeenth century the custody of the rolls was evidently of a most haphazard nature. Professor Tait contributes an exhaustive introduction, in which he reviews the

procedure of these courts, and the various kinds of business which came before them. Though chiefly of local interest, the records supply valuable illustrations of the social life of the time on its sordid side; and they also show the working of a method of local government to which the Tudor sovereigns gave so much importance. The following quotation is made in the Introduction: 'In this office (that of justice of the peace) the new monarchy found an efficient and flexible instrument for carrying on the judicial and administrative work necessitated by its consolidating and centralising policy. . . . On the broad foundation of a local class trained in the work of governing, the Tudor monarchs reared their system of absolutism.'

Though not a large county, Lancashire has no obvious centre. Manchester, then as now the largest place, is neither the county town nor the judicial centre. The original idea of four sessions yearly in Lancaster was therefore soon abandoned, and sessions were held at five places, among which the hundreds of the county were distributed. Cases were only occasionally carried outside their own district. There were about fifty justices for the whole county, but it must be remembered that many Lancashire landowners were disqualified by recusancy.

Of the offences which came before the justices, one of the most common was assault, often with a fatal ending. The frequency of forcible entry and trespass shows the roughness of the times, and large numbers of persons were presented for keeping unlicensed alehouses. The lawless clement seems to have displayed some ingenuity in annoying their more peaceful neighbours. Among less grave offences frequently mentioned was that of evading the required service for maintenance of roads and bridges.

The justices were also required to enforce discipline in religious matters. At Lancaster in 1590 six persons were accused of being present at Mass said by an unknown priest at Lea. Presentments for recusancy are common, also for failure to attend church or for disturbing divine service. The vexed question of Sunday sports, which a few years later brought Lancashire into prominence, also appears in these records. The Quarter Sessions Rolls support the view that the policy of repression was not entirely due to the strict Puritans, but that even at this time it was supported by the county justices in the interests of law and order.

ERNEST BROXAP.

THE KING'S MIRROR (*Speculum Regale*—Konungs Skuggsjá). Translated from the Old-Norwegian by L. M. Larson, Professor of History, University of Illinois. Pp. xviii, 388. Royal 8vo. New York: The American-Scandinavian Foundation. London: Humphrey Milford. 1917. 12s. 6d. net.

THE thirteenth century was the Augustan age of the Northlands, when most of the historical and social Sagas, in their final written form, presented to the world of letters their wonderful transcript of life and manners in the preceding Heroic Age. It was also the end, as the Sturlunga and Jarla-sögur show, of a sort of secondary Heroic Age of action, adventure, and conflict.

This didactic treatise is, however, a work apart. Written in Old-Norse, it has few points of contact with the Sagas or the Eddas. It contains the accumulated knowledge and the shrewd observations and reflections of a man of ripe experience. Its author remains deliberately anonymous. Many Biblical references and a scholastic turn of reasoning point to his having been a churchman; and the editor, while he holds the authorship to be still unproved, thinks it possible, as conjectured by A. F. Heffermehl, that the author was Ivar Bodde, an influential Norwegian priest belonging to the anti-clerical party which upheld the divine right of kings. The work was originally intended to afford instruction to the well-born, energetic, and ambitious youth of the day in four spheres of human activity—Commerce, the Court, the Church, and Agriculture—but only the first two are embraced in its survey, and it would seem that the writer never accomplished the remaining parts of his enterprise.

The *Speculum*, as it stands, constitutes an interesting contribution to our knowledge of Northern culture in the Middle Age. Cast, like many similar works, in the form of a dialogue between a father and his son, it discourses with remarkable ability on many topics. Physical science, the cause of tides, the shape of the earth, the wonders of Ireland and Iceland, the various species of whales and other denizens of the Arctic deep, the seasons of the year, geography and navigation are subjects of discussion in the first part. The second part treats of the position of king's men of various rank, their duties, weapons, and amusements; military engines; court manners and etiquette; the position of kings, their duties and responsibilities as rulers and judges; capital punishment; the relation of the king to the Church and his supreme authority even over the bishops.

In the course of much admirable advice, it is odd to find a Northman bracketing chess with dice as a thing to be 'shunned like the devil himself!' (pp. 83, 228).

In his full Introduction, Professor Larson, whose article on 'King's Men' in the *American Historical Review* for April, 1908, was noticed in these pages (*S.H.R.* v. 514, July, 1908), notes the treatises of earlier European scholastic writers from which the author appears to have borrowed facts, legends or arguments, and, by a careful collation of internal and external evidence, fixes the date of the work between 1243 and 1247. The translation he gives is mainly based on the Arna-Magnæan MS. 243 B. (the foundation of the Christiania edition), of which the University of Illinois published a photographic reproduction in 1915.

ROBERT L. BREMNER.

THE CONSTITUTION OF CANADA IN ITS HISTORY AND PRACTICAL WORKING. By William Renwick Riddell, LL.D. Pp. xiv, 170. Post 8vo. London: Oxford University Press. New Haven: Yale University Press. 1917. 5s. 6d. net.

THE aim of this book is to give a popular account of its subject and it succeeds. It commences with a lucid exposition of the system under which French Canada was governed, and we find this was wholly feudal, arbitrary, and military. British rule was introduced after the conquest of

1759, and English criminal law established. But the former was much modified to give a place to the French Canadians, and in 1774 the 'Quebec Act' was passed, which for a time at least conciliated that population. Canada was divided in 1791, but, being subject to an oligarchy, rebellions broke out in both provinces. In 1840 following on Lord Durham's famous Report, the two provinces were united and Responsible Government was granted and a Constitution given. The alterations, improvements and additions to this, made necessary by the changes of circumstances and enormous increase of territory, are well recounted until we come to the present 'nine provinces, all of which have (generally speaking) the same legislative rights and powers.' It is interesting to read the chapters on the written constitution and its practical working, and to notice the fact that 'No province with only one Chamber has ever desired two; while at least one of those with two has groaned under the imposition.' This book should be studied by politicians.

A. FRANCIS STEUART.

ECONOMIC PROBLEMS OF PEACE AFTER WAR. By William Robert Scott, M.A., LL.D., Professor of Political Economy in the University of Glasgow. Pages xii, 122. Demy 8vo. Cambridge University Press. 1917. 4s. 6d. net.

PROFESSOR SCOTT has published the papers which he, as the Jevons Lecturer, read early last year at University College, London. The lectures are naturally rather more idealistic and artistic, than if they had been intended for delivery to prosaic and practically minded business men; and in a very interesting and instructive volume, he suggests problems and tries to foresee where generalizations seem to be tending, rather than attempts to find solutions or to make definite plans for the future after the war.

Professor Scott has always been optimistic as to the economics of this war. 'Unimaginative pessimists,' he says, anticipated the possibility of an exhaustion of our resources with a sinking heart, but he never doubted our ability to furnish all necessary supplies to the longest possible date of the war.

He is also pleasantly optimistic as regards industrial problems. Industry will, he thinks, be less sordid, more free with well ordered freedom and more efficient as regards both men and machines. Production will be greater and the workers will have again more of the old pride of craftsmanship.

There has always been a prevalent idea that agricultural crops are short during a time of war. This phenomena he says has marked the progress of many previous wars, as if Nature was determined to force peace by starving the combatants, and the season 1916-17 was one of short crops. Some authorities think, however, that the shortness of crops is generally only inferred from the highness of prices, and that Nature is therefore less to blame than man and his monies.

Dr. Scott makes a significant and just remark not often found in the writings of Economists, about a fact not always acknowledged. He says that the higher forms of commercial skill remain essentially an art largely

instinctive and almost inarticulate. This is a scientific restatement of the common man's expression, that the head of many a great business is a genius in his own line. Throughout the book there are many similar interesting and shrewd remarks.

There is a valuable chapter and appendix on the Communications of a Maritime State, in which it is pointed out that, paradoxical as it may appear, the strongest naval power loses most ships. There are many to-day who grieve to read our weekly toll of ships lost, who are not aware that during the Napoleonic Wars, our losses were proportionately even greater. Professor Scott mentions that at that time, the French took no less than twelve times as many British ships as the British took French, and the appendix gives full particulars of losses and ships built.

In the chapter on Organization, Dr. Scott indicates that during the last quarter of a century, there has been a disposition on the part of commerce to rely more and more upon the State. Some, however, might prefer to state the tendency as being more that of the State to extend its grasp and to interfere more in the affairs of commerce than commerce likes.

Economics is said to be a dismal science, and many books on the subject are dull and dry. This volume is enlivened and embellished by touches of scholarship, classical quotations and literary allusions which should render it attractive to a wide circle.

ALEXANDER MACINDOE.

INTERAMNA BOREALIS, being Memories and Portraits from an old University Town between the Don and the Dee. By W. Keith Leask, M.A. Pp. xvi, 376. Demy 8vo. 6s. net. The Rosemount Press, Aberdeen. 1917.

To all students who have passed through King's College, Aberdeen, in the last forty years, this is a delightful volume. It is a collection of essays connected with Aberdeen University matters written mostly for the Students' magazine *Alma Mater*, founded in 1883 and still flourishing. And not the least pleasure in handling this book, so full of good things to the old Aberdonian, is the renewal of an acquaintance with the genial author, the best classic of his year, and Assistant Greek Professor in 1881-82. Mr. Leask by his indefatigable labours on behalf of the University and his close association with undergraduate life in all these years, is, though he may not know it, as much a landmark in the affection of old students as the ancient 'Crown' of kings of which he writes so lovingly and so well.

There is not a dull page in the book; even in the most biting sarcasms there is the genial touch of humour. Prose and poetry and classical quotation come with equal facility to Mr. Leask's aid. He knows every phase of student life in the Grey City from the days when George Leybourne, Vance, and the great Macdermot sang *Champagne Charlie*, and *The Chickaleerie Bloke*, when the principal song in the Panto of 1873 was *In her hair she wore a White Camelia*, down to the modern ditties of *Linger Longer, Loo* and *Tell her I love her so*—with bell obligato. He writes of other haunts symposial, The Lemon Tree Hotel, Pegler's, Duffus', still fragrant in memory. Yet he can be serious as well as entertaining, and his estimates of men like Principal Sir William Geddes,

Professors 'Freddy' Fuller, 'Davie' Thomson (and the other and better known 'Davie'—Davie Rennet), Minto and Fyfe, are admirable.

Mr. Leask is the first who has recognised and put in its true place in the somewhat dreary picture of student life in the early eighties the surpassing 'humanity' and loving kindness of William Minto, Professor of Logic and English Literature, and John Fyfe, Professor of Moral Philosophy.

Aberdeen University is fortunate in its historians. Since its academic revival, 1864-1914, much has been written, and there is now a record of *Fasti* unequalled by any other University. For this gift it owes its gratitude to three men who began, carried on and fostered the spirit with rare affection and rarer zeal—Mr. P. J. Anderson, the present Librarian, the author of this volume, Mr. W. K. Leask, and Mr. J. M. Bulloch of the *Graphic*.

A portrait of the author and excellent illustrations of King's College 'Crown' from the old sandpits, the Chanonry, the Brig o' Balgownie, the Spital Brae, and the quaint twin towers of the Powis Gateway complete a book welcomed by all survivors of the academic life of King's College within the last forty years.

P. J. BLAIR.

HISTORY OF THE SOCIETY OF JESUS IN NORTH AMERICA, COLONIAL AND FEDERAL. By Thomas Hughes, S.J. Text. Vol. II. From 1645 till 1773. With six Maps. Pp. xxv, 734. S.R. 8vo. London: Longmans, Green & Co. 1917.

THE latest volume of this magnificent work, previous volumes of which have been noticed in this *Review* (*S.H.R.* v. 229, 362, vii. 308), covers about a century of Jesuit history in North America, and must be regarded as a monument to the learning and industry of its author. If it be true that 'religion is still the key of history,' the story that is here related of missionary activity from the Cromwellian unsettlement to the American Revolution in the middle of the eighteenth century should form a starting-point for a right understanding of developments and their causes which make up the chequered succession of events in that abnormal country. It is a thrilling narrative of the hidden forces which led up to the passing of French Canada to British rule, and the severance of the English Colonies from Great Britain.

The Jesuits were the first missionaries, worthy of the name, in those colonial settlements which afterwards became the United States of America, their missionary sphere in colonial times comprising Maryland, Virginia, New Jersey, Delaware, Pennsylvania, and New York. In Canada, during this period, a large part of the country was brought under Jesuit influence with Quebec as headquarters. There were few points of contact with the British colonies until the Jesuits undertook the evangelisation of the nations of Iroquois Indians, when strain and conflict commenced on sectarian grounds with certain missionary societies bent on the same errand.

The old tales of religious intolerance are reproduced here in startling nakedness, and the tone adopted by Father Hughes deepens the gloom

inseparable from the period under review. Not the least interesting and important chapters in this book are those which set out the efforts of rival missionary agencies, Anglican and Scottish, for the conversion of the heathen Indians. The English societies, still known as the S.P.C.K. and S.P.G., come in for a full share of the author's attention. It is much to be hoped that these chapters will be studied by the ecclesiastical authorities in every land. Mistakes no doubt were made in methods and policies in the early period of modern missions, and as the great propaganda still proceeds, succeeding efforts may perchance learn wisdom from previous misunderstandings. We do not regret the acridity of Father Hughes's style in dealing with the so-called Protestant missions. The picture that he gives may have its usefulness. Gibbon was accused of over-statement when he said that the divisions among Christians suspended the ruin of paganism in the fourth and fifth centuries. Those who study this account of the theological rivalries of Christian missionaries in North America will be apt to revise their opinion of Gibbon's *obiter dictum*.

JAMES WILSON.

BIJDRAGEN EN MEDEDEELINGEN VAN HET HISTORISCH GENOOTSCHAP.

THESE publications of the Dutch Historical Society naturally appeal principally to Dutch national sentiment, but some of the contributions are not without interest to the student of history in this country.

The chief of these is a collection of contemporary letters dealing with events during the second Dutch war against England, and with the famous naval expedition of the fleet of the States-General in 1667, which destroyed the ships of war in the Medway.

The collection, which originates from the Public Record Office, London, falls into two groups: (1) the reports, in English, of Lord Arlington's agents in the Low Countries on the preparations for war; (2) letters, official and private, in Dutch, written on board the men-of-war, prior to their departure from Zeeland, and, later, off the English coast.

That the second group should be preserved amongst our archives is due to the capture of the despatch boat on its way back to Holland.

Whilst disclosing nothing of importance, the documents contain some interesting *obiter scripta*. We note, for instance, that an export trade from Ireland of native woollen products to the Continent was regarded as likely to damage the English wool trade in the Low Countries; that tiles from Holland were extensively used in the rebuilding of London after the great fire; and that numbers of disaffected refugees from England and Scotland, especially members of the 'Godly Party,' were zealous in aiding and abetting the enemies of the restored monarch. Scottish privateers, too, were evidently a thorn in the side of the Admiralty of the States-General, because of their attacks on Dutch westward-bound merchantmen sailing *via* the Orkneys, in preference to running the gauntlet from Dover to Land's End.

The personal touch is not wanting. Writing from his ship, 'The Seven Provinces,' then off Portland (the Dutch fleet had left the Thames for the Channel, in search of prey), Jean de Witte tells his wife that he

had just donned a suit of his new under-garments which fitted him better than any he had ever had before.

The minutes of the meetings of Dutch clothworkers—the so-called ‘Tailors’ Synods’—record how organised industry of that period confronted its labour problems. The Guilds of Masters, embracing both tailors and dealers in cloth, which existed or came into being in the ten chief towns, found that only by united action could they successfully resist the strikes and demands for higher wages of their workmen; and thus originated the meetings of their deputies for the discussion of suitable measures. It is worthy of note that ‘black listing’ was resorted to as a means of defeating workers who, after striking in one town, attempted to ply their trade in another.

The first representative conference took place at Leiden in 1643, and agreed on regulations governing contracts, wages, and overtime. Incidentally, too, it decided to hold biennial meetings in future. These conferences continued till 1793. But gradually various factors combined to weaken the power and alter the character of the Union. With the importation of foreign material, competition from outside superseded internal labour troubles as a cause for anxiety and watchfulness. Local ties and interests succumbed to economic pressure, and the more influential manufacturers removed their works from their native towns to Brabant, where wages were lower. Eventually these Brabant agencies achieved independence, and by the second half of the eighteenth century the Union of Guilds had ceased to represent the Dutch cloth industry. The craft had given place to the capitalist, and the conferences no longer had interest or object. ‘No urgent matter for discussion’ was their death knell.

R. MORRIS STEWART.

THE LOWLAND SCOTS REGIMENTS. Their Origin, Character, and Services previous to the Great War of 1914. Edited for the Association of Lowland Scots by Sir Herbert Maxwell, Bart. Pp. xii, 339. Cr. 4to. With 14 plates. Glasgow: James MacLehose & Sons. 1918.

IN some parts of England the idea still seems to obtain that Scotland is inhabited by a Gaelic-speaking race, the males of which habitually wear a mysterious garment known to the Southron as ‘kilts.’ It is a harmless phantasy, somewhat akin to the idea that no trees are to be found north of the Tweed. Another delusion, which is unfortunately more widely spread, and seems to be shared by many who should know better, is the notion that ‘Scottish’ regiments are represented by the kilted battalions of the British Army. Largely owing to this idea it has been found that the other Scottish regiments, territorially connected with and recruited from the Lowlands of Scotland, are not only popularly ignored, but are actually placed at a disadvantage compared with the Highland regiments in the treatment they receive at the hands of the authorities. They have in consequence suffered in *prestige*, while their regimental customs and traditions have been largely forgotten, and even their claims and wishes in such matters as uniform and equipment disregarded.

The volume before us owes its existence to this state of affairs, having been promoted by the Association of Lowland Scots in order, in the first place, to draw attention to the disadvantages under which they labour, especially in the matter of recruiting, and the grievances they have to complain of, owing to the preferential treatment accorded to the Highland regiments. The matter is fully and ably dealt with in the very interesting introduction contributed by the Editor. This also gives a succinct history of military service in Scotland, with remarks upon arms and methods of service. The 'Soldiers of Fortune' of the sixteenth and seventeenth centuries are referred to, and among other matters touched upon is the disfavour with which for many years military service was looked upon in many parts of Scotland. This, according to the Editor, originated in the savage conduct of the soldiers in the 'killing times,' and was at a later date confirmed by the brutal punishments which were inflicted in the Army until well into the nineteenth century.

While we yield to no one in admiration for the Highland regiments, and recognise that their record and services are unsurpassed in the annals of our Army, it is well to remember :

*Vixere fortes ante Agamemnona
Multi.*

As a matter of fact the regiments whose history is told in this volume were embodied, and had distinguished themselves in numerous campaigns, long before the idea of raising regiments in the Highlands had ever occurred to British statesmen. They comprise The Scots Greys, The Scots Guards, The Royal Scots, The Royal Scots Fusiliers, The King's Own Scottish Borderers, and The Cameronians (Scottish Rifles), regiments that can probably show as many war honours on their colours as any equal number of regiments in the service. The dates of their embodiment are as follows : Scots Greys, 1681 ; Scots Guards, 1661 ; Royal Scots, 1661 ; Royal Scots Fusiliers, 1677 ; K.O. Scottish Borderers, 1689 ; The Cameronians, 1689.

The Scots Guards were formed out of the survivors of the force sent from Scotland to aid the settlers in Ulster in 1642, while the Royal Scots are the direct descendants of a body of infantry raised to assist Henry of Navarre in his war with the League, which ultimately, in 1633, became the Regiment d'Hebron, so called because it was commanded by Sir John Hepburn. It was while in the service of France that it earned its *sobriquet* of 'Pontius Pilate's Bodyguard.' The K.O. Scottish Borderers were raised in Edinburgh by the Earl of Leven, and were originally known as Leven's, or the Edinburgh Regiment. Gen. Wilkinson, who writes the account of this fine old regiment, points out that the name of Borderers was given it owing to their having to defend the borders, not of England and Scotland, but between the Highlands and Lowlands. It has the privilege of beating up for recruits at all times in Edinburgh, and also of marching through that city with bayonets fixed and colours flying. The raising of the Cameronians is an extraordinary story, and is well told by Mr. Andrew Ross, who also contributes a note on the origin of the K.O.S.B. Their 2nd battalion was raised in 1794 by Thomas Graham

of Balgowan (afterwards Lord Lynedoch), and was known as the 90th Foot, Perthshire Light Infantry, until it became, in 1881, the 2nd battalion Cameronians, Scottish Rifles.

The story of these regiments is told in considerable detail by the various writers. Many episodes of engrossing interest are included, such as the defence of Huogomont by the Scots Guards, then the 3rd Foot Guards, and the Homeric contest of the same regiment at Inkerman. A graphic account is given of the Scots Greys at Waterloo, and of the prowess of Sergeant Ewart and others of that regiment on :

‘that great day of Milling, when blood lay in lakes,
when Kings held the battle, and Europe the Stakes.’

In this battle the Greys lost 164 killed and 60 wounded of their

‘Terrible grey horses, that woke Napoleon’s fears.’¹

Among other outstanding incidents we may refer to the Cameronians’ defence of Dunkeld, the R.S. Fusiliers’ ‘desperate valour’ at Blenheim, and the services of the 90th at Lucknow.

In addition to the histories of the existing regiments there is a very interesting chapter, by Mr. Andrew Ross, on ‘Scottish Regiments Disbanded.’ Most of those who read this will no doubt be surprised at the extraordinary number of regiments, both cavalry and infantry, that were raised in the latter part of the seventeenth and earlier years of the eighteenth century. Most of these had but a short career, while a few have been absorbed into still existing units of the British Army. Among the latter we may mention the Scots Brigade which, after many years of service in Holland, formed the nucleus of the old 94th Foot, now the 2nd battalion of the Connaught Rangers. Another feature of the book is the chapter giving the music of the old regimental marches, with notes by Mr. A. W. Inglis.

The story of the regiments is on the whole well told, though occasionally the style helps to remind us that some of the contributors may have been more accustomed to wield the sword than the pen. We have noticed a few *errata* that might be corrected in a later edition. *Three Millions*, on p. 28, is evidently a slip for one million. The Seven Years’ War began in 1756, though it is stated (p. 144) that it ‘came to an end in 1748,’ while the Battle of the Boyne was fought on 11th July, not 13th August, 1690.

The book is well got up, and is illustrated by a number of coloured prints showing the uniforms worn at different periods by the several regiments.

T. F. DONALD.

¹What Napoleon really thought about them may be gathered from his remark when he was watching the Greys on the morning of Waterloo: ‘Regardez ces chevaux gris. Qui sont ces beaux cavaliers? Ce sont de braves troupes mais dans un demi-heure je les couperai en pièces.’ (*Waterloo: A Narrative and Criticism*, by E. L. S. Horsburgh, p. 182, London, 1895.)

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CHURCH AND STATE IN ENGLAND TO THE DEATH OF QUEEN ANNE. By Henry Melville Gwatkin, D.D., late Dixie Professor of Ecclesiastical History, Cambridge. Pp. viii, 416. London: Longmans, Green & Co. 1917. 15s. net.

THIS is an excellent and interesting work; but, the period covered being a very long one, the volume cannot be said to treat the subject exhaustively. No attempt, for example, is made to theorise upon the origin of the connection between Church and State. But as a chronicle of events similar in its object to Green's *Short History* it is admirable, and characterised, on the whole, by a fair and judicial tone. Any extreme expression of party views is absent from this volume, but party feeling in the Church of England is so strong that it is difficult for any Anglican to treat its history unaffected by the prejudices of the party to which he may belong. A High Church historian would wish to prove that his Church did not come into existence at the Reformation together with mere Protestant sects, but has been one and the same institution all along. A Low Churchman would treat the Reformation as an escape from darkness into light, while the Broad Churchman would write of the breadth of the foundations on which his Church rests. Dr. Gwatkin (whose lamented death occurred before this book was published) was well known as a writer upon Church history and a distinguished professor, and the character of his work is well described by Professor Watson in his preface when he says, 'An informed and intelligent student will find in it what, so far as I know, has never been published in England on a scale both modest and comprehensive—a survey of our secular and ecclesiastical development, in due co-ordination and proportion.'

The sympathies of the author seem to lie with the moderately Erastian or Latitudinarian party. He is inclined to judge every system by its fruits. 'Latitudinarian and Deism,' he says, 'both stood for the principle which Puritans and High Church were more and more forgetting, that practice is more than orthodoxy.' He is opposed to priestcraft whether exhibited by Romans, Anglicans or the 'priests writ large' of the Puritans. No High Churchman will accept Dr. Gwatkin's standpoint, since he looks upon the Reformation as justifiable and its martyrs as deserving the title, and he has no objection to the term Protestant. Above all, they would consider him unsound on the subject of marriage. 'It was not right,' he says, 'to make it a sacrament without warrant from St. Paul, to make it indissoluble in direct defiance of Christ himself.'

As to Dr. Gwatkin's views of the necessity for Episcopacy the following sentence may suffice: 'Episcopacy in England, like Presbyterianism in Scotland, was historically necessary and therefore the power ordained of God.' The history of Church and State in England up to the Reformation is largely one of conflict between the powers temporal and spiritual within the kingdom, to which a third and foreign agency, that of the Pope, sometimes contributed. The king might hang the bishops, but the bishops could damn the king, or at least said they could, for the Church traded on the superstition of both king and people as a valuable source of wealth and influence. After the Reformation the king got the upper hand, and

although every attempt was subsequently made to suppress dissent a complete unity of religious belief ceased to exist.

The State connection is a very ancient one. Thus we find King Oswy calling a council or conference as early as the year 664. It arose from the force of circumstance, for the infant Church, struggling with Pagans at home and from across the seas, could only maintain her footing by converting the king, who in turn insisted upon having his say in matters ecclesiastical. There are occasional references to Scotland. It is usual amongst Anglicans to attribute the Puritanical element in Scottish religion, now fast becoming a thing of the past, to Knox and his contemporaries, but Dr. Gwatkin rightly points out that the extreme Calvinism and hatred of Episcopacy grew up later, and was due to English influence and Stuart tyranny. He is, however, hardly correct in describing the Westminster Confession as that of the Scottish Church, drawn up with English help; it was rather an English Confession, in the composition of which some Scotsmen assisted. He is severe upon Mary Queen of Scots, whom he considers to have been implicated in the murder of her husband, and characterises as 'an archplotter' against Elizabeth. In dealing with the Civil War, his sympathies are with Cromwell rather than Charles. While he considers the trial of the latter to have been wholly illegal, and his execution 'the most disastrous mistake imaginable,' he says, 'No fair minded person will find it easy to deny that his indictment as a tyrant, a traitor, and a public enemy was absolutely true in every item.' On the other hand, he will have it that the general temper of Cromwell was noble and unselfish, always leaning to mercy except on two occasions. Moreover, his 'religion was as genuine as that of any saint, and, if we measure it by his intense belief in prayer, we must rank it very high.'

Those who are interested in the subject will find a valuable note on the Ornament Rubric. In the author's opinion 'the general conclusion that the Ornaments have been illegal since 1559 seems past all reasonable doubt.'

W. G. SCOTT MONCRIEFF.

THE GUARDIANS OF THE GATE. Historical Lectures on the Serbs.

By R. G. D. Laffan, C.F. With a foreword by Vice-Admiral

E. T. Troubridge, C.B., C.M.G. With 22 Illustrations and 3 maps.

Pp. 297. Cr. 8vo. Oxford: Clarendon Press. 1918. 5s. net.

THIS history of Serbia, to which Vice-Admiral E. T. Troubridge contributes a short foreword, is compiled from a series of lectures which were happily given to some British soldiers attached to the Serbian Army. The writer does not hark further back than Kossovo in 1389, when Serbian independence was destroyed by the Turk. We are glad to see he does not spare the latter, beginning his indictment thus, 'There has been and is now a tendency in England to regard the Turks as a race of honourable gentlemen, clean fighters, and even, when left to themselves, very tolerable governors. The nations whom they have ruled have thought very differently.' The Kara George struggles with the Obrenovitch dynasty takes up the chapter in 'the past.' The assassination in 1868 of Prince

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Michael (of the latter family) is stated to have been an irreparable loss, as, had he survived, a Yugo-Slav state might have come into being. As it was, his cousin the worthless Milan—later king—succeeded, and sold Serbia to Austria; and by the Treaty of Berlin Serbia, though enlarged in territory, was cut off from all Yugo-Slav expansion. Like all writers on Serbia the author tells us that the murder of King Alexander and Queen Draga did not shock the Serbians much. They, he says, 'felt that what had been done had been done, and, however it had happened, they were well rid of the Obrenovitch.' The improvement of Serbia under King Peter is shown and the success during the Balkan war narrated. Serbia had then recovered all the historic shrines of Old Serbia and prospects seemed fair. Then came the Sarajevo murder, the Austrian ultimatum and the present war and the awful 'execution of Serbia' by the Central Powers. The plight of the Serbs was hopeless. They were 'attacked by three Powers, betrayed by the Greek Government, unsupported by their western allies' and were helpless. The writer tells us of the downfall and flight to Corfu and the return of the exiles to Salonica, and writes very sympathetically of the fine qualities of the Serbian fighting man. The Austrian reign of terror in the Yugo-Slav provinces and in Serbia is also exhibited to us. Yet the author hopes for Serbia's future, though he sees the difficulties before the battle-tossed people, and one cannot think that a nation who for five hundred years have never been content to submit to slavery, and have 'unceasingly struggled towards the light' will not gain it at last.

A. FRANCIS STEUART.

OUR RENAISSANCE. Essays on the Reform and Revival of Classical Studies. With a Preface by Sir Frederic Kenyon, K.C.B. By Henry Browne, S.J. Pp. xviii, 281. Demy 8vo. London: Longmans, Green & Co. 1917. 7s. 6d. net.

IT is the desire of the author in these Essays to revitalize classical education. He instances his own case, where, though taught the Greek language perfectly scientifically he was not taught that the language was that of a living people whose thoughts and ideas have lasted through all the ages and the recurrence of which have always played a great part in the forwarding of civilisation. Two chapters on the 'Pursuit of Beauty' and the 'Cradle of Democracy' show the æsthetic spirit and the political enlightenment (if we omit slavery) of the Greeks, while in a chapter on the Greek religious spirit attention is drawn to the fact that the magnificence of their Temples indicates very vividly that there must have been a strong religious force that caused them to be built. In the second part Professor Browne insists on wider humanistic teaching—he points out that the old days when the classics were 'aristocratic' are past, or should be—by every means, however new. Eye teaching, he recommends. This includes numismatics and all relics of the life of the past. He does not scorn photographs, and he insists on the educational value of Museums. To this appeal to Educationalists Sir Frederick Kenyon supplies a short preface giving emphasis to the special endeavour of this work.

ILLUSTRATIONS OF CHAUCER'S ENGLAND. Edited by Dorothy Hughes, M.A. With a Preface by A. F. Pollard, M.A., Litt.D. (University of London Intermediate Source Books of History No. 1.) Pp. xiv, 302. Post 8vo. London: Longmans, Green & Co. 1918. 7s. 6d. net.

PROFESSOR POLLARD in his introduction pays a tribute to the knowledge Miss Hughes possesses of the Sources of this period, and we do not wonder. There is hardly a portion of Chaucer that this book does not illustrate, and therefore this first example of 'Source-books selected and arranged according to recognised principles of historical science' will, we hope, encourage the Board of Studies in History in the University of London to go on with further happy experiments. The French war naturally takes up the major part of the book, but social history and ecclesiastical affairs are not neglected, nor are politics and constitutional points. We have insight into budding heresy, the peasants' war, and disputes with the Pope. All these come from sources of great historical value, so that the usefulness of this book to students is difficult to appraise too highly.

THE BOOK OF THE CRAFT OF DYING AND OTHER EARLY ENGLISH TRACTS CONCERNING DEATH. By Frances M. M. Comper. With Preface by Rev. George Congreave, S.S.J.E. Pp. xlv, 173. Square fcap 8vo. London: Longmans. 1917. 6s. net.

THE eight portions of this book are short treatises from the medieval work *De Arte Moriendi*, Susos' *Horologium Sapientias*, the *Toure of all Toures*, a Bodleian MS., R. Rolles' *The Form of Living*, and the *Lamentation, or Complaint of the Dying Creature*, curious tracts on death and dying which repay study. The last is perhaps the most picturesque. It is a drama. 'Cruelty' comes to warn the 'Dying Creature' to be ready, the 'Angel Guardian' cannot help, nor can 'Reason,' 'Dread,' or 'Conscience.' 'Faith,' 'Hope,' and 'Charity,' at last called in, encourage her to make an appeal to the Blessed Virgin, Mother of Mercy, and the piece ends with the reconciliation of his Sinful Soul. The whole of the tracts show the intimacy with the idea of Death and the necessity of preparation for it which was a product of the time in which they were written, and which passed away when the thought of death was, as the writer of the introductory note says, 'something of which it was not good manners to speak, even in illness.'

THE HISTORY OF LEGISLATIVE METHODS IN THE PERIOD BEFORE 1825. By Ralph Volney Harlow. Pp. xvi, 269. Med. 8vo. Yale University Press; London: Humphrey Milford. 1917. 10s. net.

THIS book traces the process of legislation in America and discusses the two types of its genesis, 'the formal, provided by the rules, and the informal, supplied by the political party.' It begins with the history of the Committee systems in the legislative colonial bodies from 1750 to 1790, and later in the federal House of Representatives. The Committee systems seemed to be then as distinguished a feature of American as it is now (for the moment) of Russian government. The author acknowledges his indebtedness to Professor Allen Johnston, of Yale.

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THE READJUSTER MOVEMENT IN VIRGINIA. By Charles Chilton Pearson, Ph.D. Pp. xiv, 191. Med. 8vo. Yale University Press; London: Humphrey Milford. 1917. 8s. 6d. net.

THIS book might justly be called either 'the Romance of the State Debt' or else 'the Restoration of Credit'; the former covering the period of 1784-1867, the latter from 1870-1871. The 'Readjuster' Convention which gives its title to the work came in 1879 and ended in 1885. It is a difficult chapter in American financial history, but it is well told here.

Professor Firth's Creighton Lecture for 1917, under the title, *Then and Now, or, A Comparison between the War with Napoleon and the present War* (London: Macmillan, 1917, 8vo, pp. 30) contrasts the situation of to-day, mercantile, military and economic, with the parallel struggle. The facts, simply but convincingly marshalled, leave no doubt that our crisis has been and is far sterner and greater than that which our ancestors encountered. Professor Firth extols the persistent spirit which in 1815, after twenty-two years of diverse fortune, sealed and secured its success. He bids us equal the endurance of our forebears.

Professor T. F. Tout's brightly interesting lecture, *Mediaeval Town Planning* (Manchester: The University Press, 1917, demy 8vo, pp. 35, 1s. 6d. net), shows that he has found a new subject worth further pursuit. His best instances are Edward First's remaking of what we now call Hull, his founding of *bastides* in Gascony, and his abortive design to reconstitute Berwick-on-Tweed. Almost all the cases are military. Plans given are good, but late. A missing chapter on the misty origins of the type might have included some such ancient and odd romance examples as the castle-town of Gautdestroit in *Messire Gauvain*, written by the twelfth-thirteenth century trouvère, Raoul.

Much history in small compass appears in *The Commemorative Medal in the Service of Germany*, by G. F. Hill (demy 8vo, pp. 32. London: Longmans, 1917, 6d. net), which briefly comments on the outbreak of medallions expressive of German ideals, animosities and hero-worships. No fewer than five hundred and eighty medals had reached foreign countries last year, and probably the list still grows. This pamphlet describes in the seventeen medals excellently illustrated, typical instances of our enemy's ideas about the work of his submarines, and the portraiture of his Emperor and Crown Prince, as well as of Tirpitz and Zeppelin.

The new volume of the *Proceedings of the Royal Irish Academy* (vol. xxxiv. Section C, Nos. 1-5) opens with an elaborate paper by the Rev. Patrick Power on the Place Names and Antiquities of S.E. Cork (No. 1), in which his archaeological observations seem to be of more value than his philological speculations.

Two studies on the old silver plate belonging to Trinity College, Dublin, are of considerable interest. Mr. Dudley Westropp, while making a catalogue of it for the College authorities, discovered that the date of gift on

several of the pieces was much earlier than the date indicated by the hall-mark, a discrepancy which arose, he explained, either from re-making or from delayed purchase. Either supposition is inadequate according to Dr. Mahaffy (No. 2), who maintains that hallmarks are of secondary importance when confronted with inscribed dates. In No. 5 Mr. Westropp defends his original explanation.

Mr. T. J. Westropp, whose contributions are always welcome, attempts to identify some prehistoric sites in Co. Limerick as pagan sanctuaries (No. 3), and the interments found near Ardee are pronounced by Dr. Macalister and Mr. Holby as of pre-Christian date (No. 4).

In the *English Historical Review* for January Mr. Murray Beaven revises the story of King Edmund I. and the Danes of York. Incidentally he offers fresh views not only as to the general struggle with the Danes, but also as to the careers of the variously surnamed leaders styled Anlaf, whose separate individualities are hard to disentangle.

Mr. E. Armstrong sketches the content of the Medici archives, the recently announced sale of which has been suspended, if not countermanded. Dr. Moore Smith has found matter both of poetry and history in the *Quodlibets* and other writings of Robert Hayman, 1575-1632, urging the colonial exploitation of Newfoundland. Mr. Edward Salisbury edits an imperfect but important memorandum of a council held in June, 1318, to advise on proceedings for the salvation of the realm against the malice and iniquity of the Scots, 'who had entered England with great hosts as far as Yorkshire, destroying holy church' and generally wasting the land.

History for January has the conclusion of Professor Firth's scrutiny of the story of the expulsion of the Long Parliament, illustrating the mythical element fostered by an imperfect contemporary record. Mr. C. W. Previt -Orton edits a very nebulous Elizabethan prophecy, mostly carried over from early dates.

In *The American Historical Review* for January the Presidential address to the American Historical Association by Washington C. Ford shows the advance in editorial method in the publication of historical memoirs since the early days of the Republic, but points out the difficulties of reaching dispassionate presentment at the very best, and the obstacles to procuring the most trustworthy evidence. A side of the same subject is well seen in James G. Randall's lively discussion of the newspaper problem during the Civil War. The game of dodging the censor was pursued with great energy, but more successfully by northern editors. Some secrets of the evolution of the alliance between the Emperors of Germany and Russia have emerged in the revolutionary upturn of Petrograd, and in consequence Sergo Goriainov has been enabled to present a new narrative of the negotiations by which Bismarck led up to the confidential agreement of June 1887, which Bismarck's successor, Caprivi, refused to renew in 1890, thus terminating that alliance, although after Bismarck's super-session the Emperor had assured the Russian Ambassador, Shuvalov, of his regard for the Czar, and his desire to continue the treaty. A batch of

letters from Andrew Jackson Donelson, the American Minister in Berlin during March 1848, gives his official reports of the revolution. Then, as now in the Russian revolution, the position and attitude of Poland were regarded as vital problems of the changed situation, which, however, proved to be less permanent in effect than the Ambassador anticipated.

The number of the *Revue Historique* for November-December, 1917, opens with the concluding instalment of M. Desdevises' important study of the *Vice-rois et capitaines généraux des Indes espagnoles*, which is followed by the final portion of M. Halphen's *Etudes critiques sur l'histoire de Charlemagne*, devoted to an examination of Einhart's *Vita Karoli*. The cumulative effect of M. Halphen's discriminating discussion of Einhart and his work goes far to relegate his *Vita* to the position of a secondary authority. H. André Piganiol's *L'Impôt de capitation sous le Bas-Empire romain* and M. Babelon's *Le Rhin dans l'histoire*, ii., receive very critical examination. Mr. Harold Begbie's *apologia* for Lord Haldane is treated with a deliciously portentous irony by M. Bémont. Reference is made to the publication of the last *fascicule* of the *Dictionnaire* of Daremberg and Saglio and to the deaths of MM. Paul Meyer, Louis Liard, and Maxime Collignon. Students of scholastic philosophy will learn with interest that M. François Picavet has arranged to edit for the *Société d'histoire générale et comparée des philosophies médiévales* complete texts of the most important treatises of the medieval philosophers.

In the number for January-February, 1918, M. M. Wilmotte, the distinguished professor of the University of Liège, deals with the *local* of the *Waltharius*, the most important of medieval Latin poems. His article is devoted to a criticism of the conclusions which Jacob Grimm enunciated in 1838 as to the Germanic origin of the poem. These conclusions have been generally accepted by subsequent writers e.g. by Professor Ker in his *Dark Ages*. Until the present war seemed to justify an exposure of the nationalist tendencies of German scholarship, it was probably of little moment to historians of literature to determine whether the poem was produced within the spiritual orbit of modern France or not, but recent events have altered our perspective. The independent investigations of MM. Jacques Flach and M. Wilmotte have produced interesting results which merit serious attention. The author of *Waltharius* threatens to assume the proportions of a continental *Huchown of the Awle Ryale*. In an interesting article M. Georges Weill deals with Julien Ouvrard, the financier of the Revolution, Empire and Restoration, who revived the tradition of Law, and M. Eugène Griselle furnishes some important documents on the Clèves-Juliers succession which occupied the attention of the diplomatists of Europe at the beginning of the seventeenth century. For many readers the most important contribution to the number is the third and concluding instalment of Mm. Luchaire and Alazard's survey of recent Italian historical studies, a critical examination of an abundant output which will be appreciated even by the most attentive student. Among the *Notes bibliographiques* attention may be drawn to the publication by Champion of a Latin chronicle dealing with the Divorce of Henry VIII., edited by M. Bémont.

Communications

TESTE MEIPSO. In the treatise, *Commentatio in tit. x. libri secundi institutionum de Testamentis ordinandis*, which Edward Henryson, one of the most distinguished of Scottish civilians, dedicated to Michael de l'Hopital in 1555, there is an interesting reference to a practice which he claims as distinctly Scottish.¹ In his commentary on the new form of Wills introduced by the praetor he quotes, with reference to the words of the Institutes, *Sed septem testium signa sufficiebant*, a passage from the Roman jurist, Venuleius Saturninus: *Curent magistratus cujusque loci testari volentibus et se ipsos et alios testes vel signatores praebere, quo facilius negotia explicentur et probatio rerum salva sit.*² Further, with reference to the words of Venuleius, *et se ipsos*, he writes: 'Item quod ait, *et seipso*s, admonet me Regis Scotiae, nostrae, qui ipse rogatus res in Testationem suam, hoc est, se solo teste redigere solibat, *cap. cum dilectus 9 de fide instru.* Magistratus autem ut privatos testificari Arcadius quoque scripsit, *l. Ob 21 ff. de Testib.* Verum parum perite mihi videtur respondere Papa de Rege, *l. 1. de constit. l. 3 in fine de offic. Praeto, l. 1. a quib. appell non licet. l. quidam 57 fin ff. ulti, Institut. quib. mod. Testa. infir l. omnium 19 Cod. de Testa.* vbi et haec quaestio tractatur.'³

It will be observed that Henryson's first reference is to the ninth Chapter of the twenty-second title of the Second Book of the Decretals of Gregory IX. This chapter forms part of a letter of Innocent III. addressed in 1207 to the Bishop of St. Andrews and others with reference to a dispute between the Augustinian Abbey of Cambuskenneth and the Benedictine Abbey of Dunfermline. The dispute concerned the ownership of lands and teinds in the valley of the Forth. The Bishop and other ecclesiastics, to whom the dispute had been referred, consulted the Pope on four legal points involved, and the Papal solution of the third question is cited by Henryson.⁴ As contained in the *Corpus Juris Canonici* the finding of Innocent does not disclose the exact point involved, and one can only conjecture that it concerned the validity of a Royal grant. 'Super tertio vero articulo taliter respondemus,' wrote Innocent, 'quod inquiratis diligentius veritatem, et, si consuetudo illius patriae obtinet approbata, ut instrumentis illius regis fides adhibeatur in talibus, vos ea secure poteritis admittere, praesertim quum supradictus rex tantae

¹ Meerman, *Thesaurus*, iii. 426.

² D. xxii. 5, 23.

³ Meerman, *Ibid.* 431.

⁴ For the other questions v. *Decretal*, Greg. IX. i. 43, 6, and ii. 12, 6,

fuerit honestatis, quod ipsius instrumenta maximae auctoritatis sint in partibus Scoticanis.' Is the 'rex tantae honestatis' David I., who founded the Abbey of Cambuskenneth?

On referring to the *Regesta* of Innocent III. we find the question and a more detailed answer.¹ 'Ex quo, autem,' wrote the Pope, 'scrupulus tertiae dubitationis emersit, quod monachi supradicti excipientes contra canonicos supradictos asseruerunt controversiam super praefatis decimis tempore inclytæ recordationis regis David fuisse per concordiam terminatam, super compositione inita instrumentum in medium producentes prafati regis sigillo munitum. Super quod nostrum postulastis responsum, utrum instrumentum illud, testibus sublatis de medio, per se sufficeire valeat ad probandum propositum, cum hinc inde fuerit allegatum. . . . Super tertio vero capitulo taliter respondemus, quod inquiratis diligentius veritatem. Et si consuetudo illius patriae obtinet approbata ut instrumentis illius regis fides adhibeatur in talibus, vos secure poteritis prae-fatum admittere instrumentum; praesertim cum saepedictus rex tantae fuerit honestatis quod ipsius instrumenta maximae auctoritatis sint in partibus Scoticanis.' The question was, therefore, as to the validity of a charter by David I. sealed with his seal and 'testibus sublatis de medio.' Can this charter be identified?

On referring to the Chartulary of Cambuskenneth,² transcribed by Alexander Mylne, Abbot and the first President of the Court of Session, in 1535, we find that it contains a *compositio inter nos et Dunfermeling super diversis decimis et de celdra farine de Polmas Regis Kirketoun* which Sir Wm. Fraser dated 24th October, 1215.³ This *compositio*, which is also found in the Register of Dunfermline,⁴ contains a narrative of the dispute, but it does not refer to the legal questions involved and the findings of Innocent. It furnishes, however, a clue to the charter in dispute, for it provides: 'et preterea terra illa que dicitur terra canonicorum, juxta molendinum, quam rex David dedit ad fundationem abbacie de Cambuskynne, remanibit libera et quieta canonicis de Cambuskynne . . .'. Now the Cambuskenneth Chartulary contains two Charters by David which Fraser dated 'c. 1147' and 'ante 1153.' Neither of these refers to the 'terra canonicorum' and both are fully witnessed.⁵ No guidance can therefore be obtained from documents, and we are left to conjecture. The *Regesta* of Innocent III. were not available to Henryson when he identified the question submitted to the Pope as one connected with the authentication of a Royal signature, and the *Decretalia* of Gregory do not provide the information. Was Henryson in his youth associated with Mylne? The latter died in 1548, and the treatise of the former, from which the passage is taken, was dated from Bourges seven years later. Had the former heard of some monastic tradition preserved at Cambuskenneth regarding the disputed Royal charter? The

¹ Migne, *Patrologia Latina*, ccxv. p. 1126, cf. 1134.

² *Registrum monasterii de Cambuskenneth* (Ed. Fraser, ed. 1872). ³ P. 149.

⁴ *Registrum de Dunfermelyn* (Bannatyne Club, 1842), 128.

⁵ *Registrum*, pp. 71 and 77.

prudent student will ignore the curious coincidence, and conclude that Henryson simply quoted Innocent in support of the general proposition that local customs must be recognised. It is difficult to connect the situation indicated by the phrase *testibus sublati de medio* with the absence of witnesses.

Henryson's other citations are from the *Corpus Juris Civilis*. He cites the title *De testibus* in the Twenty-second Book of the Digest: 'Illud quoque incunctabile est, ut, si res exigat, non tatum privati, sed etiam magistratus, si in praesenti sint, testimonium dicant. Item senatus censuit praetorem testimonium dare debere in iudicio adulterii causa.'¹ The *autem*, with which this reference to the Digest is introduced, indicates that he was not satisfied with the attribution of the practice by Innocent to *consuetudo illius patriae*, and that he wished to found it on the *jus scriptum*. The conclusion is confirmed by the words which follow: 'Verum parum perite mitri videtur respondere Papa de Rege,' and by the reference which follows to the title *De constitutionibus Principum*.² 'Quodcumque igitur imperator per epistolam et subscriptionem statuit,' wrote Ulpian, 'vel cognoscens decrevit vel de plano interlocutus est vel edicto praecipit, legem esse constat.' The following references add nothing to the argument, all having reference to the plenitude of imperial power.³ It is possible that they are given to meet the difficulties involved in the view that the term *instrumentum publicum* did not include Royal letters.⁴

Until M. Léopold Delisle opened up the question afresh, the weight of authority was against the view that an authentic charter of David I. could contain the form *teste meipso*. Mabillon's judgment was as follows: 'Lapsu temporis inventa est ab Anglicanis regibus compendiosior via, ut non aliis testibus. quam teste Rege ipso litteras quasdam suas roborarent. Hujusci ritus originem Ricardo primo antiquiorem esse non puto, cujus Richardi complures litterae, hac formula, *teste meipso*, vel consimili praedictae reperiuntur apud Rogerium Hovedenum.'⁵ He noted that the practice never spread to France, in spite of the existence of a few doubtful *diplomata* of St. Louis, in which it is found. M. Giry deals with the question shortly and accepts the conclusions of Mabillon, adding, 'On a fait remonter l'origine de cette mention à Henri II., voire a Guillaume le Conquerant, mais les documents allégués sont plus que suspects.'⁶

Turning to Scotland, we find in the Register of the Bishop of Aberdeen a Charter of 1137 by David I. which concludes with the phrase 'teste meipso apud Forfar, anno regni mei decimo tertio, trecesimo die mensis Junii.'⁷ Cosmo Innes in his Preface described these words as spurious, the scribe having 'stupidly affixed the conclusion and mode of testing

¹ D. xxii. 5, 21.

² D. i. 4, 1.

³ D. i. 14, 3. *De officio praetorum*: '... quod jus multo magis in imperatore observandum est.' D. xlix, 2, 1, *A quibus appellari non licet*. D. xlii. 1, 57, *De re iudicata*. Instit. ii. 17; C. vi. 23, 19, *De testamentis*.

⁴ Vide e.g. Van Espen, Pars. iii., tit. vii., cap. vii. 7.

⁵ *De re diplomatica*.

⁶ *Manuel de diplomatique* (Paris, 1894), 796.

⁷ *Reg. Ep. Aber.* i. 3, cf. Lawrie, *Early Scottish Charters*, 354.

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which were in fashion in the Charters of his time.' He added a reference to Mabillon, and concluded: 'We do not meet with it in Scotland in ascertained genuine Charters earlier than the reign of Alexander II.'

In his important introduction to the collection of the *Actes* of Henry II. M. Delisle wrote in the year 1909: 'J'ai relevé la formule *teste meipso* dans la subscription de neuf chartes de Henri II. et, quoique plusieurs de ces chartes soient d'une authenticité douteuse, le nombre en est trop considérable, et elles viennent d'établissements trop divers, pour qu'on puisse soupçonner que des faussaires, disséminés dans les provinces françaises soumises à Henri II., aient pu s'entendre pour fabriquer des actes renfermant une locution assez peu usitée et trouver le moyen de les faire entrer dans un certain nombre d'archives.'¹ He noted that Sir Thomas Duffus Hardy had adopted the view that the practice went back to Henry II., in 1833, and had abandoned it four years later.²

The observations of Henryson add nothing to the solution of the problem, but they are not without interest. DAVID BAIRD SMITH.

A HOLOGRAPH RECEIPT OF EDWARD RABAN. Before he became the first printer in Aberdeen, Edward Raban is known to have printed one book in Edinburgh, and at least eight, if not ten, in St. Andrews. In Edinburgh he dwelt 'at the Cowgate Port, at the signe of A B C'; and in St. Andrews his 'printing-house' was 'in the South-street of the citie, at the signe of the A B C.' His Edinburgh volume was dated 1620, and his St. Andrews ones, 1620, 1621 and 1622. No fewer than five works issued from his press at Aberdeen in 1622. The titles of all these works, and bibliographical descriptions of them, will be found in Mr. J. P. Edmond's, *Aberdeen Printers, Edward Raban to James Nicol, 1620-1736*. On five of his St. Andrews books Raban designates himself as 'printer to the universitie,' in one as 'academiæ typographus,' and in another as 'universitatis typographus.' Of St. Andrews, Mr. Edmond said: 'It is very much to be regretted that the municipal records of this ancient city are very deficient—those for the years during which Raban worked there are lost.' The existing minutes of the Town Council do not go further back than 1656, but other records do, and I was fortunate enough to find among them, several years ago, one of Raban's holograph receipts, which runs thus:

'I Edward Raban, printer in St. Androes, grant mee to have received from Simon Greggor, the sum of 20 ll. Scots, concerning the tearme of Martinmes 1620, and the tearme of Whitsunday 1621, which was granted unto me by the senate and counsell of the sayd citie: Therefore, I say, I most thankefully discharge the senators foresayds, and Simon Greggor their tresaurer, of the two tearms foresayds, this 12 March 1622

'By me Edward Raban.'

As will be seen from the accompanying reproduction of Mr. Fairweather's full-size photo, Raban wrote a clear, bold hand. The receipt has been

¹ *Recueil des Actes de Henri II.* (Paris, 1909), 225.

² *Rotuli chartarum*, xxxi.; *Rotuli litterarum clausurarum*, xvii.

Grand Zaban, printer in St Andrew, grant me to
give verior from Simon Gregor, the summe of 20 the
rote, removing the teams of Martin mod. 1620. and the
teams of regitfondur 1621. regie me grant unto me by the
Senate and counsell of the sayd Citie: Therefore, y say, y
most hartelyfully desire the Senate forsake, and Simon
Gregor his Tresaurer, of the two teams forever, &c,

the 12 March 1622

(By me Edward Zaban

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thus indorsed by Simon Greggor or his clerk: 'Aidvarrt Rabans discharge of Mertimis 1620 and Vitsindy 1621 hes hous maill, 20 lib.' This shows that the Town Council paid his rent. The only specimens of Raban's handwriting known to Mr. Edmond were his signatures to the lease of his Aberdeen printing office and to an entry in one of the Aberdeen registers. Of the latter he gave a facsimile. His reading of that entry (*Aberdeen Printers*, pp. xxvi, xxvii) is inaccurate—'paper ust' should be 'papier coft,' and 'acts publest' should be 'actit & oblest.' Mr. Edmond not only described the very rare Raban horn-book of four leaves, but gave a fac-simile of it. He also stated that Dr. Laing bought for three shillings the copy which, at the sale of the first portion of his library (lot 1540), realised £15. That was in 1879. The late Mr. John S. Gibb's copy, at the sale of the first portion of his library (lot 460), realised £15 15s. That was in 1912, not at Sotheby's, but at Dowell's. This was surely a record price for four small leaves printed on one side of the paper only.

D. HAY FLEMING.

A SCULPTURED COAT OF ARMS AT BEWCASTLE.

Dr. Evans of Newcastleton has sent me a photograph of an old stone, now built into the wall of a barn at Bewcastle, with the request that if possible I might identify the coat of arms sculptured upon it. The charges are much worn by long exposure to the weather, and the accompanying engraving shows how they now appear. With the concurrence of Dr. Evans I am sending you the outline with observations.

The barn belongs to the homestead of Demesne Farm, which forms a group with the church and ruined castle of Bewcastle on the Border. The name of the farm is interesting, being in such close proximity to the castle and lying at the head of a stretch of ground still known as the Park. These names recall their feudal relations. It was the home farm, the demesne of the manor in the hand of the lord.

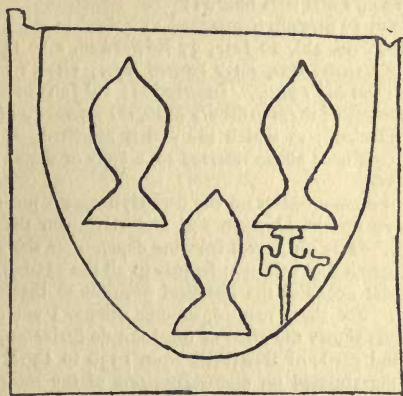
The feudal ownership is as important as the geographical position of the site. The manor of Bewcastle was parcel of the barony of Gillesland, but the baronial oversight did not alter its feudal status. It was always owned by a free tenant when not seized for some cause by the Crown. That being the case, it is not necessary to go back beyond the fourteenth century for a declaration of ownership. It may suffice to say that Adam de Swinburne, lord of Bewcastle, died in 1318: Sir John de Strivelyn was married to Barnaba, one of his co-heiresses, before 1330 and thereby obtained the manor as part of her inheritance. By a deed of enfeoffment in 1361 the manor was entailed in such a way that when Sir John de Strivelyn died in 1378 it did not pass out of Strivelyn possession till 1391 when it came to the Middletons of Belsay Castle in Northumberland. The Strivelyn tenure of Bewcastle, therefore, in rough figures embraced the period from 1330 to 1391.

When Dr. Evans sent me the photograph, I was not aware of the existence of the stone: no notice of it in print was known to me. Later, however, I came across a manuscript description of it, made in 1688, which is of considerable interest. Thomas Denton, writing of Bewcastle in that year, says:

A Sculptured Coat of Arms at Bewcastle 27

‘There is a Coat of arms cutt in stone upon ye Castle gate of ye Vaulxs with a Daggar pendant in the side of ye Escutcheon whereby it seems that Robert de Vallibus did finish it, who killed Gills Bueth with a Dagger.’

From this it is clear that the monument was at that time a decoration of the castle and was afterwards transferred to the barn of the home farm. Denton’s explanation of the coat of arms need not be taken seriously. The family of Vallibus or Vaux, lords of Gillesland, never owned the castle or manor, except as overlords in the twelfth and early thirteenth centuries, and the arms of the family in all its principal branches are fairly well known. The coat of Vaux of Gillesland was *checky*, but late descents



in minor branches had three *garbs* on their shields, never, however, without a *checky fesse* or bend. Denton’s ‘dagger pendant in the side of ye escutcheon’ only recalls the very old legend about the foundation of the priory of Lanercost. But unless the *checkers* are seen on the stone, the venture of assuming Vaux for the arms may be dismissed. The arrangement of the charges on the Bewcastle shield renders the introduction of fesse or bend impossible.

The three principal figures in my belief are not *garbs* but *covered cups*, and Denton’s ‘dagger,’ which fortunately still remains distinct, is one of the cross-crosslets which go to make up the coat of Sir John de Strivelyn, lord of the manor of Bewcastle in the fourteenth century—*crusilly of cross-crosslets, three covered cups*. There is no need to determine whether there were two Sir John de Strivelyns in succession or only one: so far as the arms on this stone are concerned, it is immaterial. My suggestion is that the remnants of the sculpture show unmistakably the Strivelyn coat. I think I see in the photograph another cross-crosslet on the field, but as it is not clearly discernible I do not put it in as evidence. The stone is decayed in some parts more than in others, though strange to say it can have altered little since Denton observed it at the castle in 1688,

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If we compare the photograph of the Bewcastle shield with a similar monument over one of the doorways at Belsay Castle, we see it quartered with that of Middleton which shows the arms of Strivelyn as *crusilly of cross-crosslets, three covered cups*. In the Durham treasury there are examples, not only of the seal of Middleton quartering Strivelyn as sculptured above the Belsay Castle doorway, but also of the seal of Sir John de Strivelyn with the arms shown on the Bewcastle stone. Photographic reproductions of the Belsay Castle shield and of the Durham seals are given by Sir Arthur E. Middleton, Bart., in his charming little *Account of Belsay Castle*, printed for private circulation in 1910. Sir Arthur's description of Sir John de Strivelyn's seal is as follows:

'Seal of Sir John de Strevelyn attached to a deed in the Durham muniments (1^{ma} 6^{ta} Spec. no. 48), 20 July, 35 Edward iii. A.D. 1361. A shield bearing *crusilly of cross-crosslets, three covered cups*. Crest: on a helmet, a covered cup between two bull's horns. Inscription: 'S^t Johannes de Strevelyn.' The heraldic tinctures of these arms are *Sable, the crosslets and cups argent*.'

The deed at Durham, to which the seal is attached, is, I believe, the actual deed of enfeoffment above referred to, a copy of which is preserved in our national records.

The number of cross-crosslets on the Strivelyn coat is not constant. Six or seven are shown on the Durham seal and eleven on the Belsay extra-mural monument. The number I imagine depends on the relative size of the cups. But there is one common feature in all the examples I have seen, that a cross-crosslet occupies the identical position as that shown on the Bewcastle shield. For these reasons, among others, I am persuaded that the Bewcastle stone shows the arms of Sir John de Strivelyn, whose family held the manor and castle of Bewcastle from 1330 to 1391, and if so, Dr. Evans is to be congratulated on discovering one of the most ancient coats of arms, sculptured in stone, in existence in the county of Cumberland.

It is well known that Sir John de Strivelyn and the Middletons and Swinburnes took a prominent part in Border affairs in the fourteenth century, as may be seen from the documents calendared by Mr. Joseph Bain and such-like sources.

JAMES WILSON.

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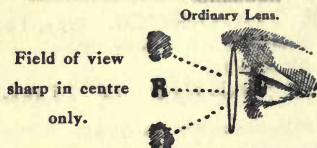
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Macaulay's Treatment of Scottish History¹

ONE of the merits of Macaulay is that he treats the Revolution broadly and comprehensively, connects throughout the history of England with that of Ireland and Scotland, and shows how the change of government in one country affected the fortunes of the other two. It was a more difficult task than his readers realise, for there was at the time no good history of either Ireland or Scotland in existence, nor were there available many of those monographs on particular subjects which help to replace consecutive narratives. Take, for instance, Scotland. Malcolm Laing's verbose and obsolete *History of Scotland from the Union of the Crowns to the Union of the Kingdoms* was the best available account. Tytler's excellent history stopped short in 1603; Hill Burton's was not yet published. However, the first instalment of Burton's book, which covered the period from 1688 to 1745, appeared in 1853, and was much used by Macaulay in his account of William

¹ This article is part of a series of lectures delivered at Oxford on Macaulay's *History of England*. Their object was not merely to criticise the statements made by Macaulay and the point of view adopted by him, but also to show the extent to which his conclusions had been invalidated or confirmed by later writers, who had devoted their attention to particular parts of his subject, or by the new documentary materials published during the last sixty years. It was hoped thereby to encourage students to investigate the history of the period with an open mind, and to try to weave the new evidence into the tissue of the national story. Accordingly the notes indicate some of the recent monographs and publications of documents, though they do not profess to give an exhaustive list of them. The references to Macaulay are to chapters instead of volumes, and to the pagination of the illustrated edition published by Messrs. Macmillan in 1913-15.

the Third's reign. At present an historian of the period has at his service Hill Burton's revised and completed history, the books of Professor Hume Brown, Mr. Andrew Lang, and Mr. W. L. Mathieson, besides a number of biographies of particular persons or treatises on particular subjects. Take into account also the new evidence made accessible during the last sixty years, the documentary publications of the government, the reports of the Historical MSS. Commission, the volumes issued by the Scottish History Society and other societies, and the matter contained in the *Scottish Historical Review*.¹ With little assistance from previous writers, and from imperfect materials, Macaulay put together his vigorous and vivid narrative of events in Scotland from 1685 to 1701. It contains many errors, and there are some serious omissions, but he deserves the credit which belongs to a pioneer, and should for that reason be more leniently judged. Perhaps the fact that this portion of the *History* has been more minutely scrutinised than the rest makes it seem comparatively more inaccurate.²

The chief omission is, that Macaulay gives no adequate account of the state of Scotland at the end of the seventeenth century. A clear conception of the social and economic conditions under which the political life of Scotland developed is essential, in order to appreciate the policy of statesmen and the strength of the forces with which they had to deal. Without it the meaning of events and their true proportions are obscured.

Macaulay begins his narrative of the reigns of James II. and William III. by an account of the state of England in 1685, but there is no similar account of the state of Scotland. We get incidental glimpses of the country during the reign of King James. In Chapters II. and IV. there is some account of the persecution of the Covenanters, in Chapter V. a narrative of Argyle's rebellion, and in Chapter VI. an account of the attempt made to carry out the ecclesiastical policy of James II. in Scotland. But Chapter XIII. is the first one devoted entirely to Scotland, and while it contains a lengthy description of the condition of the Highlands, there is

¹ Mr. John Paget devoted three articles to the Scottish part of the *History* in his *New Examen*. Mr. T. F. Henderson, in the annotated edition of Macaulay, published in 1907, points out a large number of minor errors.

² See *An Index to the Papers relating to Scotland described or calendared in the Historical MSS. Commission's Reports*, published by Professor C. S. Terry in 1908, and the same author's *Catalogue of the Publications of Scottish Historical and Kindred Clubs and Societies*, 1909.

not anywhere an equally full account of the condition of the Lowlands.

Macaulay introduces this description of the condition of the Highlands in order to explain the rising of the clans on behalf of James II. Its correctness has been vehemently denied, and a section of Paget's *New Examen* is devoted to its refutation. 'We cannot allow,' says Mr. Paget, 'this gross caricature, this shameless libel, this malignant slander, this parricidal onslaught by a son of the Highlands on the people and the land of his fathers . . . to pass unnoticed. Lowlanders as we are it moves our indignation.'¹ He then examines Macaulay's authorities in detail, and has no difficulty in showing that some of them are of very little value, and that others do not say what they are represented as saying. However, the errors in Macaulay's description of the Highlands are less serious than his omissions. The Lowlanders were the makers of the Scottish nation: their ideas and their institutions moulded its character, shaped its future, and determined its place in the British Empire. Anyone who reads Macaulay's narrative of the events which followed the Revolution in Scotland should supplement it by reading the chapter entitled 'Scotland on the Eve of the Union' in Professor Hume Brown's *History of Scotland*.² It summarises in a masterly fashion the state of agriculture, trade, industry, and commerce during the later part of the seventeenth century. Incidentally it corrects some of Macaulay's errors. For instance, Macaulay somewhat exaggerates the result of the Act for the Settling of Schools passed by the Scottish Parliament in 1696.³ In Scotland, even before that date, 'education was more widely spread among all classes than in any other nation,' and the Act marked no new departure, though it was doubtless more effective than its predecessors.⁴ In another passage Macaulay dwells on the influence of commercial considerations in modifying the stubborn attachment of the Scots to their independence, and in preparing the way for the union of the kingdoms. He exaggerates the importance of the freedom of trade which existed during the Cromwellian

¹ *New Examen*, ed. 1860, p. 80.

² Volume iii. chapter ii. ed. 1909. This should be taken in connection with the last chapter of volume ii., which describes the social condition of the country from 1625 to 1689.

³ Chapter xxii. p. 2598.

⁴ Hume Brown, ii. 453, iii. 71, 261; cf. Lecky, *History of England in the Eighteenth Century*, ii. 44.

union, and the extent of the prosperity resulting from it as factors in producing these results.¹ Hopes for the future, not reminiscences 'of the golden days of the usurper,' influenced the Scots. The failure of the Darien scheme showed that the development of a national trade was impossible without a closer union with England.

Much evidence illustrating the social and economic history of Scotland has been published since Macaulay wrote. To begin with, there are four volumes containing descriptions of Scotland, written by English and foreign travellers during the seventeenth century.² The accounts written by French visitors are much more favourable than those written by Englishmen. Half the English travellers were excessively hostile, and many laboured to make the country and its people ridiculous. Their descriptions of the Lowlands remind one of Macaulay's description of the Highlands. It is clear, however, that their tempers were soured, not merely by religious or political animosity to the Scots, but by the discomforts of travelling in Scotland. 'I must confess I was too impatient at the Scottish victuals,' said Thoresby. 'They have neither good bread, cheese, nor drink,' said Ray. 'They cannot make them nor will they learn.' Complaints of dirt and smells are continually repeated. 'The sluttishness and nastiness of this people is such,' says an earlier tourist, 'that I cannot omit the particularising thereof.' The fact is the poverty of Scotland compared to England produced a lower standard of living, not merely different manners, and both were obstacles to the intercourse of the two nations.

Other evidence of a more impartial but duller nature is supplied by books of household accounts,³ by judicial records,⁴ by local

¹ Chapter xiii. pp. 1508-10. Macaulay was led into this error by Hill Burton. Whatever advantages the Scots then derived from freedom of trade were neutralised by the weight of taxation. See Firth, *The Last Years of the Protectorate*, ii. 113-5, 119; and Miss Theodora Keith's article on 'Scottish Trade with the Plantations before 1707,' *Scottish Historical Review*, vi. 32.

² *Early Travellers in Scotland*, 1891; *Scotland before 1700 from contemporary Documents*, 1893; *Tours in Scotland by Thomas Kirk and Ralph Thoresby*, 1892. All three collections were edited by Professor Hume Brown. There is also C. Lowther's *Journal into Scotland*, 1629, edited in 1894 by W. D.

³ *Account Book of Sir John Foulis of Ravelston*, 1671-1709, ed. by A. W. C. Hallen, 1894; *The Household Book of Lady Grisell Baillie*, 1692-1733, ed. by R. Scott-Moncrieff, 1911.

⁴ *The Records of the Proceedings of the Justiciary Court from 1661-1678*, ed. by R. Scott-Moncrieff, 2 vols. 1904-5.

records of various kinds,¹ and by private correspondence. There are also collections of extracts and documents arranged either in the form of annals or under subjects in order to illustrate social history.² The development of Scottish trade and manufactures during the seventeenth century is now being investigated with great thoroughness.³ All these various contributions to the national history have made it possible 'to relate the history of the people as well as the government,' as Macaulay wished to do.

The history of the government of Scotland has also been made clearer. Macaulay's account of it is vague and rhetorical. In Chapter IV. he tells us that the legislature of Scotland 'was as obsequious as those provincial Estates which Lewis the Fourteenth still suffered to play at some of their ancient functions in Brittany and Burgundy,' that 'none but an Episcopalian could sit in the Scottish Parliament, or even vote for a member,' and that it could 'pass no law which had not been previously approved by a Committee of courtiers.'⁴ Of the composition and powers of this legislature, either before or after the Revolution of 1688, no precise account is given. Macaulay mentions the abolition of the Lords of the Articles, but does not explain the magnitude of the change which the Revolution made in the position of the Scottish Parliament.⁵ William's difficulty in governing Scotland was caused by the fact that he had to deal with an assembly, which was no longer subservient to the Crown, but almost as independent as an English Parliament.⁶ And the King could not play off one House of Parliament against another, since the Scottish Parliament consisted of a single chamber, in which nobles, barons of the shires, and burgesses all sat together. Under

¹ *The Court Book of the Barony of Urie*, 1604-1747, ed. by D. G. Barron, 1892; *Records of the Baron Court of Stitchell*, 1655-1807, ed. by C. B. Gunn; *Records of the Convention of Royal Burghs of Scotland*, 1295-1738, ed. by J. D. Marwick, 6 vols. 1866-90, and the Publications of the Scottish Burgh Records Society.

² *Domestic Annals of Scotland*, by Robert Chambers, 3 vols. 1859; E. D. Dunbar, *Social Life in Scotland in former days*, 2 vols. 1865-6.

³ *Minute Book of the Managers of the New Mills Cloth Manufactory*, 1681-1690, ed. by W. R. Scott, 1904; Dr. Scott's *Constitution and Finance of English, Scottish and Irish Joint Stock Companies to 1720*, 3 vols. 1911-12, contains much new information, ii. 207, 227, 377; iii. 123-195.

⁴ Chapter iv. p. 488-90.

⁵ Chapter xvi. p. 1933.

⁶ See *The Scottish Parliament, its constitution and procedure*, 1603-1707, by Professor C. S. Terry, Glasgow, 1905; and as an introduction to that work, Professor R. S. Rait's *The Scottish Parliament before the Union of the Crowns*, 1901.

Charles II. and James II. the government of the country had been conducted by the Privy Council ;¹ after the emancipation of Parliament from the control of the Lords of the Articles the importance of the council diminished.

It was the council which conducted the repressive measures against the ecclesiastical or political opponents of the government which fill so large a place in Scottish history during the reigns of Charles II. and James II. Macaulay mentions the beginnings of this repression in Chapter II. when he describes the administrations of Lauderdale and of the Duke of York. Incidentally he charges James with exceptional cruelty. 'The Scottish Privy Council had power to put state prisoners to the question. But the sight was so dreadful that, as soon as the boots appeared, even the most servile and hard-hearted courtiers hastened out of the chamber. . . . The Duke of York, it was remarked, seemed to take pleasure in the spectacle. . . . He not only came to Council when the torture was to be inflicted, but watched the agonies of the sufferers with that sort of interest and complacency with which men observe a curious experiment in science.'² This charge, which Macaulay repeats three or four times, rests solely on the authority of Burnet, and is not confirmed by other evidence. James was not humane: he had no objection to the employment of torture, but there is no proof that he took any special delight in it.

In another passage Macaulay says that the 'fiery persecution, which had raged when he ruled Scotland as vice-gerent, waxed hotter than ever from the day on which he became sovereign.' For illustrations of this persecution he relies mainly on Wodrow's *History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, published in 1721-2,³ and on the *Cloud of*

¹ *The Calendars of the Register of the Privy Council of Scotland* now cover the period from 1473 to 1680. Its action during the reign of Charles II. is fully explained in Professor Hume Brown's introductions to the post-restoration volumes.

² Chapter ii. p. 260. See Mr. T. F. Henderson's note at p. 71 of his edition of the *History*. In one of his letters James expresses his satisfaction that the application of the boot to a prisoner has proved effective. When the Privy Council proposed that contumacious rebels, who were let off with transportation, should be 'stigmatised by having one of the ears of everyone of them cut off,' he warmly approved of the measure. *Report on the MSS. of the Duke of Buccleugh at Drumlanrig*, i. 105, 205.

³ It is to be regretted that a critical edition of Wodrow has never been published, though his correspondence and papers furnish materials for the purpose. Patrick Walker's lives of Peden, Cameron, and other worthies have been carefully

Witnesses, which is a collection of the last speeches and testimonies of the sufferers published about 1720. Both were partisan works, but there was no impartial authority available.¹

In legend and history the accumulated odium of all the persecutions and executions of the 'killing time' had been heaped on Claverhouse, and Macaulay accepted the popular tradition with too little discrimination, exaggerated his misdeeds, and credited him with the crimes of other men. 'Pre-eminent,' writes Macaulay, 'among the bands which oppressed and wasted these unhappy districts were the dragoons commanded by John Graham of Claverhouse. The story ran that these wicked men used in their revels to play at the torments of hell, and to call each other by the names of devils and damned souls.'² Wodrow, however, who is the authority cited, appears to attribute these diversions to Grierson of Lag and his men.³ Macaulay terms Claverhouse 'the chief of this Tophet,' though even Wodrow does not accuse him of taking part in the alleged revels.

Another famous figure amongst the persecutors was Sir George Mackenzie, Lord Advocate from 1674 to 1685. 'The bloody advocate Mackenzie,' one of Scott's characters terms him, 'who for his worldly wit and wisdom had been to the rest as a god.' Another calls him 'the man that has the blood of the saints at his fingers' ends.' Lawyer, essayist, novelist and historian, his accomplishments attracted the admiration of Mr. Andrew Lang, who came to the conclusion that the charges against him were not warranted by the facts, and that he was a much maligned man.⁴ But the vindication is by no means convincing.

edited by Mr. Hay Fleming under the title of *Six Saints of the Covenant*, 2 vols. 1901. Similarly the collection of epitaphs at the end of the *Cloud of Witnesses* has been reprinted, with additions, in Mr. J. H. Thomson's *The Martyr Graves of Scotland*, though these stories are not critically examined.

¹ Unluckily the records of the Privy Council for these years are imperfect. Macaulay says that the Acta during almost the whole administration of the Duke of York are wanting, and adds that the hiatus extends from August, 1678, to August, 1682. The missing volume has been since recovered, and is now in the Register House, but there is still a gap.

² Chapter iv. p. 492. The charges against Dundee were examined in a later lecture in detail.

³ See the *Laird of Lag: a life sketch*, by Col. Alexander Fergusson, 1886.

⁴ *Sir George Mackenzie, King's Advocate, of Rosehaugh, his Life and Times*, 1908. The account of Mackenzie's career and character given in Mr. G. W. T. Omond's *Lord Advocates of Scotland*, 1883, vol. i. pp. 200-234, appears to me to be substantially just.

Amongst the opponents of the government prosecuted by Mackenzie was the ninth Earl of Argyle, who was condemned for high treason in 1681 on a scandalously unjust charge, but succeeded in escaping to Holland. In May, 1685, he returned to Scotland, was prisoner on 18th June, and was executed on July 1. In Chapter V. Macaulay gives a full account of his rebellion, basing his narrative mainly on Wodrow, and on the narrative of Sir Patrick Hume, who accompanied Argyle.¹ Since then the journal of another of his companions, John Erskine of Carnock, has been published. Erskine left his studies at the University of Leyden 'to join in that design of endeavouring the delivery of our native land from being again drowned in popish idolatry and slavery.'² Like Hume he makes it clear that divided counsels were one cause of the failure of the expedition: others were 'the lukewarmness and little zeal' of gentlemen and people in the Lowlands, and the desertion of Argyle by the 'irreligious and cowardly Highlanders' when he crossed the Clyde. Outside his own clan Argyle was personally unpopular, and he possessed neither military skill, nor the gifts of a leader. Macaulay lays the blame for the failure on Hume and the Committee, but it does not appear that if Argyle's hands had been entirely free he would have been more successful.

After the suppression of the rebellions headed by Monmouth and Argyle the position of King James was so much stronger, that he could attempt to carry out his plans in favour of the Catholics. The laws against them in Scotland were so severe that justice demanded their mitigation,³ but as in England the King aimed at something more than toleration, and to carry out his policy he had to change his ministers and coerce those who

¹ Hume's narrative is printed in vol. iii. of the *Marchmont Papers*, edited by Sir G. Rose in 1831. Macaulay also used the *Memoirs of George Brysson*, edited by Thomas M'Crie in 1825.

² *Journal of John Erskine of Carnock, 1683-1687*, edited by Walter Macleod. Scottish History Society, 1893, pp. 113, 124, 130. Other new evidence may be found in the *Report of the Historical MSS. Commission on the papers of the Duke of Athole*, pp. 12-24. One of these letters gives a detailed account of Argyle's capture which differs from that followed by Macaulay. The MSS. of the Duke of Argyle, calendered in the Ninth Report of the Historical MSS. Commission, contain very little new information. A biography of Argyle, entitled *A Scots Earl in Covenanting Times, being the Life and Times of Archibald, ninth Earl of Argyle*, by Rev. John Willcock, was published in 1907.

³ See Bellesheim's *History of the Catholic Church of Scotland*, translated by O. S. Hunter Blair, 4 vols. 1887-90.

ventured to oppose it. William Douglas, first Duke of Queensberry, was Lord Treasurer, and had been for some years considered first minister. No man had been more trusted by James whilst he was still Duke of York. He was now suspected of promoting the anti-catholic riots which took place in Edinburgh, and was not disposed to turn Catholic himself. The two Drummonds, James Earl of Perth, who was Chancellor, and John Earl of Melfort, the Secretary of State, were not men to stick at such trifles. Both had abjured their creed, and had for some time been plotting to overthrow their rival. 'Duke Queensberry,' said Perth to the King, 'was an atheist in religion, a villain in friendship, a knave in business, and a traitor in his carriage to him.'¹ This was effective: in February, 1686, Queensberry lost the treasurership, and was made President of the Council instead. In June he lost that post too.

William Douglas, third Duke of Hamilton, was more compliant than his kinsman, but even he would not go as far as the King desired. In February, 1688, King James asked him whether he would support the repeal of the penal laws and tests, demanding a positive answer in three days. Hamilton declined to pledge himself. 'I have been ever, and am still of opinion, that none should suffer for conscience sake, and that every peaceable subject should be allowed the exercise of their own religion; but how this is to be done with security to the Protestant religion, our laws, and oaths, is in my humble opinion what will deserve serious consideration, and is above what I can presently determine myself in.'²

When the Revolution came Hamilton declared against James, was chairman of the assembly of Scottish lords and gentlemen which requested the Prince of Orange to call the Convention, was elected president of the Convention when it met, and was appointed High Commissioner when it was turned into a Parliament. Macaulay speaks rather slightly of Hamilton's abilities; Burnet is still more depreciatory. 'He wanted all sorts of polishing; he was rough and sullen, but candid and sincere. His temper was boisterous, neither fit to submit nor to govern. He was mutinous when out of power, and imperious in it. . . .' Burnet confesses that Hamilton ' . . . seemed always to have a regard to justice and the good of his country,' but adds that his 'narrow and selfish temper' rendered him unfit for great affairs. In spite of his defects Hamilton's importance

¹ *Report on the MSS. of the Duke of Hamilton*, p. 171.

² *Ibid.* pp. 172-5.

made him indispensable, and his correspondence during the first eighteen months of William's reign is an authority of great value.¹

The conversations with William III., which the Marquis of Halifax recorded in his journal, contain a number of references to Scottish politics during those months. Scotland was one of William's difficulties. Before he became King he told the Marquis of Halifax that Scotland by its divisions 'would give him more trouble than anything,' and Halifax noted that the 'Scotchmen by their several stories distracted his mind.'² Though William employed Hamilton, he had no great confidence in him. 'Upon my best observation,' wrote Halifax, 'Duke Hamilton was never well with the King from the beginning. . . . He was too pressing at first, and earnest in his own particular concerns, which gave the King an ill impression of him.' William promised Hamilton that 'he should be the first man in Scotland,' but the Duke grumbled because he was not made Lord Treasurer.³ The Scottish Parliament demanded the abolition of the Lords of the Articles, a veto on judicial appointments, and the incapacitation of the ministers of the late government. William refused: in Scotland as in England he meant to maintain all the prerogatives of the Crown. He told Halifax that he would not agree to take away the Lords of the Articles but would reform them, and when Halifax said that would not satisfy the Parliament, he replied, 'he could not help it, he would yield no more neither there nor here, and if the Parliament in Scotland did not like it, he would dissolve it, and get another.' Privately he said that 'Duke Hamilton was at the bottom of all the opposition in Scotland,' and 'all the Scotch lords, both friends and enemies, agreed that he might have hindered some votes if he would.'⁴

William was not much better satisfied with his Secretary of State. It had been customary to have two, but William declared that he would not have two Secretaries of Scotland 'to have one advise him one thing, and the other to another.'⁵ Accordingly

¹ *Report on the MSS. of the Duke of Hamilton*, pp. 177-194. Parts of the correspondence are printed in the *Leven and Melville Papers* and were used by Macaulay, but there are many letters which he never saw.

² Foxcroft, *Life of the Marquis of Halifax*, 1898, ii. 202.

³ *Ibid.* pp. 205, 221, 234.

⁴ *Ibid.* ii. 223, 236, 237, 239.

⁵ *Ibid.* ii. 218.

on May 15, 1689, he appointed Lord Melville sole secretary. 'A very unhappy step,' says Burnet, 'for as he was by his principle bigoted to presbytery, and ready to sacrifice everything to their humours, so he proved to be in all respects a narrow-hearted man, who minded his own interest more than either that of the King or country.'¹ Halifax noted that William 'spoke well of my Lord Melville at his first making him Secretary, since hath changed his style of him as to his abilities.' He complained that Melville was very slow and very timorous, and by July, 1689, he was looking round for another secretary. Halifax proposed Lord Tweeddale. William cried, 'Pish, he cannot be,' thinking him too old.² The King solved one of his problems in 1690, by appointing Melville High Commissioner in place of Hamilton, and the other in 1691, by appointing as second secretary for Scotland Sir John Dalrymple, Master of Stair, till then Lord Advocate.³

The feuds of Scottish parties and Scottish statesmen gave William more trouble than the armed opposition of the Jacobites. He said in June, 1689, that 'he did not know whether he was not to wish King James might come into Scotland,' adding 'we shall never be quiet till we have a brush for it.'⁴ The brush was not long in coming: in April Dundee had raised the standard of James II., on July 27 the battle of Killiecrankie was fought, on August 21 the Highlanders were repulsed at Dunkeld, finally, on 1st May, 1690, Sir Thomas Livingstone routed Buchan and what was left of the Jacobite forces at the Haughs of Cromdale.⁵ Since Macaulay's narrative of these events was put together some new evidence has come to light. Most of the letters collected by Mark Napier in his life of Dundee were written before the Revolution, but there are some of this period in his book. Napier translates also long passages from the Latin epic on Dundee named the *Grameid*, which was one of Macaulay's authorities.⁶ This poem was edited by Mr. Alexander Murdoch for the Scottish History Society in 1888.

¹ *Own Time*, ii.

² *Ibid.* ii. pp. 217, 224.

³ See Macaulay, chapters xvi., xviii., pp. 1932, 2143.

⁴ Foxcroft, ii. 220.

⁵ Napier's life was published in 1859-62. It is rather difficult to discover from Macaulay's narrative whether he really knew the letters of Dundee published by the Bannatyne Club in 1826.

⁶ See Macaulay, chapter xiii. p. 1607. Macaulay's criticisms of the 'Life of Sir Ewan Cameron' and the 'Account of the Clan Maclean' also deserve attention, pp. 1597-8.

Macaulay also employed *Memoirs of the War carried on in Scotland and Ireland, 1689-1691*, by Major-General Hugh Mackay, which was published by the Bannatyne Club in 1833, and the *Life of Major-General Mackay*, by John Mackay of Rockfield, published by the same club in 1836. But many letters of Mackay's have been lately printed in the reports on the MSS. of the Dukes of Hamilton and Athole.

The study of the campaign has resulted in a number of controversies. Historians disagree about the site of the battle of Killiecrankie. Macaulay fixes on one spot, Mark Napier on another, Professor Terry on a third. Professor Terry says: 'Mackay's very minute topography leaves me no room to doubt that the sites which have hitherto been accepted for the battle are wrong. Macaulay imagined that the battle was fought in the field where Claverhouse's stone is marked in the map. That site has the sanction of the Ordnance map of 1900. The most cursory reading of Mackay's narrative is sufficient to prove that that was the spot on which Mackay halted, and not that on which the battle was fought.' He then takes the site preferred by Mark Napier, and gives various reasons for believing that the battle was not fought there. Finally he gives his own theory of the position, illustrating it by a plan, and proving that it is the only reasonable one. Two years later Mr. Andrew Lang took up the question again, and pronounced in favour of Mark Napier's theory.¹ Thus all three writers agree in rejecting Macaulay's view. The opinion of a competent military critic on the issue would be of interest.

A second controversy concerns the manner of Dundee's death and the nature of his wound. Was he killed by a shot in the left eye or a shot in his side? Did he die on the spot, or at the castle of Blair after the battle? Did he write the letter to James II. which was printed in his name? After examining the evidence, I have no doubt that he died on the field, and that the letter is fictitious, but there is not the slightest proof that it was forged by Macpherson, as Macaulay insinuates.²

After the Jacobite rising had been defeated, the settlement of constitutional and ecclesiastical disputes became more easy.

¹ Terry, *Life of Dundee*, p. 336; Lang, *History of Scotland*, iv. 17; Napier, *Dundee*, iii. 630.

² Macaulay, chapter xiii. p. 1634; Napier, iii. 647-672. 'Claverhouse's Last Letter,' by Michael Barrington, *Scottish Historical Review*, v. 505; Answers by C. S. Terry and John Anderson, *ibid.* vi. 63-70.

William wisely gave up the attempt to maintain the Lords of the Articles, and accepted in ecclesiastical affairs arrangements which satisfied the main body of the Presbyterians. In effecting this settlement the chief instruments were Melville, as High Commissioner, and the Earl of Crawford, who was President of the Parliament. Macaulay describes Crawford as a Presbyterian zealot, needy, greedy, and canting, with a steady eye to the main chance. The view is based on Crawford's letters in the Leven and Melville papers; other letters of his have been published since.¹ Judging from them he seems to have been an honest zealot, as merciless as such men usually are, but faithful to his principles, and not without ability.

Behind Melville and Crawford was Carstairs (or, as he signs himself, Carstares), an adviser who, as Macaulay says, 'deserved and possessed more influence than anyone of the ostensible ministers.' He goes on to say that Carstairs 'united great scholastic attainments with great aptitude for civil business, and the firm faith and ardent zeal of a martyr with the shrewdness and suppleness of a consummate politician. In courage and fidelity he resembled Burnet; but he had, what Burnet wanted, judgment, self-command, and a singular power of keeping secrets.'² Burnet barely mentions Carstairs, and was evidently jealous of his influence.³ That influence is difficult to define, but clearly attested both by the correspondence addressed to him and by his letters to other people.⁴ His policy was temperate and cautious: we see him inspiring the King, reconciling the quarrels of William's supporters, restraining the zeal of the fanatical, confirming the waverers, and securing the triumph of the moderate Presbyterianism which the majority of the Scottish people desired. 'Use all endeavours,' he wrote to a friend, 'to keep people from extravagances upon the account of changes that are made.' The counsel might have been given by Burnet, but Carstairs saw clearly what Burnet failed to perceive, that good or bad, the ecclesiastical settlement must be the work of Scotland itself.

¹ Macaulay, chap. xiii. p. 1578; *Report on the MSS. of Mr. J. Hope Johnstone of Annandale*.

² Chapter xiii. p. 1580.

³ See Foxcroft, *Supplement to Burnet's Own Time*, 1902, p. 541, and Story, *Carstares*, p. 263.

⁴ See McCormick's *State Papers and Letters*, 1774; see also the letters of Carstairs to Crawford, 1689-91, in the *MSS. of Mr. Hope Johnstone*, those to Lord Polwarth in the *Marchmont MSS.*, and those to the Duke of Hamilton in the *Hamilton MSS.*

'The more I consider the temper of this nation and their notions of government, the more I dread the thoughts of any of the English being much concerned in our affairs.' Since Macaulay wrote, Principal Story's life of Carstairs has thrown new light on his career, and it has been further elucidated by the letters published more recently.¹

More prominently employed, and working generally in close co-operation with Carstairs, were the two Dalrymples, Sir James, first Viscount Stair, President of the Court of Session, and his son Sir John, afterwards first Earl of Stair. Macaulay draws the character of both at full length.² Admitting the great ability of the father, and his moderation during the ten years in which he held office in Charles the Second's reign, he charges him with hypocrisy and insincerity. No man was more unscrupulously attacked by contemporary libellers, and Macaulay, complains Stair's biographer, 'has drawn chiefly from these satirists all the charges his enemies made against Stair, and without examining their truth has insinuated others, for which even satire gave no foundation.'³ As the satires referred to have been reprinted, their value can easily be estimated. Macaulay employs them to supply picturesque and romantic touches to his account of the house of Stair, and this is legitimate enough.⁴ But he appears to allow them to influence his judgment too much, and proceeds to suggest charges against the founder of the house which rest on hypotheses rather than facts, and are the more difficult to meet because they are not directly made. In short the character is unfair.

The Master of Stair had been made Lord Advocate by James II., when Mackenzie refused to support that King's claim to the dispensing power, but held that post only for a year.⁵ He was one of the Commissioners who on behalf of the Scottish Convention

¹ *William Carstairs: a character and career of the revolutionary epoch*, by R. H. Story, 1874, see pp. 188, 195, 206, 225.

² Chapter xiii. pp. 1548-51.

³ *Sir James Dalrymple, first Viscount Stair: a study in the History of Scotland and Scotch Law during the 17th century*, by Aeneas Mackay, Edinburgh, 1873, see p. 286.

⁴ See Maidment, *Scottish Pasquils*, ed. 1868, pp. 174, 221, 370.

⁵ From 21st Jan. 1687 to 19th Jan. 1688. Macaulay says he had 'been an accomplice in some of the misdeeds he arraigned' after the Revolution. But Sir John had been himself fined and imprisoned by the government of Charles II., and during the period when he was Lord Advocate persecutions had almost ceased.

offered the crown to William III. and was reappointed Lord Advocate 23rd May, 1689. In January, 1691, he became the colleague of Melville as Secretary of State. Macaulay terms him 'the prime minister for Scotland,' and this is a fair description of his position from 1691 to the summer of 1695. Sir John was the ablest debater in the Scottish Parliament: 'there was none in the parliament capable to take up the cudgels with him,' says Lockhart. Bold, able, clear-sighted, free from prejudices, either ecclesiastical or secular, and equally free from scruples, he was a curious contrast to men such as Melville, Crawford, and Hamilton. But the massacre of Glencoe has permanently stained his fame and his national services have been forgotten.

Macaulay's account of the Glencoe episode has led to more controversy than almost any passage in the *History*, because it affects the character of the King as well as that of his minister. Paget, Mackay, Lang, and many other writers have minutely examined the evidence on which Macaulay's story is based. It is not a case in which the discovery of fresh facts has invalidated an historian's verdict, but a question of the conclusions to be drawn from well-known facts and documents.¹ Macaulay tries to exonerate the King at the expense of the Secretary. In this he follows the example of the Commission of enquiry appointed by the King in 1695. Both the report of the Commission and the address of Parliament based on it, in the words of a contemporary, 'loaded the Master of Stair to purpose,' but 'most justly relieved' William 'of all the aspersions raised in that affair.'² William in turn exonerated Stair, and laid the blame on Glenlyon and the inferior agents employed. He declared that the manner of the execution of the men of Glencoe was contrary to the laws of hospitality and humanity, but that Viscount Stair, 'being many hundred miles distant, could have no knowledge of nor accession to that method of execution,' and was therefore pardoned for 'any excess of zeal, as going beyond his instructions.'³ To a limited extent this distinction is justifiable. Stair did not suggest the treachery which preceded the massacre, he merely ordered the massacre. He ordered that 'the thieving tribe of Glencoe' should

¹ Paget, *Paradoxes and Puzzles*, 1874, p. 32. Lord Macaulay and the Massacre of Glencoe (originally published as an article in *Blackwood's Magazine* for July, 1859).

² Ogilvie to Carstares, *Carstares State Papers*, p. 258. The report is printed at p. 236 of that collection.

³ See *Annals and Correspondence of the Viscount and the first and second Earls of Stair*, by John Murray Graham, 1875, p. 200.

be 'rooted out,' and that the attack should be 'secret and sudden.' But after the massacre he wrote: 'All I regret is that any of the sect got away,' and this subsequent approval of the measures taken to carry out his orders fixes the responsibility upon him.

William's position is clearer. His orders were: If MacIain of Glencoe and that tribe can be well separated from the rest, it will be a proper vindication of the public justice to extirpate that sect of thieves.' These orders, evidently drafted by Stair, do not sanction either treachery or breach of faith, and it is improbable that all the details of the affair were known to William.¹ Stair decided with promptitude that a distinction could be made between the MacIains and the rest, and ordered the extirpation to be effected. When subsequent inquiry revealed the details, William, as we have seen, condoned the massacre and pardoned Stair. He treated Stair's act as an error, not as a crime, and regarding Highland thieves as 'two-footed wolves,' was not much moved by their fate.² The extirpation by fire and sword of a turbulent and intractable clan was no new thing in Scottish history, the novelty was that it excited so much popular indignation amongst Lowlanders. This was not entirely due to humanity; opponents of the government seized the opportunity to discredit it, and the enemies or rivals of the secretary utilised it to overthrow him.³

One of these rivals was Stair's colleague, Secretary Johnstone, who had succeeded Melville about the end of 1691. James Johnstone was the son of Sir Archibald Johnstone of Warriston. His cousin Burnet described him as a man of 'a very good understanding and a great dexterity in managing business,' and also 'of an entire virtue.' He adds that though his descent obliged him 'to espouse the Presbyterian interest,' yet he had 'none of their narrow notions,' and was even 'a little too loose as to the doctrinal part of religion.' In the first draft of his history Burnet gave many particulars about Johnstone which are omitted in the final version.⁴ His character, his political views, and his influence

¹ Mr. Paget considers that 'no reasonable doubt can be entertained' that William knew that Glencoe had taken the oath (p. 57). The evidence he adduces does not prove the point.

² The phrase was used by William in conversation with Breadalbane. Story, *Carstairs*, p. 218.

³ See Hume Brown, *History of Scotland*, iii. 22.

⁴ Foxcroft, *Supplement to Burnet*, pp. 370-373, 392, 415. See also pp. 542-544, *Note on Burnet's Original Account of Scotch Affairs after the Revolution*.

have been made clearer by the publication of a number of his letters, now scattered through various collections but worth collecting and editing.¹ The difference between Johnstone and Stair was not entirely personal: what Burnet terms Johnstone's 'principles with relation to public liberty' enabled him to work more harmoniously with popular assemblies, and in Parliament he not only showed great skill in debate, but great dexterity in the conduct of business. William dismissed him in February, 1696, and Sir James Ogilvie, afterwards Earl of Seafield, became Secretary in his place, and held that office till the end of the reign. His correspondence, lately published by the Scottish History Society, is a valuable addition to our knowledge of the last years of William's reign.² Johnstone had been dismissed for his part in the passing of the 'Act for a Company trading to Africa and the Indies' (June 26, 1695), against which the English Parliament had protested. This Act led to the attempt to found the colony at Darien, established in November, 1698, and abandoned in June, 1699. Macaulay's account of the inception and failure of the scheme is based mainly on the volume of Darien Papers edited by Hill Burton in 1849 for the Bannatyne Club, but recent investigations have shown that his narrative is in many points inaccurate. Originally the Company was to have been a British rather than a Scottish enterprise; half the capital was to be raised in one country, half in the other. The London subscribers raised their money at once, but the English Parliament intervened, forced them to withdraw their subscriptions, and put an end to the operations of the Company in England. It then became a purely Scottish enterprise, and was doomed to failure because its capital was insufficient and its directors inexperienced. Macaulay inverts the order of events; the subscription in London took place in October, 1695, that in Edinburgh began in February, 1696. The intervention of the English Parliament took place in December, 1695, more than two months before any capital had been raised in Scotland, and the promoters must have been well aware that they could expect no support from the English government.³ The disaster which overtook the colony at Darien emphasised the

¹ See MSS. of Mr. Hope Johnstone, Marchmont MSS., MSS. of the Duke of Buccleugh at Montagu House, and MSS. of the Duke of Hamilton.

² *Correspondence of James, Earl of Seafield*, ed. by James Grant, 1912.

³ See *A History of William Paterson and the Darien Company*, by J. S. Barbour, 1907.

fact that without English protection it was impossible for Scotland to develop its foreign or colonial trade. Ex-Secretary Johnstone—a shrewd observer—pointed out to the Earl of Annandale that the best that could be hoped from any success was that it would ‘produce an union in trade betwixt the two kingdoms.’¹

The reign of William III. prepared the way for the union. The ecclesiastical settlement made it possible, the commercial difficulty made it indispensable. William began his reign by recommending it to the Scottish Convention, and ended it with a similar recommendation to the English Parliament. ‘On the 28th of February,’ says Macaulay, ‘the Commons listened with uncovered heads to the last message that bore William’s sign manual. An unhappy accident, he told them, had forced him to make to them in writing a communication he would gladly have made to them from the throne. He had, in the first year of his reign, expressed his desire to see an union accomplished between England and Scotland. He was convinced that nothing could more conduce to the safety and happiness of both. He should think it his peculiar felicity if, before the close of his reign, some happy expedient could be devised for making the two kingdoms one; and he, in the most earnest manner, recommended the question to the consideration of the House.’² The *Seafeld Correspondence* supplies a fresh proof of William’s eagerness for its completion. The King sent for Seafeld four days before he died. ‘My lord,’ wrote the Countess of Seafeld, ‘had a short audience of him on Wednesday, when he spoke very kindly to him and of the Scots nation, and mighty forward for the Union. I am sure there is no honest or Christian Scotsman but will be sensible of this irreparable loss.’³

This regret was not universal. One Scottish historian says bluntly that the Scots ‘were glad to be rid of King William.’⁴ Another confesses that when William died ‘he was not a popular King in Scotland. . . . There was no class among his subjects to whom his rule had given entire satisfaction; and the fact may be put to the credit of his general policy.’ However, ‘the main body of his Scottish subjects gladly recognised that he had fulfilled

¹ MSS. of Mr. Hope Johnstone, p. 108.

² Macaulay. From the fragment on the death of William III., chap. xxv. p. 3000. On the attitude of the English Parliament see *Marchmont MSS.* pp. 152, 154-5, and Mackinnon, *The Union of England and Scotland*, 1896, pp. 57-59.

³ *Seafeld Correspondence*, p. 349.

⁴ Mackinnon, p. 65.

the chief objects for which he had been invited to become their King. He had saved Protestantism, given to the nation a Church which the majority desired, and substituted a constitutional monarchy for a despotism.¹ A third writes: 'William was the only Scottish sovereign since the Reformation who had governed the country in an entirely reasonable spirit; and however little appreciated by his English subjects, as the champion of Protestantism who had overthrown the wretched government of the Stuarts, he enjoyed a popularity in Scotland which was little obscured by the shadow of Glencoe, and which even his enforced attitude on the Darien question did not seriously impair.'²

My own view is that William was not really popular in either England or Scotland, and could not be. The Scots wished to be governed according to Scottish ideas, the English according to English ideas: in both countries William sought to impose ideas of his own. 'The King,' wrote Secretary Johnstone, 'has his rules, and often very hidden ones; if you can comply with them you can serve him; if not, you can not; he will not part with them.'³ In each country he endeavoured to be the King of the nation, not the King of a party: in England he governed sometimes through the Whigs, sometimes through the Tories, sometimes through a combination of both. In Scotland he tried to follow a similar plan. But in neither was he thoroughly a national sovereign; the Scots felt that he sacrificed Scottish to English interests, the English that he sacrificed English to European interests. The larger community came first in his mind. Such a king by the breadth of his views might render great services to the nations he ruled, but was not likely to give satisfaction to all classes or to win popularity.

C. H. FIRTH.

¹ Hume Brown, *History of Scotland*, iii. 42-3.

² W. L. Mathieson, *Scotland and the Union*, 1905, p. 70.

³ MSS. of Mr. Hope Johnstone, p. 97.

The Solemn League and Covenant of the Three Kingdoms of England, Scotland, and Ireland¹

NOWADAYS, when people speak of the Scotch Covenanters, they generally mean the Covenanting ministers (like James Guthrie, of Stirling, or Hugh McKail) and the 'Cameronians,' the peasants of the south and west of Scotland, in the 'killing times' of the second Charles and the second James. Well or ill-founded, these brave men and women had their convictions and the courage of them. Hunted on the hills by Grierson of Lag, or by 'The Muscovite,' Dalyell of Binns; shot down by the orders of Claverhouse, in cold blood, on the moors (or pistolled by his own hand, when his troopers refused his orders to fire); hanged in Edinburgh, 'glorifying God in the Grassmarket,' or shipped off to the plantations, at the instance of Sir George Mackenzie, King's Advocate, all honour to our dauntless ancestors. Their faults were many; but some of the most grievous of these faults were the natural, if not the inevitable, result of intolerable oppression and relentless cruelty. Wordsworth finely speaks of the Days of the Covenant as 'times whose echo rings through Scotland to this hour!'

But the name, Covenanter, has a wider significance in Scottish History than those staunch and virile forbears of ours in the 'killing times.' In 1638, when the word first came into common use, more than twenty years before the Restoration, the 'National Covenant' of that year was signed by most of the Scots nobility, by representatives of every important town except Aberdeen, and by the mass of the people of substance all over Scotland. In 1643 the 'Solemn League and Covenant of the Three Kingdoms of England, Scotland and Ireland' was sworn and subscribed by

¹ *Papers relating to the Army of the Solemn League and Covenant, 1643-1647*, edited with an introduction by Charles Sanford Terry, Burnett Fletcher Professor of History in the University of Aberdeen. Scottish History Society, 1917.

the English, as well as the Scotch, Parliament, and by the Westminster Assembly of Divines, as well as the General Assembly of the Church of Scotland. On 3rd August, 1650, Oliver Cromwell, writing from Musselburgh, implored the General Assembly, contending for the maintenance of the Solemn League and Covenant: 'I beseech you, in the bowells of Christ, thinke it's possible you may be mistaken.' Their retort is less familiar, and it may be less quaint, but it is not less trenchant. They asked 'The Commander-in-Cheiff of the Armie come from England into Scotland' whether 'our Covenant be not the same, which you sealed by your solemn oath and subscription before the Lord, and whether we be not upon the same grounds and principles, and following the same way, without declyning to the right hand or to the left, which we were upon and followed, when the Solemne League and Covenant was first sworne and subscribed in these Kingdomes?'

We forget the days of the National Covenant, when all Scotland, high and low, rich and poor, outside King Charles I. and his slender following, was Covenanting, and the time, five years later, when England, through her Parliament, in defiance of the King's authority, professed adhesion to the Solemn League and Covenant. These Covenants, like many others, sacred and secular, that preceded them, had the same object in view. They were the desperate attempts of a crooked age, when man's word was as bad as his bond, to secure fidelity to mutual obligations through the sanctity of an oath and the penalties attaching, in the next world, to perjury. Generally speaking, like oaths in Courts of Justice to-day, they proved almost, if not altogether, useless; superfluous, in the case of the straightforward, and mere ropes of sand for the wilful and the skilful liar.

In his masterly brochure, *The Story of the Scottish Covenants in Outline*, Dr. Hay Fleming says: 'No Englishman, it has been said, can distinguish the National Covenant from the Solemn League and Covenant. It is to be feared that many Scotsmen are in the same case: the Covenants, indeed, have been sadly mixed up even by native historians.' Scotland never had a more exact historical scholar than Professor Masson. Yet he told me that he had once to plead guilty to a charge of having confounded the National Covenant with the Solemn League and Covenant in one of his most deliberate books! And Robert Burns, in his famous couplet (with the daring but effective repetition in the

second line), is speaking of men and women who died for their refusal to abjure the *National Covenant*. Yet he wrote :

‘The *Solemn League and Covenant*
Cost Scotland blood, cost Scotland tears;
But sacred Freedom, too, was theirs;
If thou’rt a slave, indulge thy sneers!’

These two Covenants, the one national, the other international, were no manifestoes of rebellious barons or of an autocratic King. The first, the National Covenant of 1638, drafted by Sir Thomas Hope, the King’s Advocate, and Sir Archibald Johnston of Warriston, the two most distinguished lawyers of the time, was framed to unite Scotland against the attempt of Charles the First, and his evil genius Archbishop Laud, to force the Laudian Service Book and Anglican Episcopacy on Scotland, a Presbyterian country. The second, the Solemn League and Covenant of 1643, was mainly the work of Alexander Henderson, with emendations by Sir Harry Vane. Henderson presented the combination, rarer probably in those days than now, of culture and personal charm, with intellectual force, business ability, and driving power. The Solemn League was designed (in addition to more questionable objects, to be presently referred to) to unite Scotland and England against Royal and Royalist assaults on the civil and religious liberty of both kingdoms.

Many questions connected with the Covenants, especially with the later Covenant, are illuminated by two volumes recently published by the Scottish History Society, dealing with the Scots Army, which fought in England between 1643 and 1647, along with the Army of the English Parliament, in support of the Solemn League and Covenant. These volumes, edited with an Introduction by Professor Charles Sanford Terry of Aberdeen, consist chiefly of the accounts of Sir Adam Hepburn of Humble (a Senator of the College of Justice, under the title of Lord Humble), who was Treasurer and Commissary-General of the Army of the Solemn League and Covenant, as well as Colonel of the East Lothian Regiment. The sensitive features and distinguished air of the militant judge appear in the frontispiece to the first volume; and the second volume contains a portrait of Sir Alexander Leslie, the first Earl of Leven, the ‘Lord-General’ of the Covenanting Army—a great army-leader, but not a soldier-statesman, like Oliver Cromwell. Nearly twenty years ago, Professor Terry dealt exhaustively with the Lord-

General's career in his *Life and Campaigns of Alexander Leslie, First Earl of Leven*, published in 1899.

Mr. Terry's term, *The Army of the Solemn League and Covenant*, is a convenient and accurate one. But it does not appear in any of the documents printed in these volumes. The descriptive terms there used are 'The Army of the Kingdom of Scotland,' 'The Expedition to England,' and 'The Scotts Armie in England.'

In his interesting introduction, Mr. Terry necessarily deals also with what he calls 'The Army of the National Covenant,' which was disbanded at Leith, in 1641, on the successful conclusion of the second of the two 'Bishops' Wars,' when the Scots Army went home with £200,000 of English gold in their pockets. At the close of his Introduction, he also tells how, after the disbanding of the Solemn League's Army in 1647, 'New Model' regiments of infantry, cavalry, and dragoons, numbering 7,400 men, were formed, under an order of the Scots Estates. That was the force which was destroyed at Dunbar in 1650, when the Scots' watchword, 'The Covenant,' proved no match for the battle-cry of Cromwell's Ironsides, 'The Lord of Hosts.'

The Covenants and the Covenanters are Scotland's glory and Scotland's shame. To Sir Walter Scott, the Covenanters, as rebels against royal authority, and deeply attached to a democratic faith, were little more than 'superstitious fanatics,' as he often called them. So blinded by prejudice and so short-sighted was Sir Walter that he actually wrote of them: "The beastly Covenanters hardly had any claim to be called men, unless what was founded upon their walking upon their hind feet!" He treated them as good 'copy' for purposes of picturesque ridicule. Perhaps they deserved pity, but from no point of view could any self-respecting person hold them entitled either to admiration or respect. Historians of the school of Mr. Andrew Lang and Mr. William Law Mathieson (as honestly persuaded as Sir Walter that their point of view is entirely dispassionate, impartial, and unprejudiced) think it Jesuitical quibbling to profess to admire, and also to condemn, the Covenanters. I once heard Mr. Froude say that the most prejudiced people he had ever known were latitudinarians!

Take Mr. Mathieson's learned and able book, *Politics and Religion in Scotland, 1550-1695*. None of the modern defenders of the Covenanters, when dealing with the Covenanters' opponents as a whole and not with individuals, have used language to

compare with Mr. Mathieson's in violence and exaggeration. Within the compass of a few pages, he describes the Covenanters as 'besotted fanatics,' 'furious zealots,' 'irresponsible fanatics,' 'infuriated zealots,' culminating in this outburst: 'A people too fanatical, if not too ignorant, to have any regard for truth'! And, at the same time, Mr. Mathieson ignores, or, confounding surface distinctions with essential differences, tries to differentiate and excuse the equal intolerance and fanaticism, and the far greater, because more cold-blooded, cruelty of their opponents. One self-contradictory sentence shows the hopelessness of such a position. Mr. Mathieson is indeed far too honest, and able, and deeply read, to be consistent. Writing of Episcopacy in 1639, the time of the renewal of the National Covenant, he says: 'Episcopacy was essentially modern in spirit, courteous, rational and tolerant; but it had always been in league with despotism, and latterly, under the auspices of Laud, it had asserted the illiberal pretensions of a priestly caste.' A tree is known by its fruits. How can a system be modern in spirit, rational and tolerant, which is, at the same time, in league with despotism, and asserting the illiberal pretensions of a priestly caste?

On the one hand, the National Covenanters of 1638, and the International Covenanters of 1643, stood against autocracy, for democratic principles of civil and religious liberty. This note rings true in all their Manifestoes, Declarations and Apologies. In intolerance and the use of exaggerated language, they were no worse than their age; in disinterested attachment to principle and in far-seeing assertion of the rights of the people against the Crown and the ruling classes—in what they called 'the duties we owe to Religion, our King, and bleeding countrey'—they were much above it.

The Covenants of 1638 and 1643 disclose on the face of them the inconsistency of the Covenanters' position so clearly that it is difficult to understand how it escaped their own attention. In the National Covenant, the subscribers 'promise and swear that we shall, to the uttermost of our power, with our means and lives, stand to the defence of our dread Sovereigne, the King's Majesty, his Person and Authority, in the defence and preservation of the true Religion Liberties and Lawes of the Kingdome.' In the Solemn League and Covenant, they declared that they had before their eyes 'the true publick Liberty, Safety and Peace of the Kingdoms'; and they swore to preserve 'the Rights and Priviledges of the Parliaments, and the Liberties of the Kingdoms.'

On the other hand, the National Covenant reaffirms the persecuting Acts of Parliament passed at and after the Reformation. It enacts that 'none shall be reputed as loyall and faithful subjects to our Sovereigne Lord, or his Authority, but be punishable as rebellers and gainstanders of the same, who shall not give their Confession, and make their profession of the said true Religion'; and the subscribers swear to be 'careful to root out of their Empire all Hereticks, and enemies to the true worship of God, who shall be convicted by the true Kirk of God, of the foresaid crimes.' In the Solemn League and Covenant, after abjuring a 'detestable indifferency or neutrality in his cause,' and propounding the strange idea that their proceedings were going to secure 'that we and our Posterity after us, may, as Brethren, live in Faith and Love,' the contracting parties undertook 'that we shall, without respect of persons, endeavour the Extirpation of Popery, Prelacy (that is Church Government by Arch-bishops, Bishops, their Chancellours and Commissaries, Deans, Deans and Chapters, Arch-deacons and all other Ecclesiastical officers depending on that Hierarchy), Superstition, Heresy, Schism . . . that the Lord may be one and his Name one, in the three Kingdoms.'

Thus the Covenanters, while demanding full religious liberty for themselves, denied to fellow Protestants, as well as to Roman Catholics, the right of private judgment in things of the conscience.

They bound themselves, under the National Covenant, not only to resist the imposition of Laudian or Anglo-Catholic Episcopacy upon Presbyterian Scotland, but to compel all Roman Catholics in Scotland to become Protestants, and all Episcopalians in Scotland to become Presbyterians. The citizens of Aberdeen were heavily fined for failure to take the National Covenant, and they were forced to subscribe it. They were actually compelled to swear that they did so 'freely and willingly.'

Under the Solemn League and Covenant, the Church of England and Ireland was to be reformed in 'Doctrine, Worship, Discipline and Government, according to the word of God, and the examples of the best Reformed Churches.' The English Parliament took care that the language should be ambiguous; but the Scottish Covenanters understood that both they and their English coadjutors were pledged to force Episcopal England to adopt the Presbyterian system of Church Government as it existed in Scotland. Our ancestors had no doubt that 'the example of the best Reformed Churches' meant their own

Church ! Wordsworth's lines, titled 'Persecution of the Scottish Covenanters,' are applicable to their own principles and methods in dealing with their opponents :

'Who would force the soul tilts with a straw,
Against a champion cased in adamant.'

But it is fair to add that the Covenanters' records are not stained by the slow agonies of the boot and the thumb screw.

Scotland, like other countries, suffered, until comparatively recent times, from three deep-seated and far reaching delusions : (a) Belief (practical as well as theoretical on the part of the Sovereign, theoretical rather than practical on the part of the people) in the Divine Right of Kings to govern according to their own absolute will ; (b) belief in the Divine Right of Roman Catholic, Episcopalian, or Presbyterian Churches, as the case might be, and their consequent right and duty to impose, and to see that the State imposed, their systems on all others ; and (c) belief in the literal interpretation of all Scripture, and the continuing obligation of portions of Old Testament teaching, which are now admittedly superseded. Archbishop Sharp might have gone still further afield, and included the Bench of Bishops, of which he was one ; but he was right so far, when he said that there were three pretenders in Scotland to ecclesiastical supremacy, all of whose claims were equally invalid—the Pope, the King, and the Presbyterian General Assembly.

Belief in the Divine Right of Kings, and their freedom from responsibility to their subjects, cost Mary Queen of Scots and her grandson, Charles I., their heads, and her great-grandson James II., and, but yesterday, her grand-daughter in the eleventh generation, the Ex-Czarina of Russia, their thrones. And it led in 1660 and 1685 to our country's greatest misfortunes, the rule of the two most depraved and degenerate members of the Stuart race, 'His Most Sacred Majesty, Charles II.,' redeemed only by his humour and talent, and 'His Most Sacred Majesty James II.,' redeemed only by his attachment to his religion. 'Since Scotland had embraced the Reformation,' says Professor Hume Brown, 'it had been her perverse destiny to be ruled in succession by three Sovereigns, all of whom were in antagonism to the deepest convictions and aspirations of her people.'

Belief in the literal interpretation of all Scripture, and in the continuing obligation of portions of Old Testament teaching now admittedly superseded, stained Scottish annals with many crimes,

as it stained the annals of all other Christian countries. Thus interpreted, 'Thou shalt not suffer a witch to live,' left no option to the conscientious believer in the Bible. However repulsive to natural humanity, however irreconcilable with the spirit of the New Testament, the revolting brutalities, practised by the most humane, enlightened and devout men in all Churches, Catholic and Protestant, on so-called witches—mostly old women, in very many cases obviously insane—necessarily followed.

Belief in the Divine Right of Presbytery (as against its reasonable advocacy on the ground that Presbyterianism is consistent with Scripture, and is, on the whole, and subject to periodic and local modifications and adjustments, the most efficient form of Church Government), cost the Scottish Church generations of suffering, and led that Church into treatment of its Roman Catholic and Episcopal fellow-Christians, which cannot be defended. That sorry record can only be poorly palliated on the humiliating ground of the universal practice of the period, and on the miserable principle of reprisals for still more cruel treatment of Protestants by Roman Catholics, and of Presbyterians by Episcopalians.

Moreover, in pursuance of a vain dream of Uniformity of Religion, the Scottish Church, in order to conciliate the English Puritans, abandoned its fine old Reformation Scots Confession, drawn up by Knox, Wynram, Spottiswoode, Willock, Douglas and Row, and adopted the Westminster Confession of Faith, along with the Larger and Shorter Catechisms, compositions, all of them, of English scholars and divines, inside and outside Oxford and Cambridge, who lived remote from the capacities and needs of the people and their children, and who knew nothing whatever of Scotland. With the same object, it consented to the omission from its Church services of many of their best features, including the provision, according to John Knox's *Book of Common Order*, for liturgical, as well as extempore, prayer. Because the use of the Lord's Prayer, the Creed, and the *Gloria Patri*, in Church on Sunday, did not commend itself to the English Puritans, that was no reason why these comprehensive, simple, impressive and time-honoured formulæ, one of them commanded to be said by Christ Himself—bonds of union also with the Church Universal—should have been dropped from the worship of the Scottish people. At the same time, the deplorable practice of 'reading the line' was introduced from England. Natural and proper in the South, where education was deficient, it was nothing

short of an insult to force it, for any time-serving reason, on comparatively well educated Scotland.

Apart from the belief of the Scots Church in the Divine Right of Presbytery, they could not have been condemned for a desire to secure uniformity of Church Government and worship for England and Scotland, had they proceeded in a manner consistent with Protestantism, common-sense, and humanity, and with due regard to the history and special characteristics of the two nations. The attempt, as made, was hopeless from the beginning, and would have been known by the Scots to be so, but for a disturbing element to be referred to later. Professor Hume Brown charitably puts it: 'That the Scots should ever have entertained such a hope showed a pious simplicity, which at least avouched the honesty of their convictions.' And Mr. Mathieson states the unhappy result in a nut-shell: 'Instead of the union of three churches, the Solemn League and Covenant effected only the disunion of one.'

The fact is that the Solemn League and Covenant prevented Presbyterianism having a fair hearing in England; and later, the spread of Unitarianism among the English Presbyterians in the eighteenth century still further prejudiced consideration of the system in England. In the one case, it was associated with Scotland and intolerance; in the other, with heresy. The same may be said about Episcopacy in Scotland. Even to-day the Scottish people will not weigh it on its merits. They look upon it as English, and they visit upon its innocent head the sins of its supporters in the 'Killing Times,' the worst of whom were renegade Presbyterians!

Professor Terry does not discuss the wisdom of the two ruling powers in Scotland, the Estates of Parliament and the General Assembly of the Church of Scotland, in accepting the proposal of the English Parliament to enter into the agreement, which took the shape of the Solemn League and Covenant, and to send troops into England.

Dr. Hay Fleming in his brochure, already mentioned, referring to the English Parliament's request to the Scots Estates for help, in 1643, says: 'The Scots had now got all that they wanted from their King, although many of them must have doubted his sincerity, and feared a future revocation should that ever be in his power. This fear, coupled with a fellow feeling for the Puritans, and gratitude for the seasonable assistance of the English in 1560, accounts for the readiness of the compliance with the proposal of the Commissioners of the Long Parliament, who arrived in

Edinburgh in August 1643.' Mr. Hill Burton and Professor Hume Brown take much the same view. I do not doubt the existence and effect of these justifiable motives. But I am afraid that, mixed with the view that the King's success in England might imperil the liberties of the Scottish Church and people, was first, the unjustifiable determination to coerce England into Presbyterianism, and second, the sordid temptation of English gold.

In the relations between the two countries there was no romance, as there had been between France and Scotland. In 1648, John Maitland, afterwards Duke of Lauderdale, first an out-and-out supporter, and then a relentless persecutor of the Covenanters, said that the English hated four things—the Covenant, Presbyterianism, the Monarchy, and the Scots. The old Scotch animosity against the 'auld enemy' still subsisted, tempered with a growing realisation of England as a happy hunting ground for needy and capable Scots of all classes of society. 'Aye haud sooth,' has been the marching orders of the tinker tribe in Scotland ever since the union of the Crowns. 'What can I do to oblige you?' said James VI. and I. to an English noble, who had rendered him substantial service. 'Make me a Scotsman, please your Majesty,' was the witty reply.

There are three possible explanations. The first, the recognition of the fact that the civil and religious liberties of Scotland and England must stand or fall together, and the honourable desire to assist those, who were recognised as brethren in essentials, has been already acknowledged.

The second and third are not pleasant for Scotsmen, especially those who, like myself, are descendants of Covenanters, and proud of the descent.

The second was the passion for Uniformity of Religion in the three Kingdoms in 'doctrine, worship, discipline and government,' which possessed the Presbyterian people of Scotland, as it possessed their Episcopal Sovereign Charles I.; they wishing to force Episcopal England into Presbytery, as practised in Scotland; he determined to compel the Presbyterians of Scotland to become Anglican Episcopalians. The father went further than the son. The Merry Monarch, it is true, thought Presbyterianism 'not a religion for gentlemen'; and, in his sense of the word 'gentleman,' he was not far wrong. But Charles I. did not think it fit for Christians.

Yet it is fair, in this connection, to keep two things in view. In the first place, some of the Scottish leaders must have known

that England would never abandon Episcopacy and accept Presbytery pure and simple, and must have been prepared for a system, which would combine the essential features of the two systems, in the manner foreshadowed in John Knox's time, when 'Superintendents' co-existed with Presbyteries. It is 'my lord, the Bishop' that the Scots have always objected to, rather than the 'Lord's Bishop'; not men like Archbishop Ussher or Archbishop Leighton, but camouflaged mediaevalists like Archbishop Laud and Archbishop Sharp.

In the second place, it is too generally assumed that, in 1643, Presbyterianism was an exotic in England, whereas its essential principles, if not its detailed practice, had been indigenous to the soil from the Reformation, or at least from the time of Queen Elizabeth. John Milton, judging Presbyterianism not on its merits, but from the most extravagant utterances of its most extreme supporters, said that 'new Presbyter was but old priest writ large.' It would have been truer to say that Presbyterianism was but Puritan full blown; Puritans in the Church of England were called Presbyterians as early as 1570. And at the Restoration in 1660, when 2000 beneficed clergymen of the Church of England were ejected from their livings, only seventeen years after the date of the Solemn League and Covenant, 1700 of them were Presbyterians, the other 300 being Independents or Baptists.

The third of these reasons has been incidentally stated already, namely that the Scots did not go warring at their own charges. Professor Terry's two volumes throw much light on this point. The King, as well as the English Parliament, angled for the support of the Scots. But His Majesty's meagre exchequer could not afford the golden bait held out by his rebellious English subjects. Besides, the Scots had ample experience of the small reliance to be placed on His Majesty's most solemn promises, whereas, two years before, as already mentioned, the Scots in the Army of the National Covenant had received £200,000 from England. From the English Parliament, Mr. Terry tells us, the Scots were to receive £100,000 down, and £31,000 a month in sterling money, sums which must have appeared immense to so poor a nation. Officers and men, while in England, were to be paid at rates far beyond the current salaries and wages in Scotland, and probably also much in excess of the current pay of Scottish mercenary officers and common soldiers in Continental countries. It appears from Lord Humble's

accounts, dealing with service in England, that the pay of a Colonel in the Cavalry was at the rate of £972 a year, or 54s. a-day, and of a Cavalry Captain, or 'Routmaster,' at the rate of £324 a year, in sterling money. In the Infantry, a Lieutenant-Colonel was paid at the rate of £432, and an Infantry Captain drew £216 a year.

Money then must have had at least double its present purchasing value. In Lord Humbie's Accounts, butter cost 3d., and cheese 2½d. a pound. Shoes sold for 4s. 3d. a pair. A horse could be bought for £4, oxen for 25s., and sheep for 5s. each. Take, along with these figures, the following statement from Mr. Henry Grey Graham's *Social Life in Scotland*, applicable to a later and wealthier period: 'A Scots landowner was *wealthy* with a rent roll of £500, *rich* with an income of from £200 to £300, and *well off* with 80 to £100.' In the end, the payments made to the Scots by the English Parliament amounted to £1,862,769 sterling.

Therefore, I fear that the explanation of the action of the Scots estates and the Scots people suggested by Professor Hume Brown, namely their simplicity, and the praiseworthy motives suggested by Dr. Hay Fleming must be supplemented by the glitter of English gold. It is inconceivable that the long heads among the Scots were ignorant of the position, shrewdly put by Charles I., when he wrote in his 'Declaration to all his loving subjects of his Kingdom of Scotland' (Edinburgh, 1643), that the English Parliamentary party, 'what pretence soever they make of the true Reform or Protestant religion, are in truth Brownist and Anabaptist and other independent sectaries, and though they seem to desire an Uniformity of Church Government with our Kingdom of Scotland, do no more intend, and are as far from allowing, the Church Government established there, or indeed any Church Government whatsoever, as they are from consenting to the Episcopal.'

The Leslies, Alexander the uncle and David the nephew, who were at the head first of the Army of the Covenant, and then of the Army of the Solemn League and Covenant, were typical Scots of the kind, who served the highest bidder, with incorruptible fidelity, as soldiers, statesmen, scholars, physicians, and traders in France, Holland, Denmark, Sweden, Russia, and Prussia. During part of the 'Thirty Years' War there were said to have been 10,000 Scotsmen, including 100 officers, in the service of Gustavus Adolphus of Sweden, 'the War Lord

of Protestant Europe.' Experts pronounce David Leslie the greater commander of the two. Certainly, at Marston Moor in 1644, whether from better luck or better leadership, the battle was not won by the three commanders, Leven, Fairfax, or Manchester, but by David Leslie and Oliver Cromwell. The divisions led by the Earl of Leven and Sir Thomas Fairfax were scattered by Prince Rupert's impetuous attack, and the Earl took to flight. He did not draw rein till he got to Weatherby, or, some say, as far as Leeds, where he learned, no doubt to his extreme astonishment, that his nephew and Cromwell had won a great victory after his flight. And, if the surrender of Charles to the Commissioners of the English Parliament at Newcastle on 3rd February, 1647, concurring as it did with part payment of arrears of pay by the English Parliament to the Scots Army, was blameworthy, and was not rather the course which the interests of both kingdoms peremptorily demanded, this was done while the uncle was in supreme command, and not the nephew.

The Leslies frequently appear in Professor Terry's Introduction and in the text of these two volumes. Alexander Leslie returned to Scotland from Sweden in 1638, and came to the Covenanting command with thirty years' experience of attack and defence in Continental warfare. He had served with distinction in the Swedish Army against Russia, Poland, Denmark, and Austria. Under Gustavus Adolphus he held the rank of Lieutenant-General, and after that King's death he became a Field-Marshal in the Swedish Army, and shared with Banel and Wrangel the direction of the Swedish armies. 'Such was the wisdom and authority of that old, little, crooked souldier,' writes Baillie, 'that all, with an incredible submission, from the beginning to the end, gave over themselves to be guided by him, as if he had been great Solyman.'

Professor Terry gives us a graphic view of the arrangements for raising the army of the Solemn League and Covenant. He explains how, until the institution of a standing army after the Restoration, an obligation to military service rested upon the entire male population in Scotland between the ages of sixteen and sixty, in addition to the military service, exigible under the feudal tenure, on which the barons, freeholders, and burghs held their lands. A War Committee was nominated in Edinburgh, and local Committees of War, 'Shire Committees,' in each county. All fencible persons, between sixteen and sixty, were ordered

to mobilise within 48 hours of receipt of the proclamation, equipped with 40 days' provisions and duly accoutred. The horsemen were to have pistols, broadswords and steel caps (called 'pots' by the English soldiers), or, failing them, 'jackes or secreites (armour under the clothing), lances and steill bonnettes.' The infantry carried either muskets or pikes, and, in addition, swords, Lochaber axes, or Jedburgh staves.

The Scots Estates agreed to furnish for the joint fight against the King 18,000 foot, 2000 horse, 1000 dragoons (mounted infantry), and a train of artillery of about 120 guns. This artillery train was under the charge of the famous engineer, Sir Alexander Hamilton, brother of 'Tam o' the Cowgate,' the Earl of Haddington, who built 'cannon and fireworks, murdering pieces,' in the Potter Row of Edinburgh. The guns of 'Dear Sandy,' as his contemporaries called him, caused so much alarm that Sir Thomas Fairfax 'did not stick to own that, till he passed the Tees, his legs trembled under him'; and, at the siege of Newcastle in 1644, when the newly-elected Mayor was proceeding along the streets, 'a thundering shot,' Wishart calls it, nearly destroyed the City Fathers.

The Foot Regiments, under Leslie's command, included a 'Ministers' Regiment,' and a 'College of Justice Regiment,' otherwise known as 'The Levied Regiment.' The College of Justice Regiment was raised by the Senators of the College of Justice, and was recruited largely in Edinburgh, being, we are told, composed of 'wrytter-prentices, and servants, with many trades-youths.' The Colonel was Lord Sinclair, who took over the command from Sir Alexander Gibson of Durie, a Senator of the College of Justice. Both the Lieut.-Colonel, James Somerville, and the Major, Sir James Turner, the author of the *Memoirs*, had seen service on the Continent.

It was at first intended that the sums to be advanced and paid by the English Parliament for the sustentation of the Scots Army should be got out of the confiscated estates of 'Papists and other Delinquents against the Parliament'; but it was ultimately found necessary to assess the northern counties of England. The English Parliament undertook to provide eight men-of-war for the defence of the Scottish coasts. The two countries were to act together, and neither was to make a separate peace. No Generalissimo, English or Scotch, was appointed over the Joint Army; it was placed under the 'Committee of both Kingdoms' in London, which included representatives of the two allies.

Notwithstanding the comparatively small number of men engaged, and the comparatively small sums involved, it is curious how many of these conditions find a parallel in the present World War.

There are certain other details in Mr. Terry's volumes which raise questions of general interest. Note, in the first place, apart from Alexander and David Leslie, the number of the superior officers in the Army of the Solemn League and Covenant, who had experience of Continental warfare. In addition to the Earl of Leven, Lord General, the officers of highest rank were William Baillie of Lethem, Lieutenant-General of the Foot, David Leslie, Major-General of the Horse, Sir Alexander Hamilton, General of the Artillery, Sir Adam Hepburn of Humble, Lord Humble (whose accounts are contained in these volumes), Treasurer and Commissary-General, and Ludovick Leslie, Quartermaster-General. With the exception of Lord Humble, all these officers had served abroad. Of the 21 Lieutenant-Colonels of the Regiments of Foot, in January 1644, all but two had the same advantage. In the Regiments of Horse, out of 8 Lieutenant-Colonels, six had seen foreign service; and, of the 28 Foot and Horse Majors, twenty-two had served abroad. I doubt whether, in the corresponding English Regiments, Royalist or Parliamentarian, any such military experience could have been found.

Distinctively Highland names are few, there being only one Mac and one Campbell among the 57 Lieut.-Colonels and Majors. Most of the common soldiers were from the Lowland Counties, although, in Lord Gordon's troop, there were cavalrymen from Inverness and Caithness.

A glance at the list of the Covenanting Colonels, under the Earl of Leven, will dispel the common idea which associates the word 'Covenanter' with the masses, and not the classes, as applicable, at all events, to this period. Out of 21 Colonels of Foot Regiments, there were 14 Scots noblemen. All the 8 Colonels of Horse Regiments were Scottish peers, with the exception of Michael Weldon, who seems to have been an Englishman, and to have had under him several English officers, judging by the names Padmore, Lowry, Raines, Mayott, Salkeld and Barnes.

The name of James Guthrie, 'the little man that would not bow,' to use Cromwell's description of him, appears among the chaplains, and so does that of Robert Douglas, Queen Mary's grandson, according to a story now discredited, a man of such

military ability that Gustavus Adolphus, under whom he had served, said of him, 'For military skill, I would very freely entrust my whole army to his conduct.' Alexander Henderson, the framer of the Solemn League and Covenant, is not mentioned, although he was often with the Scots army. Nor do we find the honoured name of Robert Leighton, afterwards Bishop of Dunblane, and Archbishop of Glasgow, who was said to have 'drawn many into a kindness for Episcopacy by his exemplary life, rather than by debates,' or the unhonoured name of James Sharp, Archbishop of St. Andrews in later years, 'Sharp of that ilk,' in Cromwell's biting phrase.

There are several entries of payments for King Charles I. when he was with the Scots army, and two references to the Marquis of Montrose, that staunch upholder of the National Covenant—no one had been more energetic in coercing the lieges to the subscription of the National Covenant—and that equally staunch opponent of the Solemn League and Covenant. A martyr to the Divine Right of Kings, the Marquis of Montrose has been also made into an Episcopalian hero. But he was a Presbyterian to the end. Just before his execution he is reported to have said, 'Bishops—I care not for them. I never intended to advance their interest.'

The first of the allusions to Montrose is as follows: '1645, September 22nd. Payed by James Suord for a dinner to the Major and Aldermen of Newcastle appointed by the Governour upon newis of James Graham his defaultt £10 sterling.' The reference is to the extinction of Montrose's brilliant career on 13th September, 1645, at Philiphaugh, near Selkirk, where he had to encounter, for the first time, trained troops (and these in overwhelming numbers), led by an experienced commander, no other than David Leslie, Major-General of the Horse in the army of the Solemn League and Covenant.

Archibald, first and only Marquis of Argyll, Montrose's great antagonist, more than a match for him in the Council Chamber, but not on the field of battle, is often mentioned in Lord Humble's accounts. He was said to be able to bring 5000 fighting men into the field for any cause, or, at least, any cause approved by the Macallum Mohr and which promised pay, free quarters and loot.

One chief value of these accounts is to enable us to realise how the troops looked, what weapons they carried, how they were paid, and what they ate and drank. Professor Firth has

shown that, in 1644, the English armies, Royalist and Round-head, were uniformed, the words 'redcoat' and 'soldier' being synonymous. Mr. Terry thinks that, so far as the private soldiers were concerned, 'there is no evidence that permits a similar conclusion in regard to the Armies of Scotland.' But the accounts show that the officers wore 'Demi-beaver' hats (that is low-crowned, broad-brimmed beavers), buff-coloured breeches, and a scarlet cloth coat with white facings; and the colour of the cloth worn in the ranks was generally grey.

Muskets were evidently driving out the pike. Earlier in the century pikemen were to musketeers in the proportion of two to one, whereas in January 1646 the Master of Tullibardine's Perthshire Regiment in the Covenanting army had 272 musketeers, and only 198 pikemen. The Highland troops, with the army in 1644, were armed with bows and arrows and swords. An Englishman is reported to have called them 'the nakedest fellows that ever I saw.' Mr. Terry quotes an account of those, who formed part of the army of the National Covenant in 1641: 'In the first place stood Highlanders, commonly called Red-shankes, with their plaides cast over their shoulders, having every one his bowe and arrowes, with a broad slycing sword by his syde. These are so good markesmen, that they will kill a deer in his speede, it being the chiefest part of their living, selling the skins by great quantities and feeding on the flesh.'

The different grades of officers were similar to those of the present day, from the Earl of Leven, the Lord General, down to Infantry Lieutenants and Ensigns, and Lieutenants and Cornets in Cavalry and Dragoon regiments. Surgeons and chaplains were attached to each regiment and troop, in some cases surgeons being shared between two regiments. Staff chaplains were paid 7s. and staff surgeons 22s. a day, in addition to billet-money. The chaplains were not permanent members of the staff; their normal period of service seems to have been three months. No doubt many of the younger ministers, and the students of divinity, would be in the Ministers' Regiment, as junior officers and in the ranks, as the younger members of the legal profession would be in the College of Justice Regiment. The Colonel of the Ministers' Regiment was Sir Arthur Erskine of Scotsraig. The Lieut.-Colonel, James Bryson, and the Senior Major, John Leslie, had both seen service abroad. Bryson was killed at Marston Moor.

The *Articles and Ordinances of Warre*, printed by Professor

Terry, pay particular attention to religion and morality. Two Courts of Justice were constituted, a Court of first instance, and an appellate Court, both subject to the Commission of Estates, for the maintenance of camp discipline, and to decide 'all questions, debates and quarrellings' between officers and those under their command. There were severe penalties for absence, after summons by drum and trumpet, from morning and evening prayers, and Sunday morning and afternoon services. In each regiment there was a Kirk-Session, and, over all the regimental Kirk-Sessions, 'a common Ecclesiastick Judicatory,' a kind of military Presbytery, 'subject to the generall Assembly and Committee of Estates *respective*.' It was ordered, in the case of single women of bad character attending the army, that they 'shall be first married by the hangman, and thereafter by him scourged out of the Army.'

A sentence in 'The Scots Army advanced into England, etc.' reveals the indomitable spirit of the Scots troops. On a day in February, 1644, they 'took a march of 18 Scottish miles, when it was a knee-deep snow, and blowing and snowing so vehemently that the guides could with great difficulty know the way, and it was enough for the followers to discern the leaders; *notwithstanding whereof, they were very cheerful all the way*; and, after they had been a little refreshed at night, professed they were willing to march as far to-morrow.'

CHARLES J. GUTHRIE.

The 'Devil' of North Berwick

THE witch trials of the sixteenth and seventeenth centuries throw side-lights on the history of the period.

The ancient and primitive religion, which we know as the cult of the witches, underlay the State-religion of Christianity, a large part of the people being in reality 'heathen,' though outwardly conforming to Christianity. Legal enactments, both civil and ecclesiastical, failed to suppress the cult until the sixteenth century, and then the Christian Churches, both the Roman and the Reformed, were able to make head against its proselytising energy, and destroy it by the gibbet and the stake, though its strength was sufficiently great to keep it alive for more than a century of relentless persecution.

The main dogma of the cult was the worship of an incarnate God, known to the Christian recorders (as might be expected) as the Devil. This deity generally appeared to his worshippers in his natural form as a man, occasionally however he was disguised in a mask or in the skin of an animal.¹ The ritual consisted largely of fertility rites, which can be paralleled in the ritual of religions of the Lower Culture in both the ancient and modern world.

There are many proofs that the man, known to the Christian recorders as the Devil, was revered as their God by the witches. For example, in Aberdeen, 1597, part of the dittay against Marion Grant was that 'the Devil quhome thow callis thy god appeared to thee and caused thee to worship him on thy knees as thy lord.'² In the Pays de Labour, 1592, the witch vowed allegiance to the Devil in these words, 'Great Lord, whom I adore, I place myself at every point in thy power and in thy hands, recognising no other God for thou art my God.'³ At Stapenhill, in Derbyshire, 1597, Elizabeth Wright, a professed

¹ See my 'Organisations of Witches in Great Britain,' *Folklore*, 1917.

² Spalding Club *Miscellany*, i. pp. 170-2.

³ De Lancre, *Tableau de l'Inconstance*, p. 129.

witch, undertook to cure a cow 'vpon condition that she might have a peny to bestow vpon her god, and so she came to the mans house, kneeled downe before the Cow, crossed her with a stick in the forehead, and prayed to her god.'¹ The Lancashire witch, Margaret Johnson, 1633, said 'there appeared unto her a spirit or devill in the similitude or proportion of a man. And the said devill bad her call him by the name of Memillion. And she saith that in all her talke and conference shee called the said Memillion her god.'² In Essex, 1645, Rebecca West, herself a witch and the daughter of a witch, 'confessed that her mother prayed constantly (and as the world thought, very seriously), but she said it was to the devil, using these words, *Oh my God, my God*, meaning him and not the Lord.'³ At Lille, 1661, the girls under Madame Bourignon's charge were found to belong to the witch-religion; they stated 'that Persons who were engaged to the Devil by a precise Contract, will allow no other God but him.'⁴ Near Newcastle-on-Tyne, 1673, Ann Armstrong saw at a witch meeting a long black man, 'which they called their protector'; at a witch-feast she saw him again, 'their protector, which they call'd their god, sitting at the head of the table.'⁵

The feelings of the witches towards their religion are best given by de Lancre, but the same feeling can be traced among the witches of Great Britain. De Lancre says: 'In short it is a false martyrdom; and the witches are so bent on his devilish service that there is no torture or punishment that can frighten them; and they say that they go to a true martyrdom and to death, for love of him, as gaily as they go to a festival of pleasure and public rejoicing. When they are taken by Justice they neither weep nor shed a single tear, seeing that their false martyrdom, whether by torture or the gibbet, is so pleasant that many of them long to be put to death, and suffer very joyously when they face the trial, so much do they weary to be with the Devil. And are impatient of nothing so much in their prison as that they cannot testify how much they suffer and desire to suffer for him.'⁶

¹ *Else Gooderidge*, p. 10.

² Webster, *Displaying of Supposed Witchcraft*, pp. 347-9.

³ Howell, *State Trials*, vi. p. 660.

⁴ Bourignon, *La vie exterieur*, p. 222; Hale, *Collection of Modern Relations*, p. 37.

⁵ *Depositions from York Castle, Denham Tracts*, ii. pp. 301-2.

⁶ De Lancre, pp. 458, 133.

Many of the English and Scotch witches died, as the horrified Christian recorders express it, 'stubborn and impenitent,' preferring 'the Devil and hell-fire' rather than Christ and heaven. In other words, they held fast to their ancient religion, and died martyrs to a faith, perhaps mistaken but sincerely held.

The Chief or Grand-master of the witches, the so-called Devil, proves always, whenever he can be identified, to be a man of good, if not high, position; and the witches themselves, both men and women, were often members of the better classes.

The absolute subjection of the worshippers to their God must always be remembered in regard to the witches. I have already quoted the oath of fidelity and obedience taken by the witch-child on coming to years of discretion: 'I place myself at every point in thy power and in thy hands, for thou art my God, and I am thy slave.'¹ Adult converts from Christianity, both men and women, renounced their previous religion explicitly and in detail, and dedicated themselves, body and soul, to their new God.

Given an ambitious and unscrupulous man of high rank, commanding a body of followers devoted to his service and vowed by the most solemn oaths to absolute and unquestioning obedience, the political and historical importance of the witch-organisation is at once apparent. The witches' duty to their chief obliged them to protect his person and his interests at the cost even of their own lives, and to endure the most awful tortures rather than betray the divine Master. On the other hand, traitors or would-be traitors were summarily dealt with by being put to death before they could divulge the secret.² It is possible therefore to read trial after trial without finding any indication by which to identify the chief of the organisation. Yet in spite of these precautions a word here and there sometimes offers a clue, which leads to unexpected results. And this is the case with that *cause célèbre*, the trials of the witches of North Berwick in 1590 and 1591.³

The character of the accused in these trials is of great importance when considering the evidence. Nothing more unlike the conventional idea of witches can well be imagined than the man

¹ De Lancre, p. 129.

² Lea, *History of the Inquisition*, iii. p. 501; *Alse Gooderidge*; Lamont, *Diary*, p. 12; *Narrative of the Sufferings of a Young Girl*, p. xlv.

³ Pitcairn, *Criminal Trials*, I. pt. ii.

and women who were arraigned on that occasion. Agnes Sampson, the wise wife of Keith, was 'a woman not of the base and ignorant sort of Witches, but matron-like, grave and settled in her answers, which were all to some purpose.'¹ John Fian, or Cunynghame, was a schoolmaster, therefore a man of education; Effie McCalyan, the daughter of Lord Cliftonhall, was a woman of family and position; Barbara Napier was also of good family. These were clearly the moving spirits of the band, and they were all persons capable of understanding the meaning and result of their actions.

The accusation against the witches was that they had met together to plot the murder of the King and Queen by witchcraft. The trial therefore was on a double charge, witchcraft and high treason, and both charges had to be substantiated. Keeping in mind Lord Coke's definition of a witch as 'a person who has conference with the Devil to consult with him or to do some act,' it is clear that the fact of the Devil's bodily presence at the meetings had to be proved first, then the fact of the 'conference,' and finally the attempts at murder. The reports of the trial do not however differentiate these points in any way, and the religious prepossession of the recorders colours every account. It is therefore necessary to take the facts without the construction put upon them by the natural bias of the Christian judges and writers. The records give in some detail the account of several meetings where the deaths of the King and Queen were discussed, and instructions given and carried out to effect that purpose. At each meeting certain ceremonies proper to the presence of the Grand-master were performed, but the real object of the meeting was never forgotten or even obscured.

The actual evidence of the affair was given by Agnes Sampson (also called Anny Simpson), John Fian, Euphemia or Effie McCalyan, and Barbara Napier. As it was a case of high treason, the two leaders, Sampson and Fian, were tortured to force them to divulge the name of the prime mover. Both these two and Effie McCalyan were condemned and executed; Barbara Napier, equally guilty according to the evidence but more fortunate in her jurors, was released; for which action the jurors themselves were subsequently tried.

Though the means used by the witches may seem ridiculous, the murderous intention is very clear. First they performed incantations to raise a storm to wreck the Queen's ship on her way to Scotland, and the storm which actually arose very nearly

¹ Spotswood, *History of the Church of Scotland*, p. 383, ed. 1668.

effected their purpose. As it failed, however, they betook themselves to the accredited method of melting a waxen image, but they were also ready to use poisons, which were to their minds the most virulent that could be prepared.

The evidence affords a consecutive narrative of the occurrences.

John Fian, tried Dec. 26, 1590. The first items relate to his consulting with the Devil and working witchcraft. 7. Item, Fylet, for the rasing of windis att the kingis passing to Denmark, and for the sending of ane letter to Marioun Linkup in Leyth, to that effect, bidding hir to meit him and the rest, on the see, within fyve dayes; quhair Satan delyuerit ane catt out of his hand to Robert Griersoune, gevand the word to 'Cast the same in the see hola!' And thaireftir, being mountit in a schip, and drank ilk ane to otheris, quhair Satane said, 'ye sall sink the schip,' lyke as thay thocht thay did. 8. Item, Fylit, for assembling him selff with Sathane, att the Kingis returning to Denmark; quhair Satan promiseit to raise ane mist, and cast the Kingis Majestie in Ingland.

Agnes Sampson, tried Jan. 27, 1591. The first part of the dittay is entirely occupied with her conferences with the devil and her healing the sick by his advice. 40. Item, fylit and convict, of the delyuerie of ane letter, quhilk John Fiene, clerk, maid in George Mutis bak[e] hous in the Pannis, accompaneit with the gudwyff of the hous, Gelie Duncan [and eight others], quha convenit thair for rasing of storme, to stay the Quene's hame cuming to Scotland; eftir consultatioun, quhether Gelie Duncan or Bessie Thomsoun was meitest to send the letter with; and concludit to send the said Gelie, quhilk letter wes send to Marioun Lenchop in Leyth. The effect quhairoff is this: 'Marioun Lenchop, ye sall warne the rest of the sisteris, to raise the wind this day, att eleavin houris, to stay the Quenis cuming in Scotland.' Lyke as they that wer convenit at the Pannis sould do their part be-eist; and to meit thame that wer in the Pannis; and att thair meting, thay sould mak the storme vniversall thro the see. [Then follows the method of doing this by casting in a cat.]

[From 'Newes from Scotland.'] The said Agnis Tompson (Sampson) confessed, that the Divell, being then at North Barrick Kirke attending their comming, in the habit or likeness of a man . . . and having made his ungodly exhortations, wherein he did greatly inveigh against the King of Scotland, he received their oathes for their good and true service towards him, and departed;

which done, they returned to sea, and so home again. At which time, the witches demanded of the Divell, 'Why he did beare such hatred to the King?' Who answered, 'By reason the King is the greatest enemy hee hath in the world.' All which their confessions and depositions are still extant upon record.

Barbara Napier, tried May 8, 1591. Released. Assisors tried June 7, and acquitted. The said Barbara was accusit, that scho gaif hir presens, in the maist develisch and tressonabill Conventioun, haldin be hir and hir complices in the Divellis name, vpoun Lambmes-ewin last, att the New-heavin callit Aitchesounes-heavin, betuix Musselburcht and Prestonpannis, sin his Majestie come furth of Denmark; quhair war assemblit nyne principallis, to witt, Agnes Sampsonne, Jonett Straittoun, Ewfame McCalyeane, hir selff, Johne Fiene, Robert Griersoun, George Moitis wyffe in Prestoun, Margrett Thomsoun, and Donald Robesoun; quhilkis nyne persounes, the Devill, quha wes with thame in liknes of ane blak man, thocht maist meit to do the turne for the quhilk thay wer convenit; and thairfore, he sett thame nyne nerrest to him selff, in ane cumpany; and thay, togidder with the wyffe of Saltoun myle and the rest of the inferiouris, to the nowmer of threttie persounes, standand skairse the lenth of ane buird frae the foirsaid nyne persounes in ane vthir cumpany;¹ Agnes Sampsonne proponit the distructione of his hienes persoun, saying to the Dewill, 'We haif ane turne ado, and we would fain be att itt gif we could, and thairfore help ws to itt.' The Dewill ansuerit, he sould do quhat he could, bott it wald be lang to, because it wald be thoirterit [thwarted], and he promiseit to hir and thame ane pictour of walx, and ordenit hir and thame to hing, roist, and drop ane taid, and to lay the droppis of the taid [mixed with other supposedly virulent poisons], in his hienes way, quhair his Maiestie wald gang inowre or outowre, or in ony passage quhair itt mycht drop vpoun his hienes heid or body, for his hienes distructione, that ane vther mycht haif rewlit in his Maiesties place, and the ward [government] mycht haif gane to the Dewill. Att the quhilk conventioun, his hienes name wes pronunceit in Latine; and Agnes Sampsonne wes appointit to mak the pictour and to gif it to the Devill to be inchantit, quhilk scho maid in deid, and gaif it to him; and he promiseit to gif it to the said Barbara

¹ Throughout England and Scotland the witches in every district were divided into *covens* or companies of thirteen. There were present on this occasion thirty-nine persons or three *covens*.

and to Effie McCalyan, att the nixt meting to be roistit. Margaret Thomsoun was appointit to dropp the taid. There wes ane appointit to seik sum of his hienes linning claithes, to do the turne with.

Agnes Sampson, continued.

Anny Sampson affirmed that sche, in company with nyn vthers witches, being convenit in the nycht besyd Prestonpannes, the Deuell ther maister being present standing in the midis of thame; ther a body of wax, schapen and maid be the said Anny Sampson, wrappit within a lynning claith, was fyrst delyverit to the Deuell; quhilk eftir he had pronunceit his verde, delyverit the said pictour to Anny Sampson, and sche to her nixt marrow, and sa every ane round about, saying, 'This is King James the Sext, ordonit to be consumed at the instance of a noble man Francis Erle Bodowell!' Efterwart again, at ther meting be nycht at the kirk of North Berick, wher the Deuell, clad in a blak gown, with a blak hat vpon his head, preachit vnto a great number of them out of the pulpit, having lyk leicht candles rond about him. The effect of his language was to knaw, what skaith they had done, whow many they had won to ther opinion sen their last meting, what succes the melting of the pictour had tane, and sic vain toyes. And because ane auld sely pure plowman, callit Grey Meill, chancit to say, that 'nathing ailit the King yet, God be thankit!' the Deuell gaif him a gret blaw. Then dyuers amang them enterit in a raisonyng, maruelling that all ther deuellerie culd do na harm to the King, as it did till others dyuers. The Deuell ansuerit, 'Il est vn home de Dieu.'¹

Euphemia McCalyan, tried June 9, 1591, executed (burnt alive), June 25, 1591.

Evidence was first given as to her practising witchcraft and consorting with well-known witches. Item, indyttit and accusit, of the conventicle had att North Berwick Kirk, tuentie dayes before Michelmas, 1590; and thair inquiring for the Kings pictour, gewin by Annie Sampson to the Deuill, to be inchantit, for the tressonabill distructioun of the King. Item, indyttit and accusit, for being att ane Conventioun haldin at the New Heaven callit the Fayrie-hoillis, att Lambmes last wes, to the effect immediatlie aboue writtin. Item, Indytit and accusit, for an

¹ Bannatyne Club, *Melville Memoirs*, p. 395. The sycophantic Melville adds, 'And certainly he is a man of God, and dois na wrang wittingly, bot is inclynit to all godlynes, justice and vertu; therefor God has preserved him in the midis of many dangers.'

Conventioun halden by yow and utheris notorious Wichis, youre associattis, att the Brwme-hoillis, quhair yow and thay tuik the sea, Robert Griersoun being your admerell and Maister-manne. [Then comes the recital of the magical means used to raise a tempest], quhairby the Quene wes putt back be storme. Item, Indytit, for consulting with the said Annie Sampson, Robert Griersoun, and diuers vtheris Wichis, for the tressonabill staying of the Quene's hame-cuming, be storme and wind; and rasing of storme, to that effect; or ellis to haif drownit hir Majestie and hir cumpany, be coniuring of cattis and casting of thame in the sea, at Leith, and the bak of Robert Griersounis hous.

Barbara Napier, continued. And siclyke, the said Barbara was accusit, that sche gaif hir bodelie presens vpoun Alhallow-ewin last was, 1590 yeiris, to the frequent conuentioun haldin att the Kirk of North Berwick, quhair sche dancit endlang the Kirk-yaird, and Gelie Duncan playit on ane trump, Johnne Fiene missellit [muffled] led the ring; Agnes Sampson and hir dochteris and all the rest following the said Barbara, to the nowmer of sevin scoir of persounes. . . . And the Devill start vp in the pulpett, lyke ane mekill blak man, haifand ane blak buik in his hand, callit on ewerie ane of thame, desyryng thame all to be guid serwandis to him, and he sould be ane guid maister to thame. Robert Griersoun and Johne Fian stuid on his left hand; and the said Robert ffand grit fault with the Dewill, and cryit out, that all quhilkis wer besyd mycht heir, becaus his hienes pictour was nocht gewin thame, as wes promesit; the said Effie McCalyan remembrand and bid[d]and the said Robert Griersoun to speir for the pictour, meaning his Maisties pictour, quhilk sould have been roistit. Robert Griersoun said thir wordis, 'Quhair is the thing ye promiseit?' meaning the pictour of walx, dewysit for roisting and vndoing his hienes persoune, quhilk Agnes Sampson gaif to him; and Robert cryit to 'haif the turne done'; yit his hienes name was nocht nameit, quhill thay that wer wemen nameit him; craifand in playne termes his hienes pictour. Bot he ansuerit, 'It sould be gottin the nixt meitting; and he wald hald the nixt assemblie for that caus the soner: It was nocht reddie at that tyme.' Robert Griersoun ansuerit, 'Ye promiseit twyis and begylyt ws.' And four honest-like wemene wer very ernist and instant to haif itt. And the said Barbara and Effie McCalyane gatt than ane promeis of the Dewill, that his hienes pictour sould be gottin to thame twa, and that rycht sone: And this mater of his hienes pictour was the caus of that assemblie.

This ends the evidence of the witches of North Berwick. Who was the man whom they believed in and obeyed as God incarnate?

The man who instigated the meetings, and to whom, consequently, suspicion points, was Francis, afterwards Earl of Bothwell. He was the eldest son of John Stewart and Jane Hepburn, sister of that Earl of Bothwell whom Mary Queen of Scots married. Francis succeeded his maternal uncle in title and estates. His father, Lord John Stewart, was an illegitimate son of James V. The Pope, however, legitimised all the natural children of James V., and Mary, after her accession, granted letters of legitimation¹ to her two half brothers, John Stewart, and James, afterwards the Regent Moray. John was slightly the elder of the two, and, had he been legitimate, would have been the heir to the exclusion of Mary. The Regent Moray left only daughters, whereas John Stewart had several sons, of whom Francis was the eldest. Francis might therefore claim to be the next heir male to the throne of Scotland, and possibly of England, had James VI. died without children. James's own opinion of the matter is shown in his speech to his parliament in 1592, when he denounced Bothwell as an aspirant to the throne, although he was 'but a bastard, and could claim no title to the crown.' Bothwell, however, was himself no bastard, though his father was. But the significance of the witches' attempt, as well as the identity of the chief personage at their meeting, is given in Barbara Napier's evidence as to the reason for the attempted murder of the King, 'that another might have ruled in his Majesty's place, and the government might have gone to the Devil.' By changing the title 'the Devil,' by which he was known to the witches, to the title 'Earl of Bothwell,' by which he was known outside the community, the man and the motive seem manifest. This hypothesis is borne out by the contemporary accounts.

The trial of the witches created a great stir, and Bothwell's name was freely coupled with the witches'. He denied all complicity; this was only natural, as confession would have meant an acknowledgment of high treason. But his followers might have betrayed him. The two leaders, Agnes Sampson and John Fian, were tortured. Sampson admitted that the wax image was made at the instance of Francis Earl of Bothwell; an admission sufficiently damning, but beyond that she would say nothing. The real danger to Bothwell lay in Fian. Under

¹ *Reg. Mag. Sig. Scot.*, 1546-80, No. 565.

torture he made admissions and signed a confession in the presence of the King. He was then 'by the maister of the prison committed to ward, and appointed to a chamber by himselfe; where, foresaking his wicked wayes, acknowledging his most ungodly lyfe, shewing that he had too much folowed the allurements and enticements of Sathan, and fondly practised his conclusions, by conjuring, witchcraft, inchantment, sorcerie, and such like, hee renounced the Devill and all his wicked workes, vowed to lead the lyfe of a Christian, and seemed newly converted to God. The morrow after, upon conference had with him, he granted that the Devill had appeared unto him in the night before, appareled all in blacke, with a white wand in his hande; and that the Devill demaunded of him, 'If hee woulde continue his faithfull service, according to his first oath and promise made to that effect.' Whome (as hee then saide) he utterly renounced to his face, and said unto him in this manner, 'Avoide! Sathan, avoide! for I have listned too much unto thee, and by the same thou hast undone me; in respect whereof I utterly forsake thee.' To whome the Devill answered, that 'once ere thou die thou shalt bee mine.' And with that (as he sayd) the Devill brake the white wand, and immediately vanished foorth of his sight. Thus, all the daie, this Doctor Fian continued verie solitarie, and seemed to have a care of his owne soule, and would call uppon God, shewing himselfe penitent for his wicked life; neverthesse, the same night, hee found such meanes that he stole the key of the prison doore and chamber in which he was, which in the night hee opened and fled awaie to the Saltpans, where hee was alwayes resident, and first apprehended. Of whose sodaine departure, when the Kings Majestie had intelligence, hee presently commanded diligent inquirie to bee made for his apprehension; and for the better effecting thereof hee sent publike proclamations into all partes of his lande to the same effect. By means of whose hot and harde pursuite he was agayn taken, and brought to prison; and then, being called before the Kings Highnes, hee was re-examined, as well touching his departure, as also touching all that had before happened. But this Doctor, notwithstanding that his owne confession appeareth, remaining in recorde under his owne hande writting, and the same thereunto fixed in the presence of the Kings Majestie and sundrie of his Councell, yet did hee utterly denie the same. Whereupon the Kings Majestie, perceiving his stubborne wilfulnesse, conceived and imagined, that in the time of his absence, hee had entered into newe

conference and league with the Devill his maister.' [Fian was then subjected to the most horrible tortures that could be devised.] 'And notwithstanding all these grievous paines and cruel torments, hee would not confesse anie thinges ; so deeply had the Devill entered into his heart, that hee utterly denied all that which he before avouched ; and would saie nothing thereunto, but this, that what hee had done and sayde before, was onely done and sayde, for fear of paynes which he had endured.'¹ He continued steadfast and was executed at the Castle Hill.

The character of Fian is perfectly consistent. Under torture he signed a confession, which confession might have implicated Bothwell. That night Bothwell himself, or one of his emissaries, obtained access to the prisoner and arranged for his escape. The wretched Fian was faced with death either way ; if he retracted his confession, he would die as a criminal by the hands of the law ; if he held to it, he would die as a traitor by the hands of his comrades. There was no alternative. All that day he 'continued verie solitarie,' calling upon God, but by night he had made his choice and fled. He apparently escaped without difficulty. The story of his stealing the keys of his own cell and of the prison door is absurd ; the escape was obviously effected by connivance, just as later on Bothwell's own escape was effected. Fian went back to his own home, where, according to James's surmise, he had an interview with the Devil (*i.e.* Bothwell), and there he tamely waited till the officers of the law came and recaptured him. This tameness is not in keeping with the rest of his character. A man with sufficient courage and resource to get out of a strongly guarded prison would easily have made good his escape. Fian then must have been re-taken because he wished to be re-taken. For fear of torture, and in hope of pardon, he signed the first confession, implicating Bothwell,² yet later he endured agonies of torture with the certainty of death rather than acknowledge one word which might lead to the discovery that James was bent upon. James's surmise was perhaps more than a mere guess ; it was prompted by his knowledge of the facts. Fian had had an interview with his Master, whom he believed to be God Incarnate, and like many a Christian martyr he atoned for the first betrayal by steadfast courage through cruel torment even to death.

¹ *Newes from Scotland*, quoted in Pitcairn's *Criminal Trials*, I. pt. ii. pp. 213-23.

² It is perhaps significant that the confession of John Fian and the trials of both Barbara Napier and of Bothwell himself for witchcraft, have disappeared from the Justiciary Records.

Reading the accounts in the light of this supposition, it is seen that everyone, including James, suspected Bothwell. Even if they did not acknowledge his divinity, they feared the magical powers which, as Chief of the Witches, he was supposed to wield. It is impossible to study the details of this period without realising the extraordinary fear which James had of his cousin; it was fear with an underlying horror, totally different from his feeling towards his other turbulent subjects. When Bothwell, seeking pardon, was introduced into Holyrood Palace by Lady Athol in the early morning of July 24, 1593, he entered the King's chamber. James, always undignified, was caught in the middle of his morning toilet; he tried to run into the Queen's room, but the way was barred by Bothwell's friends and the door was locked. 'The King, seeing no other refuge, asked what they meant. Came they to seek his life? let them take it—they would not get his soul.'¹ This remark, made in the urgency and excitement of the moment, is highly significant. Had Bothwell been, like many of James's other enemies, merely an assassin, James would not have spoken of his soul. But Bothwell as the Devil of the witches had the right to demand the yielding of the soul, and James was aware of the fact.

The birth of James's children removed Bothwell's hopes of succession; the power of the witch organisation, of which he was the chief, was broken by the death of its leaders. He had made a strong bid for power, he failed, fled the country, and finally died in poverty at Naples. There George Sandys, the traveller, heard of him. 'Here a certaine Calabrian, hearing that I was an *English* man, came to me, and would perswade me that I had insight in magicke, for that Erl *Bothel* was my countryman, who lives at *Naples*, and is in those parts famous for suspected negro-mancie.'²

M. A. MURRAY.

¹ Burton, *History of Scotland*, v. p. 283.

² Sandys, *Relation of a Journey*.

John Lennox and the *Greenock Newsclout*: A Fight against the Taxes on Knowledge

‘**A** TAX upon paper is a tax upon knowledge,’ was the frequent exclamation of that Dr. Adam,¹ under whose rectorship Walter Scott, Francis Jeffrey, and others of Scotland’s famous men of letters attended the Royal High School of Edinburgh. Whether or not Dr. Adam invented the phrase that was for so many years constantly in the mouths of reformers, he interpreted correctly the incidence of the paper duty, which was, by the way, the least oppressive of the imposts that, collectively, were known as the Taxes on Knowledge—imposts that retarded the political growth of the country for nearly a century and a half.

Against these taxes, John Lennox, first at Dumbarton and then at Greenock, for a period covering roughly a score of years, waged deliberate and uncompromising war. It was not only the Government that he had to convince of the vexatious character and anti-social effects of these taxes, but many even of the newspaper owners. It is strange now to think that on the eve of emancipation a body of newspaper proprietors, publicly hugging their chains, should have drafted a memorial to members of Parliament in which the opinion was expressed that the remission of the taxes was calculated to lower the character and injure the usefulness of the Press; that the term Taxes on Knowledge was delusive and untrue; and that the continuance of the system was desired by the great mass of the community. But even this vagary can be explained if we reflect that, taking it in the large, the human mind is always and everywhere intensely conservative. It resents new ideas: it devises bitter penalties for their promulgators.

The Church, in the days of its temporal predominance, kept a firm hand upon would-be innovators: more than the State, it was the exponent of arbitrary methods; but its action in the

¹ *Edinburgh Review*, October, 1835, ‘Taxes on Knowledge.’

concerns of literature before the invention of printing need not detain us here. In controlling the Press three successive methods were employed by the State: First, arbitrary suppression, or, as the constitutionalists would say, the exercise of the royal prerogative; second, licensing; and third, taxing. Bulls against unlicensed printing were accompanied by edicts emanating from monarchs who owned allegiance to the Pope—Francis I. actually prohibiting the printing of books in France. Even after the Reformation in England ecclesiastical censorship was still asserted, but only as collateral with the censorial rights of the Crown, claimed by virtue of general prerogative; and in course of time the censorship passed to the Crown, which at the same time assumed the power of granting by letters patent the right of printing or selling books as a monopoly. The litigiously marked history of early Scottish printing is largely concerned with suits arising out of the grants of printing monopolies.

We are concerned in this paper with the restrictions which the civil authorities sought to impose upon the printing press in England, and which subsequently developed into the printing laws of the United Kingdom. The earlier custom of burning obnoxious books—or, as was the custom of the apostles of efficiency, of burning the authors—gave way in time to preventive measures. These first took the form of licensing—‘that is, of compelling everything that was printed to be first of all approved by an official or officials deputed for the purpose.’¹ This custom still persists among faithful Roman Catholics, who require the episcopal imprimatur before printing their books, which, wanting this sanction, might be put upon the *Index Librorum Prohibitorum*.

The legislation regarding Licensing is by the student of Literature remembered almost solely by Milton’s *Areopagitica: a Speech for the Liberty of Unlicensed Printing*, whose sonorous periods and splendid imagery delight the lover of literature, as if in compensation for its failure to modify the action of that ‘high court of Parliament’ to which it was addressed in the form of a defence.²

¹ *History of English Journalism*, by J. B. Williams, 1908, p. 2.

² ‘In truth the influence of Milton’s English prose writings seems to have been very slight. . . . When he pleaded for liberty of divorce, or . . . launched pamphlets against monarchy on the very vigil of the Restoration, he produced absolutely no effect whatever. Nor can we perceive that his ‘*Areopagitica*’ hastened the liberty of the press by a day, though, when this had come about by wholly different agencies, it was rightly adopted as the gospel of the new dispensation.’—Dr Richard Garnett, Introduction to *Prose of Milton*, 1894, p. viii.

(This great tract was, like Milton's tracts on Divorce, issued in violation of the Licensing Law.¹)

The enactments begin, for practical purposes, with a codifying decree of the Star Chamber, June 23, 1586. This measure restricted the places of printing and the number of printers, and set up as perusers of the manuscripts the Archbishop of Canterbury and the Bishop of London, who of course acted by deputies. Infringements of the regulations entailed penalties of six months' imprisonment for the printers and of three months' for the vendors. The restrictions imposed upon newspapers and their progenitors the newsbooks and newsletters at a later time were more severe than upon books. Arbitrary methods were again employed. The publication of news without royal permission was held to be an infringement of the royal prerogative; and Henry VIII. issued a royal proclamation ordering 'certain books printed of newes of the prosperous successes of the King's Ma'ties arms in Scotland' to be burned within twenty-four hours after proclamation made, on pain of imprisonment. It was the Judges of King Charles the Second who in 1680, when the Licensing Act had expired and there was no regulation affecting the licensing of books, declared that 'His Majesty may by law prohibit the printing and publishing of all newsbooks and pamphlets of news whatsoever not licensed by His Majesty's authority as manifestly tending to the breach of the peace and disturbance of the kingdom.' A proclamation based on this declaration was immediately issued. A desire to stop the publication of newspapers competing with the *London Gazette* is assigned as a reason for the decision being sought. The still existing *London Gazette* is, as is well known, a continuation of the *Oxford Gazette*, which dates from September, 1665, when Charles lived at Oxford to avoid the Plague; and it is from its appearance that the word newspaper dates.² Consisting, according to Anthony Wood, of 'half a sheet in folio,' it was neither a pamphlet nor a book, and so it was at once dubbed a 'paper.'

It was under the Licensing Act of 1662³ and its successive

¹ 'As the Licensers could not be expected to approve a tract aiming at their own abolition, 'Areopagitica' made its appearance without a licence, and this new transgression excited another little storm, shortly allayed as the first had been.'—*Ibid.* xv.

² Williams, *op cit.* p. 8.

³ This Licensing of the Press Act was not repealed till 1863; it was included in the Statute Law Repeal Act of that year.

renewals up to 1679 that Sir Roger L'Estrange was appointed licenser; and so effective was his supervision that the newspaper press for a time consisted for all practical purposes of the *London Gazette*. The lapsing of the Act in 1678 was succeeded by a period when restrictions on the Press took the form of prosecutions for libel. Apparently, however, the licensing method was regarded as more effective for the purpose desired, and the Act was, in 1685, renewed for seven years.¹ Thus it was carried into the reign of William and Mary, and at its expiration in 1692 was renewed till the end of the existing session of Parliament.² In 1695 the Commons refused to re-enact the licensing legislation; and the ultimate effect of this decision was the passing of the first Copyright Act³ in 1709, for literary piracy became so flagrant that authors were defrauded on every side by the booksellers and their satellites. The power of the Secretary of State to issue a warrant, whether general or special, to search for and seize the author of a libel or the libellous papers themselves—a power which, exercised by the Star Chamber, was confirmed by the Licensing Act—continued to be asserted, and was not finally declared illegal until the case of *Entick v. Carrington* in 1765. The proceedings of the licensers, the hunt for hidden presses, the clever evasions of the printers as well as their cruel punishments when caught, the scurrility of the publications, make an interesting, if often sordid, story; but the time was rapidly approaching when authority was to try a new method of keeping the Press in control. It cannot be asserted that there was no need of control: each party in the State felt the urgent necessity of silencing the writers of the other faction: the scurrility was as flagrant on the one side as the other.

At the opening of Parliament in 1712 Queen Anne's message said: 'Her Majesty finds it necessary to observe how great license is taken in publishing false and scandalous libels such as are a reproach to any Government. This evil seems to be grown too strong for the laws now in force. It is therefore recommended to you to find a remedy equal to the mischief.'

¹ 1 Jac. II. c. 8, sec. 13.

² It should be mentioned, as showing how little this important factor in civil liberty entered in the statecraft ideals of the time, and how truly Thomas Paine spoke when he said that the rights of man were imperfectly understood at the Revolution, that no reference to the liberty of the Press appears in the Bill of Rights.—*Rights of Man* (Everyman edition), p. 14.

³ 8 Anne, c. 19.

Under date April 11, 1712, with the heading 'Resolutions relating to the Licentiousness of the Press,' we read :

'Some members were so exasperated at the Dutch memorials being published in a newspaper that on the 12th the House, being resolved into a Grand Committee to consider of that part of the Queen's message to the House of the 17th January last, which relates to the great licence being taken in publishing false and scandalous libels, Sir Douglas Dolben being the Chairman, they came to these two resolutions : 1. That the liberty taken in printing and publishing scandalous and impious libels creates divisions among Her Majesty's subjects, tends to the disturbance of the public peace, is highly prejudicial to Her Majesty's Government, and is occasioned for want of due regulating of the Press. 2. That all printing presses be registered, with the names of the owners and the places of abode, and that the author, printer, and publisher of every book set his name and place of abode thereto.

'These resolutions were ordered to be reported the Tuesday following ; but the said report was then put off till that day se'nnight, and afterwards further adjourned from time to time : some members having in the Grand Committee of Ways and Means suggested a more effectual way for suppressing libels, viz., the laying a great duty on all newspapers and pamphlets.'

On June 2 Sir D. Dolben reported these resolutions (in an amplified form) to the House, and 'the Commons ordered a bill to be brought in upon the said resolutions.'

We hear no more from the Parliamentary History of the action of the House till we find on the Statute Book the momentous Act that began the shackling of the Press, which lasted for nearly a century and a half. This measure not only retarded the growth of free institutions by putting newspapers under financial disabilities that prevented their reaching the great mass of the people at home : it was also one of the first factors that aroused our American colonists to protest against taxation for the purposes of the home Government. The Boston Tea Party may have been the immediate occasion of the revolt : the Revolution really began when in 1765 the home Government sent the stamps for newspaper duty to the American colonies.¹

In 1712 the War of the Spanish Succession was still dragging on, and the Treasury, like Queen Anne's privy purse, was empty.

¹ 'This was the beginning of national American Union.'—*American Debate*, by M. Mills Miller, Litt.D., vol. i. p. 20.

These facts gave the Commons of Great Britain the idea of killing two birds with one stone : so the libels and blasphemies of the Press were to be suppressed by a tax which would at the same time keep the newspapers in hand and help in the necessary purpose of raising 'large supplies of money to carry on the present war until your Majesty be enabled to establish a good and lasting peace, and for defraying your Majesty's other extraordinary expenses.' The measure which was designed to effect these purposes is 10 Anne, cap. 19 (1712), and it is entitled 'An Act for levying several duties upon all sope and papers made in Great Britain or imported into the same . . . and upon several kinds of stampt vellum, parchment, and paper, and upon certain printed papers, pamphlets, and advertisements ; for raising the sum of eighteen thousand pounds by way of lottery,' etc.

This Act hit the printer and publisher of a newspaper a triple blow : it imposed a duty on paper to be levied for thirty-two years (it was made perpetual five years later) ; it placed another duty, to be collected by means of stamps, upon pamphlets, and upon 'all newspapers or papers containing public news, intelligence, or occurrences,' printed in Great Britain to be dispersed and made public ; and it laid a charge by way of duty upon every advertisement to be contained in the *London Gazette* or any other printed paper, such paper being dispersed or made public weekly or oftener. Addison, in the *Spectator* of 31st July, 1712, the day before the Act came into operation, was oppressed by dismal forebodings. Swift, both before the passing of the Act and after a year's experience of its operation, was decidedly hostile.¹

Through the century following its enactment, printers sought constantly to evade the working of this measure, whose structure was changed from time to time, in order to meet evasions and to tighten still more closely the bonds in which the authorities held the pestiferous Press. One way in which this object was sought was by the revision of the definition of a newspaper. The original definition of the Act of Anne was amended by 60 George III. (1820), cap. 9, to read : 'Pamphlets or papers containing public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matter in Church or State.' Finally, by 6 and 7 William IV. (1836), the duty was imposed upon every paper printed in Great Britain weekly or oftener, or at intervals not exceeding 26 days, containing only or principally

¹ *The History of the Last Four Years of Queen Anne*. Prose Works (ed. Temple Scott), x. pp. 124-8.

advertisements, and containing any public news, intelligence, or occurrences. Such details as the area of the printed matter were taken into consideration in fixing the rate of duty, which was as high as 4½d. per copy at one time, while the advertisement duty for long stood at the almost prohibitive figure of 3s. 6d. for each advertisement. But the most galling restriction of all was that imposed by section 89 of the Act of 1820, enacting that no person should 'print or publish for sale any newspaper or any pamphlet or other paper containing any public news . . . which shall not exceed two sheets, or which shall be published for sale at a less price than sixpence until he shall have entered into a recognisance . . . himself in £300 if the paper be published in or within twenty miles of London, and £200 if published elsewhere in the United Kingdom, with two sureties in a like sum . . . to meet the fine,' or penalty in case the publisher should be convicted of printing or publishing 'any blasphemous or seditious libel,'—that being recognised as the main occupation of news-mongers in those days. This came to be described by the reformers as the burden of Security.

These were the onerous burdens and some of the oppressive circumscriptions¹ under which the Press in Great Britain laboured in the middle of the nineteenth century, when there was issued the calico periodical, *Greenock Newsclout*. Needless to say, remedy was being sought both by evasion and by open resistance. Agitation for repeal of the taxes was ripening for the formation of associations with that end in view, and a quarter of a century later the last of the obnoxious imposts had been repealed.

Among individual reformers none can have worked more strenuously for this consummation than John Lennox. Yet even his name is scarcely known to-day either in Dumbarton or in Greenock, the towns in which he spent in fairly equal portions the whole of his working life. Remembering that almost all

¹ There were also minor annoyances. By statute the Government supplied paper as well as stamps; and newspaper publishers in remote regions must often have been worried by the non-arrival of the periodical consignment. Notwithstanding their sarcastic setting, reminiscent of Eatanswill journalistic amenities, the facts in the following extracts from *John o' Groat Journal* are no doubt reliable:

'THE ROSS-SHIRE ADVERTISER DRAWING A LONG BREATH.—This consistent (?) newspaper, a few weeks ago, appeared in the shape of a quarto circular, stating that by some mishap the usual supply of stamps had not reached, and the publication was consequently deferred for a week. Last week for the *third* time it appeared on a few bits of paper pasted together, without any stamp, stating the old story, that stamps had not reached, but that a true and faithful account would be given to the Stamp Office of the 'shreds and patches.'

surnames, save those born of personal traits, are either occupational or territorial in their origin, one would expect John Lennox to be a member of a Dumbartonshire family; for though the ancient district of Lennox extended far beyond the confines of the shire, Dumbartonshire was and is looked upon as The Lennox. Naturally, therefore, Lennoxes abound in the capital burgh, and there are records of at least three persons of this name acquiring property in the town. In 1741 Walter Lennox, merchant, Greenock, purchased the Castle Green at Dumbarton, which was afterwards owned by his son Walter Lennox, and was sold by the latter in 1799 to John Denny. In 1816 Walter Lennox, jun., spirit dealer, acquired the property latterly known as Greenfield, which remained in the family until about 1840. In 1813 Donald Lennox, grocer, Dumbarton, bought a property in High Street, and in his family it remained until 1857. This last is said to be the family of the John Lennox with whom this paper is concerned. But of few men of recent date—it is little more than sixty years since his death—who have accomplished important work in the public cause is so little known personally. Except for a reference, sympathetic if perfunctory, in Donald MacLeod's *Dumbarton, Vale of Leven, and Loch Lomond* (p. 38), and an unwarrantably depreciatory criticism of the *Argus*, without mention of its editor, in Joseph Irving's *History of Dumbartonshire* (p. 428), I have found no scrap of printed matter outside Lennox's own periodicals, or advertisements written by him, to aid in the compilation of a biographical notice. By piecing together odd references it is possible to present a sketch, meagre in detail but chronological in sequence, of his business career. The records of Greenock Cemetery prove that he died on November 13, 1853, aged 59, and was buried in an unmarked grave four days later, so that he must have been born about 1794.¹ About 1822 he appears to have been in business as a newsagent in

¹ I have been unable to trace any record of Lennox's birth or of his marriage. The Dumbarton register, however, contains entries of the births of five children born to John Lennox and Anne Sinclair, his spouse. These are: John, 27th April, 1825; Andrew, 15th January, 1828; Mary Anne, 28th May, 1830; Jane, 23rd March, 1833, died 13th June, 1855; and Jessie, 3rd June, 1835. The method of entering the names seems to suggest that the revolutionary printer was for a long term of years at variance with the Kirk—his political activities make such a relationship understandable—but that subsequently there was a reconciliation. The names do not enter, except on the margins (where a careful session-clerk has given a series of cross references), into the chronology of the register; but are all entered together at the end of the year 1836.

Dumbarton. In an advertisement written about the middle of 1849 he says that 'for 27 years he has conducted to a large extent newsagency; and the 12th year is now passing since he commenced the earliest establishment of the kind in town'—that is, in Greenock. In 1832 he started the *Dumbarton Argus*, which ran for nearly two years. From the *Argus* can be gathered some self-revealing records of Lennox's social and political reforming activities; and they present to us the picture of a man who held strong opinions and suffered for them without becoming embittered.

In December, 1832, he headed the list of subscribers to a petition setting forth that as the signatories were 'dissatisfied with both candidates now offering their services to represent this District of Burghs (Kilmarnock District) in the first Reformed Parliament,' they asked the Provost to call a public meeting of the electors and others 'for the purpose of taking measures to secure a real representative of the opinions, principles, and desires of the community—an honest reformer.' The meeting was duly convened, and passed a long series of resolutions, but failed to secure its main purpose of bringing forward a candidate acceptable to its promoters.

The first election for Dumbartonshire under the Reform Act, which took place about this time, resulted in the return of Campbell Colquhoun of Killermont, by a majority of 47 over Sir James Colquhoun of Luss. Lennox attended the election dinner, and proposed as the 26th toast on the list 'The Liberty of the Press,' using his opportunity to inveigh against the law respecting periodical publications by which he was later on to be so seriously harassed. Even when the 34th toast was reached—that which was drunk to the health of Captain Dunlop, the member for the Kilmarnock district—Lennox, who had abstained from voting in the election, was still composed enough, notwithstanding the convivialities of such occasions, to explain why he had tried to get a candidate to oppose both contestants. He generously declared, however, that he should be most happy to discover all his unfavourable anticipations concerning the new member to be unfounded, 'and not less that our party spirit and divisions terminate with the cause from which they have been ostensibly produced.'

Next summer we find Lennox at the Duntocher Temperance Society's soiree, telling his hearers that though a lover of temperance, he had not been, was not then, and perhaps never would be,

a total abstainer. Nevertheless, he expressed the hope that their cause might flourish more and more.

An advertisement in one of the numbers of the *Argus* shows that J. Lennox and Co. traded as stationers, printers, bookbinders, booksellers, and newsagents, and also had a library of upwards of 1000 volumes, which were lent on easy terms.

Finally, the *Argus* shows Lennox congenially occupied in trying to direct into the right path the municipal electors of Dumbarton, to purify municipal finance, and to remedy ecclesiastical abuses.

It will be seen then, that the seven years' war which he was to wage against the Revenue officials in Greenock, although it embraced the publication of the unique *Newsclout*, was not John Lennox's first adventure in unstamped newspapers. Even before the issue of the *Argus* he had long contemplated taking a hand in the struggle against the Taxes on Knowledge. In 1827, as he tells his readers in the first number of the *Argus*, a prospectus of a weekly journal was withdrawn from the press in consequence of the suppression of the Irvine two-pence-halfpenny unstamped weekly newspaper, which had obtained a most extensive circulation, and which was adopted as a model for the Dumbarton periodical. In a prospectus, dated 8th May, 1830, of which a copy is still extant, the announcement is made that 'when a sufficient number of Subscribers is obtained—at Dumbarton, by J. Lennox & Co., Stationers and Printers, there will be published No. I. [Price Ninepence] of a monthly periodical to be entitled *The Dumbarton Magazine*, a General Register of Contemporary Events and Speculations affecting the Condition, Progress, and Prospects of Society. A Number shall contain forty pages demy octavo—to be printed with brier type, and externally to resemble that most popular Edinburgh magazine, Blackwood's.'

Although about 200 subscribers were obtained, this projected periodical never came to life. Lennox and the City of the Rock were to begin press ventures with *The Dumbarton Argus*; or, *Lennox Magazine*,¹ the first number of which, price 2d., appeared on 2nd June, 1832. In the 'Introduction' to No. I it is stated: 'An apology for this Work will scarcely be expected by an intelligent public, and therefore the projector offers none. It is not exactly what might have been desirable; but from a variety

¹ Of this publication there are extant three sets, so far as is known—one mentioned by MacLeod as having belonged to Provost MacAusland; another, now the property of a Glasgow gentleman, both of which I have been permitted to examine; and a third, of which I have particulars from its owner.

of causes which it is superfluous to enumerate, improvement could only be obtained by delay, against which it had been determined. The plan, however, it is hoped, will give satisfaction, and possibly in its future numbers its execution may attain to a higher standard of excellence.'

Further on, the Editor says : 'The *Argus*, like a stage coach, is accessible to persons of all parties and principles who may desire to submit their thoughts to public scrutiny. It is a machine set agoing upon the highway of social improvement, useful knowledge, truth, justice, public rights and privileges, depending for its usefulness and continuance on the approbation and support of a public who ought to be the judges best qualified to decide if it deserves encouragement. It is started as a medium, where none previously existed, through which may be conveyed to publicity the opinions, grievances, and claims of all : hence consistency in speculation is not to be anticipated, the really liberal and truly consistent journal being one which allows principle and the absence of it both to exercise their full scope and reach a due level and influence, by showing their strength and beauty or exposing their weakness and deformity to the judgment of every inquirer.'

Lennox had less difficulty about the principles that should guide his little paper than about the periodicity of its appearance. In No. 2 it is stated that 'The *Argus* shall appear every alternate Saturday. From being too late in adopting this determination, four weeks have elapsed between the publication of Nos. 1 and 2. In the interval a second edition of No. 1 has been printed.' No. 3, nevertheless, did not appear till 30th July ; No. 4 has no date, but was issued after 28th August. No. 5 (29th September, 1832) contains a

'NOTICE.—Resolved to adhere to the enactments of the law respecting periodicals, though disliking their operation, we shall publish only once a month, on one of the five days prescribed, as the strange manner in which they are occasionally enforced . . . gives no security that vexatious proceedings might not be adopted.'

A month later there is avowed another change of mind which is announced thus :

'More frequent publication of the *Argus*.—Our intention respecting the more frequent publication of the *Argus* has vacillated. . . . We propose to publish No. 7 on Wednesday, 14th November, and No. 8 on Thursday 29th, and regularly thereafter twice a month.'

This plan was carried out in November; but No. 9 did not appear till the 29th December—it was of eight pages only, and was sold at a penny—Nos. 10 and 11 both came out in January, the former without mention of the day of the month; there were two issues in February and in March; but in April and May there was only one issue for each month.

Fourteen months saw the issue of 20 numbers of the *Argus*, containing, as a notice points out, 300 closely printed pages. Sold at 3s. 6d., the set included two penny issues, the others being priced at 2d. each. The pagination of the *Argus* is continuous; but, rather curiously, all the sets mentioned want No. 27, there being here a hiatus between pages 394 and 405, an unfortunate coincidence upon the causes of which it is useless to speculate. On page 405 begins No. 28 (February, 1834), which concludes with the legend, End of Volume First. In this last number of Vol. I. it is announced that the paper 'will in future be ornamented and illustrated by wood engravings and lithographic designs.' Only one illustration appeared—a woodcut of Duntocher Bridge, which found a place in No. 32, June, 1834. The thrifty editor used it again, with the descriptive text, in one of his Greenock periodicals.

Seven more issues of the *Argus* appeared between March and November, 1834. The MacAusland set, bound in a well-preserved calf-covered volume, includes a copy of the prospectus of the *Dumbarton Magazine*. Its present owner is not disposed to accept as the cause of Lennox's removal from Dumbarton the closing of the glass works, as suggested by MacLeod, particularly as the 'stagnation as of death' had passed over the burgh before the *Argus* was started, and Lennox must have continued in business in the City of the Rock for at least two years longer.

This view is strengthened by the fact, for which Lennox himself is the authority, that he did not begin business in Greenock till 1837.

For the story of his life and work in Greenock Lennox is the sole authority in print. No historian records his career or names any of his variously designated journalistic enterprises. Even Williamson, who in his *Old Greenock from the Earliest Times to the Middle of the Nineteenth Century* has a speciously complete-looking chapter on the local press, does not mention even Lennox's most noteworthy and distinctive venture. The Town Council minutes of 1845 show that John Lennox, bookseller, submitted a list of candidates for the Police Board, and afterwards with his supporters demanded a poll. There is no further record of the matter.

About the same time a John Lennox took an active part in the affairs of the Mechanics' Institution. These activities are so much in character that there need be little doubt about the identification of the personage concerned in both with the printer-editor of the Greenock periodicals. It is to these we must go for the history of John Lennox. Happily the printer's accounts of himself bear the impress of truth : they may be unhesitatingly accepted. Their defect is their meagreness, or one should rather say the haphazard way in which they have been preserved.

In an early issue of one of the Greenock periodicals by which Lennox preluded his greatest undertaking there is a little note headed 'Old Newspapers,' which says : 'Many people take newspapers, but few preserve them ; yet the most interesting reading imaginable is a file of old newspapers. It brings up the very age, with all its bustle and everyday affairs, and marks its genius and its spirit more than the most laboured description of the historian. Who can take up a paper dated half-a-century ago without thoughts akin to those with which Hamlet examined the skull of Yorick—remembering that almost every name there printed is now cut upon a tombstone at the head of an epitaph ?' What a pity some of the readers did not take this message to heart. Had they done so the task of the biographer would have been greatly lightened. There is no complete set of any of Lennox's publications in existence: some of them are known only by references in examples of the publications that have been preserved. Thus, all we know of his first ventures in Greenock is derived from one of his periodicals named 'Nothing.' An introductory note in No. 1 (Tuesday, 22nd September, 1846), referring to 'our own exertions,' says : 'In 1839 feeble, ill-directed, and badly-managed attempts were made to bring out two periodicals, 'The Truth Teller' and 'The Story Teller,' and both were abandoned after some loss had been attained. The earlier terminated with No. 3 ; the subsequent one reached eight numbers ; but neither of them aimed at originality, and though the selections were generally good, and sometimes racy, yet having no peculiar attraction, no distinguishing character to secure a preference over other long-established and cheaper rivals, they necessarily had but moderate support. We blame ourselves only for the unfortunate result, for experience proves that the public are not indifferent to merit, and do not grudgingly refuse recompense to literary labour properly directed.' The failure thus candidly confessed left Lennox 'somewhat dispirited, but

not quite subdued.' Nevertheless it was half-a-dozen years later ere he mustered up courage to put forth another unstamped periodical.

Collet, in his *History of the Taxes on Knowledge: Their Origin and Repeal*, asserts that one of the schemes of the Repeal Association had for its object the evasion of the provision of the Act of 1820, which enacted that a monthly paper, to be free of tax, must be published at an interval of not less than twenty-six days—on one of the first three or last two days of the month. Had the Inland Revenue authorities not persistently winked at all evasions and defiances of the newspaper stamp duties, unless and until these were forced upon them by informations, the method proposed could not be characterised as other than stupid and impracticable.¹ It was to issue the same paper with a different title on each of the four weeks of the month, so that while in reality the four constituted a weekly newspaper, the same title recurred only once a month. In 1852, Collet states, the *Dunfermline News* combined with its local contemporaries to break the law in this fashion²; but John Lennox had put the same plan in practice at Greenock seven years earlier.

The scheme, of course, was illegal, as Lennox came to recognise later on, though he tried it for some months. He was not its inventor; that credit belonged to Maxwell Dick,³ who, as

¹ If the Exchequer lost but little through the non-payment of the Stamp Duty, it allowed immense sums to go by default in the form of fines. The possession of unstamped newspapers involved a fine of £20 per copy; and G. J. Holyoake states, in his introduction to Collet's book, that the Inland Revenue authorities bought six copies of every issue of two of his papers, so that he incurred fines of £120 before breakfast, and when the last warrant was issued against him he was indebted to the Crown to the extent of £600,000. On another of his papers, *The Reasoner*, he incurred for twelve years fines of £40,000 per week.

² Dr. Erskine Beveridge does not seem to have seen the purpose of the arrangement, which he chronicles as follows: 'In 1853 four newspapers were regularly published in Dunfermline. The following 'notice' appears in the *Dunfermline Journal*, 28th October of that year: 'The Proprietors of the *Dunfermline News*—papers have agreed to publish as follows in future—The *Chronicle* on the first, the *Advertiser* on the second, and the *Journal* on the fourth or last Friday of each month. The third Friday has been offered to the *News*. By this arrangement *Dunfermline* will have a paper weekly for one penny, with the exception of four weeks in the year; and the public will be able to ascertain, without any trouble, what paper will be published every week.'—*A Bibliography of Works relating to Dunfermline and the West of Fife*. By Erskine Beveridge, 1901, p. 110.

³ Maxwell Dick, of Irvine, is known to Burns students as the publisher of facsimiles of manuscripts of the poet in the possession of the Irvine Burns Club, the Zeitter engraving of Alexander Nasmyth's bust portrait of Burns, and of other

Lennox states in his *News-Clout* of 24th April, 1850, made the first of various experiments to establish weekly newspapers under the guise of being monthly. Dick, he asserts, 'obtained more credit for his contrivance than he deserved, for unquestionably, though with obscure and clumsy phraseology, the enactment was quite sufficient to effect its object, the suppression of any article whatever which the authorities chose to annihilate.' Lennox must have believed in the practicability of the scheme in 1845, for it was in that year he began publication of periodicals in accordance with its plans. *Young Greenock* (a small folio printed in double column) came first: No. 1 appeared on 3rd March, 1845, and till June it appeared once a month. In a collection of Lennox's publications that I have been permitted to examine—the collection is too incomplete to be termed a file—No. 1 of *Young Greenock* is followed by mutilated parts of pages 3 and 4 of another paper uniform in size and style with *Young Greenock*, but without any clue to its title. No. 2 of *Young Greenock* appeared on Thursday, 3rd April, 1845, and on Saturday, 12th April, was followed by *The Second Precursor*; on Friday, 25th April, by *Sam Slick*. No. 3 of *Young Greenock* (Saturday, 3rd May, 1845) has a letter addressed to the Editor of *Quilp's Album* (another of the weekly issues which in the collection we do not meet till a later date) and another addressed to Mr. Slick. Further evidence of the identity and continuity of the publications is found in *The Ventilator*, which is the issue of the following week, for here again is a letter addressed to the Editor of *Young Greenock*. It is unnecessary to multiply the proofs of identity: they abound in almost every number, however it may be designated. No. 4 of *Young Greenock* is followed in this collection by No. 2 of *Sam Slick*, and then we come upon No. 3 of *Quilp's Album* (28th June), 'published on the penultimate day of every month.' In it is this notice: 'We understand that on Thursday first, 3rd July, *Young Greenock* No. 5 will be published. It has

engravings of local interest. Lennox here credits him with being the originator of the weekly-monthly form of evasion; but no copy of any of the issues seems to have survived till to-day. What looks like corroboration of Dick's having published a weekly newspaper with a variable title is furnished by the records of the Irvine Burns Club, of which in 1826 he was one of the founders. On January 18, 1827, the club resolved to advertise its first anniversary celebration in the first Irvine newspaper issued previous to the 25th of that month. The name of the paper in which the advertisement appeared was the *Irvine Journal*; but the club's resolution seems to suggest that the title of next week's local newspaper was a matter of conjecture in the Irvine of 1827.

been told us also that its contents are to be of such a spicy character as will render Lazenby's pickles a supererogatory beverage at some of the daintiest tables about town.' The next complete copy is No. 7 (Saturday, 12th July); but it can safely be assumed that the spiciness was political or personal, as in every number of the publications. Personalities were freely bandied, and almost every number reeked of libel. The outstanding feature of the publications was their reports of the police court proceedings, written with a crude raciness that spared not the demeanour, the physical appearance, or the apparel of the culprits. There seems reason to believe that this was a part of the owner's deliberate policy of reform—particularly temperance reform—the prisoners at the bar being held up as terrible examples of the effects of the drinking customs of the day. Municipal politics also provided a good deal of 'spice.'

The first hint of trouble from the Revenue authorities comes in the form of an 'editorial address' in the issue for Saturday, 9th August, of *Young Greenock*, which was now being issued weekly. This is its burden: 'It is a disagreeable circumstance connected with the publication of *Young Greenock* that by ceasing to be issued only upon any of the last two or first three days of the month, it has become illegal; thus affording an illustration similar to which the legislative system furnishes too many, that what may be highly moral and praiseworthy is by Act of Parliament turned into criminality. The 60th George III. cap. 9 enacts that 'all pamphlets and papers containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matters in Church or State, printed for sale, and published periodically, or in parts or numbers at intervals not exceeding 26 days,' and sold for less than 6d., and not exceeding two sheets of printed paper, each sheet being 21 inches in length and 17 in breadth, shall be liable to stamp duty, and treated in all respects as newspapers.

'It is known to every person at all acquainted with the politics of 1819 that this Act, one of the famous measures commonly called the 'Six Acts,' was passed immediately subsequently to the Manchester Massacre by the tyrannical Castlereagh administration, though opposed by Earl Grey, the leading Whigs, and all men of enlightened opinions—the object of these Acts unquestionably being to aid in the suppression of liberal principles. It is a remarkable fact that when in power the Whigs resisted their repeal; and though these Acts have not recently been

enforced, yet the most noted examples of their severe application occurred under a Whig Government.¹

'*Punch* violates the law with impunity. *Young Greenock*, more sober and less influential, hopes equally to escape the fangs of the Stamp Office. It has been a matter of serious consideration whether to avoid all risks *Young Greenock*, having now reached a purely local circulation of upwards of 500, should not be issued gratuitously, so as to become perfectly independent of official caprice, trusting to public support in another way. Meanwhile *Young Greenock* surely indulges in no unreasonable hope that so long as *Punch*, *Joe Miller*, etc., are permitted to enlighten the great world, an extinguisher will not be placed upon their less ambitious local contemporary.'

The suggestion of gratuitous distribution does not seem, on further consideration, to have commended itself to the proprietor of *Young Greenock*, for the next complete number in the file (August 30, 1845), as well as all its successors in the First Series, is marked 'Price One Penny.' This issue has a quizzical article headed 'Who is *Young Greenock*?' in which, after enumerating a series of typical citizens as representing the paper, it is stated: 'In short, our name is Legion, yet are we—Nobody.' The energies of the Editor, or of his contributors, began to be so assiduously employed that even a weekly issue did not suffice to hold their writings, so on Wednesday, 12th November, a special mid-weekly number was issued. But trouble was again at hand. What would have been the ordinary issue for Saturday, 13th December, 1845, begins its first page thus:

'IMPORTANT NOTICE.—The Publisher has received, a few minutes ago, instructions through the Court of Exchequer that *Young Greenock* is ILLEGAL. He humbly bows to the Law, and discontinues it. Let not our friends and supporters be uneasy, however. THE SPIRIT IS NOT DEAD. Arrangements are to be

¹ Lennox is frequently bitterly sarcastic about the difference between the professions of the Whigs in opposition and the practice of the Whigs in power, as thus: 'Such a periodical as *Young Greenock*, issued on the last two or first three days of every calendar month, was perfectly legal under the Castlereagh Liverpool Peterloo Government, the rampant Toryism of 1820, but fifteen years later a Reforming Whig Ministry, a Reformed House of Commons exempt from the corrupt influences of Schedule A and B, with a 'Friend of the People,' Earl Grey, at the helm, repealed the small Tory fragment of the Liberty of the Press; and every PIECE OF PRINTED PAPER containing News, Intelligence, Events, or occurrences, or any remarks or observations thereon, or any matters in Church or State, WHETHER A PERIODICAL OR NOT, became illegal.'—*News-Clout*, No. 29.

instantaneously entered into, to secure a regular Publication, in strict accordance with the Letter of the Law. Particulars will be Published EARLY NEXT WEEK.

Then follows the heading 'Young Greenock's Ghost!' supported by all the reading matter that had been prepared for the journal that was now in a state of trance. The Editor managed, probably a week later, to get out another number, on the first page of which we read :

'YOUNG GREENOCK

having been suppressed by the Stamp Office, acting upon an information, its Editor, Jacob Faithful, now issues this address to the sensible and honest patrons of the Defunct Publication. When I undertook the management of *Young Greenock*, the object, as stated to me by the Publisher, was 'to hold the mirror up to Nature and show the very age and body o' the time his form and pressure'—to make the dissemination of Truth, fearlessly and freely, without stint or partiality, on all subjects and in relation to all parties and individuals, the standard rule of conduct. How far and with what degree of ability this has been effected, you of course are the best judges. . . . Jacob Faithful is re-engaged to superintend the new Periodical, which will appear on Tuesday, 30th December, and which will, in strict accordance with the letter of the Act of Parliament, be devoted to 'Public News, Intelligence, and Occurrences, matters in Church and State, Remarks and Observations thereon,' Police and Civil Affairs, Local Events, Advertisements and Correspondence. On Saturday, the 27th, he is also engaged to supply another Periodical, in which no 'Public News, Intelligence, or Occurrences, or any Remarks or observations thereon' can BY LAW be published. To establish a Journal containing no Intelligence may appear rather a difficulty; but we shall manage to get over it, and pledge ourselves that sufficient pungency and general interest will characterise our efforts as will make our periodical what those preceding it were—A *sine qua non* to every true Greenockian. . . .

How far 'Jacob Faithful' kept his promise to continue to issue periodicals the collection does not enable us to say, for, though an extract from *Quilp's Budget* of October, 1846, is quoted in *The Elector*, No. 6, October, 1847, the next paper in the collection is No. 9 of a new series, headed *Young Greenock, or the Local Charivari*; and it is dated 3rd August, 1847. There are other odd numbers of publications variously named,

and then on Wednesday, 7th February, 1849, some further light on the various Lennox publications comes to us from the first number of the *Greenock News-Clout*, which introduces itself in this way :

The Greenock News-Clout.

An unstamped periodical, designed as a legal successor to Young Greenock, Aurora, and Quilp's Budget, all declared by the Solicitor of Stamps to be illegal, and against the first an Information is now pending in the Court of Exchequer.

Printed and Published at No. 35 Vennel (corner of Upper Charles Street), also Published at No. 19 Hamilton Street, Greenock, by John Lennox, residing there.

No. I. *Wednesday, 7th February, 1849.* PRICE TWO PENCE.

Following two quotations designed to indicate the editor's method of dealing with public matters comes an address, headed

'The Greenock News-Clout.

'In this country (it says) notwithstanding the popular boast, the Liberty of the Press is a sham. It exists only on sufferance. It is tolerated by Government, but has not so sure a foundation as even that Act which gives Toleration to religious dissenters. The existence of a certain amount of freedom is merely permissive. It is allowed as a privilege, but is contrary to express statute law.

'Previous to 1820, a greater latitude was given to printing and publishing. Though there were in force between twenty and thirty Acts of Parliament relating and regulating the Press, these chiefly applied to newspapers, and had an especial regard to revenue. In that year, on the assembling of Parliament, shortly after the Manchester Massacre, Lord Castlereagh, in order to get rid of Cobbett, and a host of other political writers, who issued an immense quantity of cheap publications, all hostile to the Government, introduced a Bill, which was rapidly passed into law, and became popularly known as the Gagging Act. It was one of the Six Acts infamous as the most direct infraction of public liberty that had occurred for upwards of a century.

'This Act created a monopoly in favour of the Stamped Press, for which its proprietors have generally shown their gratitude by preserving a degree of silence little in accordance with those

pretensions in favour of popular rights, of Parliamentary and financial reform, so much the staple of their leaders. It limited the right of publishing pamphlets or papers containing 'news, events, occurrences, or intelligence, or any Remarks or Observations thereon, or any matter in Church or State,' to once in a period of less than 26 days, and circumscribed further the days of issue to the first day of the month, or within two days before or after. The effect of this careful speciality was that, if a number appeared upon the 3rd day of February the subsequent number could not be issued till the 2nd March, because 26 days must always have intervened, so that the choice of the last two days and first three of a month was liable to considerable limitation. Still there was an acknowledged legal right to publish any political pamphlet or newspaper once a month; and, as the words 'for sale' were specially enacted, gratis issues might be made every day.

'Lord Chief Justice Denham, who was then a member of the House of Commons, expressed very strongly his sentiment upon the Act, commonly called the Trash Act. His words were 'that if this bill passed into law, the liberty of England would no longer exist.' Several others in forcible language deprecated the measure; and the Whig party generally opposed it as an intolerable outrage upon the Constitution.

'The immediate result was the almost entire suppression of every political paper except that of Cobbett, which was raised to 6d. in price, and enlarged to 36 pages 8vo., the size prescribed by the new law, which still permitted papers of that value, if containing more than 714 inches superficial measure, to be issued weekly, or even daily.

'Subsequently, however, many publishers, both in London and the country, attempted boldly to defy the law, so that the unstamped press in its extent became truly formidable to the stamped. The Government seized the presses and papers, and brought to trial by jury several parties who had been foremost in their opposition. The cases of Cleave, Hetherington, etc., must be fresh in the recollection of all who know ought upon the subject. A general cry for the Repeal of the Newspaper Tax—the Tax upon Knowledge—then was raised; and the Reform Government was induced to promise a great and comprehensive measure, which ended in the enactment of 6 and 7 William IV., cap 76—the present law. This Act was proposed by Spring Rice, then Chancellor of the Exchequer, now Lord

Monteagle, in the Premiership of Lord Melbourne, who in his reply to a deputation of members of the House of Commons, declared 'that he should be committing an injustice against his own judgment and feelings if he did not distinctly acknowledge that the financial part of the question was the least important part of the subject.' Hence the duty of 4d. was reduced to one penny, and the securities, which gave to the capitalists the control over the press, remained as under the heavier duties.

'In 1845, when the first series of *Young Greenock* was commenced, we were aware of the legal prohibition of other than monthly publications, and of the restrictions to particular days; but observing that the Stamp Office had ceased to enforce the Act, we, in imitation of Chambers, Punch, Penny Satirist, etc., started a more frequent, and latterly a weekly issue. In December we were summoned before the Court of Exchequer, upon information, and fined in £100, which fine was ultimately remitted by the Treasury upon our paying the expenses of both parties, Victoria and Lennox.

'Observing no movement on the part of authorities to check, curb, restrain, or annihilate the unstamped, and meantime a Whig Ministry having supplanted Sir Robert Peel,¹ we were under the impression that their professed liberality, their hatred of Gagging Bills, was not feigned—not a trick employed to court popularity—resolved to publish again; but not being over confident of the reality of Whig professions, and not doubting that we were acting upon safe conceptions of the law, *Young Greenock* never appeared except on the beginning of a month, and often after the lapse of two or more months. The last issue of the Second Series, that which contained the article, 'Should John Thomson be put to death?' was a second month issue, and yet immediately thereafter we were ordered to appear on the 15th January in the Court of Exchequer, under penalty of £100, to answer for its publication.

'The Whig Act of 1836 re-enacts in the Schedule to the first clause those obnoxious regulations which that party opposed in 1820, while, by omitting the words 'for sale,' and by adding what we shall immediately quote, anything like an unshackled press is extinguished. These words are descriptive of what is

¹ Sir Robert Peel's Government resigned on 28th June, 1846, and was succeeded by the Whig Administration of Lord John Russell, which held office till 1852.

legally a newspaper, chargeable with duty, and liable to all the restraints and obligations of Bonds, Securities, etc., as imposed by 24 different Acts of Parliament. These words declare a newspaper to be 'any paper containing public news, intelligence, or occurrences, printed in any part of the United Kingdom to be dispersed and made public.' This we were aware was in the schedule, but being immediately followed by three long descriptive paragraphs we believe these limited the meaning, for upon the supposition that they do not they are plainly supererogatory, and the words above quoted are sufficient not only to suppress every existing small periodical, but even the larger magazines, and, unquestionably, every common handbill or circular, provided a 'respectable informer' can be had and a liberty-loving Whig Government ready to act upon the information.

'We doubt, however, if an intelligent Edinburgh jury will find that the Liberty of the Press is mere humbug, and that the 22 words added to Castlereagh's infamous Gaggling Act are to be used whenever local parties can influence an official to prosecute for the publication of truths which are to them disagreeable. To try the question we have had offers of pecuniary aid and professional talent, and it is therefore probable that the Greenock worthy who has thus displayed such zeal in the suppression of truth may yet be placed in the witness-box 'to tell the truth, the whole truth, and nothing but the truth,' so far as it may be asked.

'What may have been the intention of the proposer of this obnoxious law we know not, but the continued reference to paper, papers, and sheets of paper implies that news printed on any other substance is legal, and hence from and after this date, we propose to issue the *Greenock News-Clout*.

'Some of our contemporaries may laugh at our efforts to promote British Cotton Manufactures and Greenock intelligence, and ridicule our clout as a mere 'Dishclout,' but we hope by its instrumentality to bring the Question of Taxes upon Knowledge to an issue; and prove that the meetings held here in 1836 against the Whig Stamp Act were wise and sensible proceedings.'

From the heading of this calico journal—whose definitely avowed purpose was 'to bring the question of Taxes upon Knowledge to an issue'—we learn that *Young Greenock* had been repeatedly in trouble with the Revenue authorities, and that the *Aurora*, which appears to have entirely vanished, and *Quilp's*

Budget had also been declared illegal—probably with a monetary penalty attached to each declaration. As for the *News-Clout* itself, its hope for immunity was avowedly based on the enduring material on which the journal was printed. No Act provided for the taxation of news printed on cotton: such a method of evasion had not entered into the calculations of any of those who set themselves to forge fetters for the press; and events show that the hope of immunity entertained by the publisher was sufficiently well grounded to prevent trouble. There are in the bound collection nine numbers of the *News-Clout*, the first being No. 1, and the latest (misplaced) No. 35. Other six numbers are known to exist in various hands. In No. 33 the heading is set in a new form and couched in new diction. Instead of being described as ‘an unstamped periodical, designed as a legal successor’ to the publications already named, the *News-Clout* is now definitely ‘an unstamped periodical, legal successor’ to these journals.

Perhaps the issues intervening between Nos. 29 and 33, if they were found, might show whether this bold declaration arose from long immunity or from an action in the law courts in which a verdict was given in favour of the journal in respect of the material on which it was printed. There is no evidence that the second of these alternatives was put to the test. There is no record in the law reports of any of the fairly numerous actions in which John Lennox was involved. In the prosecutions of *Young Greenock* and its other paper congeners this is merely in accordance with the principles on which the law reports have been prepared. Unless some interesting legal point arose no notice was taken of the case; and in prosecutions under the Stamp Duties Acts the laws of evidence as to the identity of printer and publisher permitted of little opportunity for raising matters of legal interest or importance. But such a proceeding as the printing of a periodical upon cotton cloth instead of upon paper raised in a vital form the legality or illegality of the *News-Clout's* existence; and if the question had gone to a decision must have demanded the attention of the law reporters. No trace of an action against the *News-Clout* has been found in the reports; and neither the representatives of the Exchequer nor those of the Inland Revenue in Edinburgh have come upon any record of such a case. A presumption therefore might be that long immunity had emboldened John Lennox to claim that its issue was legal.

But another explanation is possible, and it might be established

if we could find the issues of the *News-Clout* between Nos. 29 and 33. It concerns MacLeod's reference to the mention of the periodical in Parliament. On Thursday, April 16, 1850, Mr. Milner Gibson, the member for Manchester, brought forward in the House of Commons a motion calling for such financial arrangements as would enable Parliament to repeal the Excise duty on paper. In the course of his speech Mr. Gibson indicated that he had in view also the repeal of the Newspaper Stamp Duty and the Duty on Newspaper Advertisements. In citing instances of the harsh operation of the Stamp Duty, he said :

'There was another man prosecuted at Greenock, who had found a very ingenious way of evading the claims of the Stamp Office. This person had written a letter to him, dated the 13th of March, 1850 :—

'Greenock, Wednesday, March 13th, 1850.

'Sir,—I sent you per post yesterday, one each, periodicals on paper and cloth. The former was abandoned in consequence of an Exchequer process ; the latter is still continued, and No. 27 will appear to-night. The prosecution was for breach of the last Act, restraining liberty of the press. In it every paper is held to be a newspaper which contains 'news, events, intelligence, or occurrences, or any remarks or observations thereon, or on any matters in Church or State.' On the proposal of this measure Mr. Wakley sounded a proper alarm to no purpose, as the public were ignorant and lukewarm, and 'the best possible instructors,' the stamped press, from interested motives favourable to the destructive Bill. Chambers' Journal, Hogg's Instructor; in truth, every publication less in size than $2\frac{1}{2}$ sheets demy, or sold for less in size [?price] than 6d., is illegal. The law is rarely enforced, yet some articles of mine gave offence to 'a little brief authority' here, I was served with a 'Victoria greeting,' &c., and fined for five numbers £20 each. In January, 1849, a second attempt was made to put my brochure down; but having studied this oppressive Act, I observed that as cloth was not proscribed, I might adopt it instead of paper, save the penny stamp, and escape the bonds, &c., to which newspapers are liable. I, therefore, in conformity with law, use an inferior and more expensive medium for the diffusion of knowledge; but I hope you will see the utility of exposing the anomaly, that while others all over the kingdom, or queendom, safely despise or set at naught the

law, I am compelled to respect it in an absurdity.—I am, Sir, your obedient servant,

‘JOHN LENNOX, printer, newsagent, &c.’

‘In another letter, which he (Mr. Gibson) had only received by that day’s post, the writer mentioned, what it was quite right should be known, that after an appeal to the Treasury the fine had been remitted ; but he was still in the position of not being permitted to publish on paper without a stamp certain general observations on public events apart from any systematic record of facts. He is not even permitted to ‘savour’ with intelligence, which is graciously conceded to the *Norwich Reformer*. He should mention that in harmony with his altered material he had altered the name of his journal, and now called it the *Greenock News-Clout*.’

Mr. Milner Gibson’s motion was defeated by 190 votes to 89. Disraeli voted in the minority.¹

It was in the nature of things that Lennox should make the discussion in Parliament the occasion of a long article in his next number. Like others that had gone before, the article rehearses the history of the taxes during the nineteenth century and his own enterprises in opposition to them. In bringing the story down to date it tells of Lennox’s second appearance before the Court of Exchequer, this time on account of the article headed ‘Should John Thomson be put to Death?’ This article, ‘in December, 1848, brought from Edinburgh to Greenock a second ‘Victoria greeting,’ etc. The publisher appeared in January [1849] at the Exchequer Court, entered his name in the Remembrancer’s Book, came home after finding that only by arousing public opinion by a jury trial could there be any hope of getting the obnoxious law amended or, by obtaining an acquittal, be enabled to continue the publication. The law was then again carefully studied, and as the fabric cloth seemed not forbidden by the thirty or forty Acts, which furnish about a week’s reading not of an amusing though of a peculiarly instructive character, the *Clout* instantly made its appearance, and has attracted some considerable notice in Scotland, nay even in Calcutta, Buffalo, U.S., and in the last been exhibited in the British Parliament, and duly noticed in the report of the very effective speech of the member for Manchester.’

¹ Hansard’s *Parliamentary Debates*. Third Series. 13 Victoria, vol. cx, from April 8th to May 13th, 1850, cols. 361-422.

The article, which extends to seven columns of the *Clout*, concludes with the statement that laudatory letters have reached the editor from several places in England, including London, and that 'from these we ascertain that it is not unlikely that *Clouts* will forthwith appear even where the stamped press never had an existence. We wish them every success, and hope that they may become a means of directing public opinion to the injustice of the present law regarding the education of the people in its most important phases.' So far, however, I have not been able to trace any record of another calico periodical either in Scotland or in England; nor to find any reason why Lennox changed the title of his publication from 'designed as legal successor' to the forthright 'legal successor' to the paper publications.

How long John Lennox continued to print the *News-Clout* there is no evidence, nor do we know what cause—financial embarrassment, physical depression, weariness of spirit: it may have been any or all of these—led to its discontinuance after the confident note of success struck in the later form of the heading of the periodical. No. 35, the latest issue in our file, is dated 30th November, 1850. But the propaganda of which Lennox was the instrument in Greenock still persisted if in less imposing form. There are included in the collection copies of *Young Greenock*, Fourth Series, No. 12 (1st October, 1851), sold at one halfpenny, and No. 16 (18th October, 1851), sold at a penny. They are single sheets, 15 inches in length by 6 inches in breadth, printed in double column on both sides of the paper, and still bearing the imprint of John Lennox. In the first of these there is a little homily on 'Cheap Newspapers' apropos of the receipt of a recent number of the *Baltimore Clipper*, of 24 columns, with 24,000 of a daily circulation at one halfpenny. So far as our collection is concerned, the rest is silence.

But at this time the hardly won and slowly achieved emancipation was at hand. Twenty-one months after the date of his last recorded periodical, and three months before Lennox's death, the Advertisement Duty was repealed in 1853. The Stamp Duty on Newspapers was removed on June 15th, 1855. The Paper Duty died a lingering death on October 1st, 1861. The last and most exasperating of all the 'intellectual toll-bars,' as one of Lennox's correspondents preferred to call the Taxes on Knowledge—that which required security for good behaviour from all publishers of newspapers—was abolished on 12th July, 1869.

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Many men and many causes combined to bring about the emancipation of the Press by the abolition of the Taxes on Knowledge. In the fight for the removal of these taxes John Lennox bore a sturdy part: he showed courage, perseverance, and invention, for his calico periodical stands without its counterpart in the history of the struggle against the Taxes on Knowledge. The pity of it is that we know so little of the man and his work: that even his name is forgotten in the two communities in which he so nobly battled for the political rights of his countrymen.

WILLIAM STEWART.

Reviews of Books

A SHORT HISTORY OF FRANCE FROM CAESAR'S INVASION TO THE BATTLE OF WATERLOO. By Mary Duclaux (A. Mary F. Robinson). Pp. 350. 8vo. London: Fisher Unwin. 1918. 10s. 6d. net.

It is no small feat to condense the history of a country like France into 350 pages of fairly large type, but the practised pen of Madame Duclaux has accomplished it in a way which will satisfy most readers who desire to get a bird's-eye view of the origin, rise, and progress of a country with whom we are at present so intimately associated, and which we are learning to appreciate more and more every day. The author fully recognises the difficulty of her work, but she has aimed more at giving a general and complete impression than to enter into detail (which in a book of the kind is impossible), and to leave, as she says in her preface, the distance in mass, while the figures nearer our own times stand out in fuller relief. It may be said that this system necessarily involves a certain lack of the sense of proportion, and we find that more than half of the volume is taken up with incidents occurring between 1774 and 1815. Now this period was of course a most important and interesting one in the history not of France only but of the world, but it is just the one which the ordinary person, 'the man in the street,' with a taste for history knows perhaps better than any other. There is no lack of literature dealing with the days of the Revolution and the career of Napoleon, and it is conceivable that some readers will regret that a portion of the space devoted to these latter times was not used for the delineation of the history of more mediaeval France and the brilliant and fascinating period of the *Grand Monarque*.

But this is not to say that Madame Duclaux has not written a delightful book, characterised by lightness of touch, brilliance of diction, and sanity of outlook. How true her estimate of Catherine dei Medici: that she was no bigoted Catholic, although the inspirer of the massacre of St. Bartholomew, but merely an unfanatical Italian. She was indeed an opportunist, and if her lines had been cast in other places she would probably have turned out a very different woman. Had she, for instance, married our own James V., as at one time was suggested, she might have turned out a faithful supporter of John Knox!

It is not only in dealing with history proper that this book is so attractive. The chapters on the French language, Chivalry, and the Renaissance, short though they be, are full of charm as excellent literature; and the sections on the Roman Tradition and Feudal Society are admirable summaries of the conditions prevalent in the times dealt with. It is hardly however

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consistent to say on one page, in regard to the relations between Gaul and Rome, that 'the Gallo-Roman cities sent delegates to the metropolis, who voted there on questions of War and State and Empire on the same terms as other Roman citizens,' and on another that 'although the cities of the provinces were extraordinarily free and prosperous, they had no voice in the administration of the Empire: Rome alone governed Rome.' As a matter of fact, Augustus took away from Gallic burgesses even the right of candidature for magistracies, and at the same time excluded them from the Imperial Senate.

As a whole this volume is an excellent summary of French history, and deserves to be widely read.

JAMES BALFOUR PAUL.

THE DEVELOPMENT OF BURGHAL ADMINISTRATION IN SCOTLAND. By David B. Morris. Pp. 16. 8vo. Edinburgh and Glasgow: William Hodge & Co. 1917.

ALTHOUGH the rise and development of Scottish burghs and burghal institutions are wide subjects, Mr. Morris in this paper gives a very useful summary of the early history of royal burghs, of their governing bodies and the struggle of the crafts to be represented on them, their taxation and parliamentary representation, often giving illustrations from the history of Stirling. He also notes the chief differences in Scottish and English burghal development.

Mr. Morris does not distinguish clearly between the taxation paid to the king and the dues—rents, issues of court, petty customs—which the burgesses acquired when feu-farm charters were granted in the fourteenth and fifteenth centuries. He says that the burgesses performed watching and warding, but he does not point out that they were also liable for service with the host.

There is little, if any, proof of the existence of an association of burghs in the north. Dr. Gross thinks that 'anse,' in the charter of William the Lion, probably refers to a general grant of a gild merchant, or right to impose 'hanse' tribute on merchants. There is no evidence that the Great Council, before the War of Independence, included representatives of the burgesses, nor were they invariably present in parliaments even after 1326.

Mr. Morris's references to nineteenth century history are interesting and useful. He accounts for the number of separate bodies which were set up in Scottish towns for different purposes by the distrust inspired by the town councils before the Burgh Reform Act of 1833; and shows how, in some places, the Burgh Police Acts were administered by bodies different from town councils, a needless duplication of authorities not put an end to till 1900. He also speaks of the common practice of obtaining private Acts of Parliament, often for performing functions for which he considers the burghs already possess the right at common law. Such independence might give rise to interesting experiments in municipal administration. It is not, of course, possible in a short paper to touch on all points, but it would have been interesting if Mr. Morris had said something about the functions of the burgh court, a question on which he must be well fitted to speak.

THEODORA KEITH.

SOCIAL LIFE IN BRITAIN FROM THE CONQUEST TO THE REFORMATION.

Compiled by G. G. Coulton. Pp. xvi, 540. 8vo. With Frontispiece and four Plates. Cambridge: The University Press. 1918.

MR. COULTON, favourably known by his *Medieval Garner* and his *Chaucer and his England*, continues in this book to present to students that background of social history without which knowledge of our forefathers must lack intelligence and sympathy. He has gathered from Latin, Old French, and English originals, illustrations of whatever men have done and been and suffered through four centuries, and he has arranged his *farrago* in fifteen sections so various that they seem to be all medieval mankind's epitome. To name but three sections, Birth and Nurture, Wayfaring and Foreign Travel, Superstitions and Marvels, shows how widely he has cast his net. For minds which are prone to be the prey of the 'viewy' historian, this book will be a whetstone of wit to sharpen the critical faculty. If teachers would give their days and nights to its study and to a realisation of its conception of history, more good would be done to schools than from Education Bills. Let no schoolmaster teach *The Merchant of Venice* or explain Shylock until he has some such knowledge as Mr. Coulton has garnered for him on the medieval view of usury. The book is the work of one who believes in Bacon's 'dry light.' Its compiler sees the ages of faith without romantic iridescence: he talks in the gate with Cardinal Gasquet on the manumission of serfs, and as frankly with those who hold all crusaders to have been as high-souled as Saint Louis.

It would be an error to suggest, however, that the book will interest only students or schoolmasters. Mr. Coulton's extracts show the minds of medieval men as concerned with thoughts not alien to the minds of to-day. He tells how Coventry rationed bread in 1520, how London of the past checked profiteering, how the Bolsheviks of the twelfth century fared, how Etienne Marcel had his glimpse of a league of nations in 1357, how William of Ockham, heedless of Saint Paul, argued that no council, not even of the Church, could be regarded as representative unless it included women, and how a wandering mason, faring from Hungary, thanked God for the beauty of the cathedral windows at Reims. It is a book for evenings in town and wet days in the country, for youth and age, the specialist and the mere reader; it is, in brief, a delectable book.

STEWART A. ROBERTSON.

JAPAN: THE RISE OF A MODERN POWER. By Robert P. Porter.

With ten Illustrations. Pp. xii, 361. Demy 8vo. Oxford: The Clarendon Press. 1918. 5s. net.

THE story of the way in which the Japanese people suddenly grafted Western civilisation on to their own purely Oriental culture must always be a fascinating one, and we are glad to read the excellent account in this book, where the historical sequence is followed with care and an admirable sense of proportion. It tells how the primeval Imperial dynasty fell into the hands of the Clans and the Shoguns, of the veneer of Chinese culture which spread over the Court, and of the early martial successes.

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We note that the Mongol invasion failed, and that Japan has been one of the few unconquered countries. Then came the Portuguese and Spanish intercourse and missions, successful Christian propaganda, until it looked as if Christianity might become the accepted Japanese religion. The zeal of the converts went too far, however, and provoked reaction first and then fierce prosecution. The result was that, except for meagre trade with the Protestant Dutch, Japan remained a 'closed country' from 1636 to 1853. The author does not think the thought of the country remained stagnant however, but that in spite of the antiquated setting it continued vigorous enough, and when American influences opened the country the native education was quite sufficient to allow the Japanese to absorb the use of every western item of material superiority, while by no means inducing them to give up their native culture and modes of thought. This was shown in the constitutional changes, when the Shoguns fell, the semi-divine Emperor came into his own again and gave the country a constitution. We are led clearly through the period of utilitarian progress, increase of armaments, and military success, first over the reactionary Chinese, then, when German intrigue had forced on the war, over Russia, whose feet of clay showed already. In the war the Japanese have assisted the Allies greatly and far more than is realised, on account of their continual naval co-operation.

A. FRANCIS STEUART.

DUMBARTON CASTLE: ITS PLACE IN THE GENERAL HISTORY OF SCOTLAND, FORMING PART I. OF A REVISED HISTORY OF DUMBARTONSHIRE, by John Irving. Pp. 147. Quarto. Bennett & Thomson, Dumbarton, 1917. 15s. net.

NOTHING supersedes in completeness and care the late Joseph Irving's *History of Dumbartonshire* (1857) and its subsequent and fuller edition in 3 volumes, *The Book of Dumbartonshire* (1879). Both are long out of print, and difficult to procure. The author of the present volume, which is the first of a series, and deals with *Dumbarton Castle* alone, is Mr. John Irving, a son of the original Joseph; and the mantle of the father has worthily fallen on the son, who inherits the archæological zeal of his parent, as well as his grace of literary expression.

Mr. John Irving owns his indebtedness to his father's volumes, which indeed are the basis of the present work. The material is condensed, rearranged, corrected and supplemented where recent research has shown it to be necessary. And this book collects into one whole the scattered history of the Castle spread over the earlier volumes.

The father's *History*, excellent as it is, is not chronological, and it requires some digging to get the connected story. Here all that is known of Dumbarton Castle is presented in the 137 pages of print and appendices—a concise and admirable account of the famous Rock.

Mr. John Irving's next two volumes will deal with the General History of the County as now constituted, and the Industries of the County. The recent industrial developments in the Leven and Clyde Valleys open a new

and interesting field of study to a generation that knew not the earlier Joseph.

Mr. Irving shatters two myths, if not three : the authenticity of the Wallace Sword, which formerly belonged to Dumbarton, now at Abbey Craig, Stirling—where it may remain with its spurious pedigree ; the idea that under the *Act of Union* Dumbarton Castle must always be a military centre ; and the cherished belief that the song *Dumbarton's drums beat bonnie O*, is a reminiscence of the Rock when a gay military stronghold of later date, whereas it is stated by both father and son to have had its origin in the time of that covenanting persecutor, Lord George Douglas, 1st Earl of Dumbarton (1636–1692). Scott favours this view in *Waverley*, chap. 34. But it might equally well be due to the admiration bestowed by the fair sex on the Dumbarton Fencibles of 1689. It is a lady's love song pure and simple. It appears in Ramsay's collection of 1724. The name of the author is not known, and Allan Cunningham quotes it in full in his *Songs of Scotland* (1825). It has always been a famous marching tune.

Burns remarks that '*Dumbarton Drums* is the last of the West Highland airs ; and from Dumbarton over the whole tract of country to the confines of Tweedside, there is hardly a tune or song that one can say has taken its origin from any place or transaction in that part of Scotland.' But is Burns right ? What about the *Bonnie, Bonnie Banks of Loch Lomond* ?
P. J. B.

PROCEEDINGS OF THE SOCIETY OF ANTIQUARIES OF SCOTLAND, Session 1916-17. Vol. LI. Pp. xxxii, 266, with 121 Illustrations. 4to. Edinburgh : printed for the Society by Neill & Co. 1917.

THIS volume is noteworthy on account of Mr. James Curle's masterly paper on 'Terra Sigillata : Some Typical Decorated Bowls,' in which he continues and amplifies the study of these bowls contained in his volume on *A Roman Frontier Fort and its People : the Fort of Newstead in the Parish of Melrose*. The subject is treated comparatively as well as historically, and many of the types are illustrated.

Mr. Hugh Fraser investigates the artificial island in Loch Kinellan, Strathpeffer, and to this paper Professor Bryce and Mr. Alexander Curle add notes on the bones and the pottery found in the island.

Mr. Robert Scott Moncrieff gives an account of three tapestry hangings which were inventoried among the belongings of Mary of Guise and of Mary Queen of Scots. Probably they hung on the walls of Edinburgh Castle in Queen Mary's day, and after various hazardous wanderings they are now in Mr. Scott Moncrieff's possession in Edinburgh.

Sir Herbert Maxwell's note on the Missing Third Stone of the Crosses of Kirkmadrine is not only interesting in itself, but shows how many more articles of historical value might be preserved if local enthusiasm in historical matters is aroused.

The volume is full of interest, and the Society is to be congratulated on having made such an excellent beginning of the fifth series in the new form adopted two years ago.

354 The Book of the Old Edinburgh Club

THE BOOK OF THE OLD EDINBURGH CLUB. Ninth Volume. Pp. viii, 240-25. 4to. With 5 Illustrations. Edinburgh: printed by T. & A. Constable for the Members of the Club. 1916. Issued May, 1918.

THE ninth volume of the Old Edinburgh Club contains five papers, of which two are notable contributions by Mr. R. K. Hannay, whose studies in Scottish history during recent years have thrown light on many shadowed places.

Mr. Hannay's contributions are entitled 'Incidents and Documents, A.D. 1513-1523,' and 'Shipping and the Staple, A.D. 1525-1531.' The papers complement each other, and deal with incidents in Edinburgh and Leith during the minority of James V., which are revealed in the still unprinted minutes of the Lords of Council, entitled 'Acts of the Scottish Council.' We read of four armed men being appointed to attend the Provost of Edinburgh in 1520 'for stanching of inconveniencis that may happin within this toun this troublis tyme,' and at Leith the skippers were opposing claims made by the Carmelite Church of Bruges for quota in connection with the staple. The captain of the 'Martin' did not confine himself to peaceful methods, for 'the Martyne has takin ane merchant schip of Holland full of merchandys and brocht her to the havin and port of Leith; howbeit thar is na weir betwix us and Holland.' In revenge, the 'Christopher' of Leith was 'masterfullie reft and spulzeit be certane Hollandaris.' Mr. Hannay has fully illustrated some of the difficulties that surrounded the question of the staple in the hard days that followed Flodden.

Mr. Guy's account of Edinburgh engravers is very useful as well as interesting. The list of names is a long one, and includes many who are but seldom remembered. Mr. John A. Fairley continues his extracts from the original records of the Old Tolbooth for the year 1684, and the volume closes with an excellent paper on the 'Sedan Chair in Edinburgh' by Mr. James H. Jamieson, which not only deals with these chairs, but illustrates life in Edinburgh streets for the hundred and fifty years in which the Sedan reigned.

THE GREAT EUROPEAN TREATIES OF THE NINETEENTH CENTURY.

Edited by Sir Augustus Oakes, C.B., lately of the Foreign Office, and R. B. Mowat, M.A., Fellow of Corpus Christi College, Oxford. Pp. ix, 403. 8vo. Oxford: Clarendon Press. 1918. 7s. 6d. net.

Books upon peace are the natural outcome of a state of war, and as 'the substantial basis on which international law rests is the usage and practice of nations' it is essential to have correct information as to 'the facts from which that usage and practice are to be deduced.' Thus, in an able introduction, Sir H. Erle Richards sets forth the purpose of the book, which gives the text of most of the great treaties of the nineteenth century. It is, however, no mere catalogue. Starting from that great but rather empiric settlement of Europe, the Congress Treaty of Vienna, the authors show the genesis and development of the main international problems which arose, and so work naturally to the treaty or treaties by which each

question was settled. The Independence of Belgium, the 'Danish Duchies,' the problem of the Near East, these, and every other imbroglia development, from the liberation of Greece to the Triple Alliance, are admirably treated in the clear, compact chapters by which the texts of the various treaties are introduced. Thus the book, despite a necessary departure from chronological order, preserves a wonderful unity, and—as was inevitable, perhaps—one of the guiding threads which runs through narrative and text alike is the steady rise of Prussia. There may be a certain amount of *ex parte* statement in a book produced under the aegis of the Foreign Office, but the plain text of the treaties, coupled with the actual march of events, is sufficient to establish the essential honesty of British policy, although the 'Balance of Power' was rather a fetish.

Except for an excellent chapter on the 'Technical Aspect of Treaty Making,' the authors make no claim of producing anything new, but none the less the average reader will find that a close study of the actual text of the treaties often involves a re-orientation of his ideas. A thorough examination of the Congress Treaty of Vienna, for example, sheds a surprising light on the Prussian design upon Germany; one is astonished, again, by the number of occasions upon which Great Britain, France and Russia have acted jointly in the interests of peace. Another fact which is brought into great prominence is the almost universal desire for peace produced by the stormy wars of the Napoleonic period. Will history repeat itself in that matter?

From a philosophic point of view the book is unsatisfying. A collection of treaties such as this can hardly be regarded only as the material from which one must deduce the facts as to 'the usage and practice of nations.' The practice of nations in making these treaties must have been based on something more than antecedent custom, or the world would be making no progress.

The authors are very guarded, but here and there they seem to acknowledge the existence of some moral code which governs international relations. When they tell us¹ that 'if by her subsequent conduct in the community of European states, Turkey should justify her position there, neither Russia nor any other Power would have a *moral right* to expropriate her,' they admit explicitly what is hinted at in several other places.² What constitutes a moral right? Even in this most pragmatic age one cannot utterly avoid the ethical question.

The book, however, does not affect to discuss the eternal riddle, and its merits are outstanding. It gives a clear record of what has actually been accomplished in the way of treaty-making, and apart from the information it supplies on several knotty points of present-day politics—the Salonica landing, for instance, and the 'Conversations' of 1906 about Belgium—it is of permanent value. It is a book to be studied not only by all historians, but by all politicians, especially by those who write to the press upon that 'League of Nations' so fashionable, but so vague.

J. DUNCAN MACKIE.

¹ p. 164.

² 246 n.

356 Jastrow: The War and the Bagdad Railway

THE WAR AND THE BAGDAD RAILWAY. The Story of Asia Minor and its Relation to the Present Conflict. By Morris Jastrow, LL.D. Pp. vi, 160. Post 8vo. Philadelphia: J. B. Lippincott Co. 1917. 6s. net.

It is to be regretted that the writer of this book has dedicated more than half of it to the ancient history of Asia Minor and to the Hittites who played such a considerable part in it, for though a sketch of the history would have been very proper, this is quite out of proportion. He holds that Asia Minor has always been 'the bridge leading to the East,' and this may be true, but he would have been better in a book of this kind to begin with the Greek colonies and the Roman conquest there, or the *drang nach Osten* of the Crusades, avoiding the earlier and more nebulous empires of antiquity. The account, on the other hand, of the German acquisition of the Bagdad railway and its consequences is well worth having and might have been much more extensive. We welcome too the speculations by the writer of what will happen 'after the war' to Asia Minor, which, he points out, is full of unexplored riches.

Dr. George Macdonald has contributed to the Society of Antiquaries, London, an important biographical monograph on 'General William Roy and his *Military Antiquities of the Romans in North Britain*.' Alexander Gordon's *Itinerarium*, famous in itself as a pioneer work on that field, was of yet wider fame as reflected in the Queensferry adventures of the Laird of Monkbarne; and the present reviewer recalls with amusement the dismay with which some five and twenty years ago in the dawn of his Romano-Caledonian enthusiasm he had the edge of some of that enthusiasm turned when on making the acquaintance of that worthy and exact antiquary, Dr. James Macdonald, he discovered that there were sides to 'Sandy Gordon,' as regards his motives and methods, not wholly satisfactory to archaeological scrutiny. It is pleasant to find that Dr. George Macdonald, writing on General Roy (a native of Carlisle, born 1726, died 1790), has not the need his father had to be censorious. Minute enquiries into Roy's career as civilian engineer and soldier show that he was as an antiquary remarkably true to his high ideals of military and archaeological research. In spite of inevitable shortcomings, such as his falling a victim to the bogus *De Situ Britanniae*, he well earned for his posthumously published maps, plans and treatise their place of permanent praise for historical illumination when, as a legacy to the London Society of Antiquaries, the work came out in 1793. The commendation implied by the present solid, industrious and informing monograph of seventy quarto pages is not merely a large and critical addition to biographical knowledge; in its homage to one of the most eminent and thorough of his predecessors, it is Dr. Macdonald's tribute at once weighty and graceful to the personal worth, archaeological sagacity and patient military draughtsmanship of a very considerable Scot.

Viscount Bryce's suggestive and inspiring presidential address to the British Academy, *The Next Thirty Years* (Milford: Oxford University Press. Pp. 30. 1s. net), evidently had as its background Bacon's eloquent

resumé on the advancement of learning. Like Bacon he takes all knowledge for his province of survey. What old questions have we answered, he asks, what problems remain? Most interesting are the historical, legal, and political sections, in which some current discussions are registered and a few are docketed as settled. He reckons the Homeric genesis as tending to a unity of compromise, Ossian as still dead, and the *King's Quair*¹ as conclusively by James First. Some more modern debates are not put on the scales, such as the genesis of tragedy and of coinage, the meaning of Troy, the palisade at Hastings, the essence of Magna Carta, the feuds of Round and Freeman and Freeman and Froude. Broader issues are ignored also, such as Darwinism under revision, Spiritualism recrudescent even among sober archaeologists, and the balance between new research and the summation of old facts as objectives of historical education. And are there no Shakespeare conundrums?

Notes and Queries for Somerset and Dorset may be congratulated on concluding its fifteenth volume and thirtieth year with increasing credit. A neat, bright and varied antiquarian repertory, it makes head steadily, despite an adverse time. Centred, of course, on local archaeology, its contributions from records have always proved a specialty. Recently there was given an important document for British history in a charter by Queen Elizabeth to Thomas Gregorie of Taunton in 1592 for a society of traders to and from the coasts of Guinea. Well indexed and illustrated, the little periodical has more than local claim to an extended circulation.

In the *Juridical Review* for March Mr. W. Roughead surveys lightly the general course of judicial activities of Lord Braxfield, a rare portrait of whom by Raeburn is reproduced from an engraving made in 1798. Mr. H. H. Brown writes on the Old Scots Law of Blasphemy.

The number of the *Revue Historique* for May-June contains a sketch of Armenian residents in France from the twelfth to the eighteenth century by M. Mathorez, who is devoting himself to a series of studies of the foreign elements in French life throughout the centuries. M. Henri Malo contributes an account of the corsair Thurot, whose ineffectual descent on Carrickfergus in 1759-1760 was one of the minor episodes of the Seven Years' War. He has confined himself to French sources, but his article will interest students of Irish history who have access to the Harcourt Papers and other collections of the period. It may be noted that Thurot received secret instructions to spare Scotland, and that when he arrived after an unfortunate voyage off the north coast of Islay, he used every effort to carry them into effect. 'Lorsque les trois frégates,' writes M. Malo, 'se représentèrent deux jours plus tard à la côte nord-est d'Islay, sous pavillon anglaise, le *Belle-Île* fait tellement d'eau qu'il faut sans arrêt manœuvrer deux pompes, et parfois les six. Deux habitants de l'île, Macneil et Macdonald, se figurant être en présence de navires anglais

¹ As regards this last point, we understand that Mr. J. T. T. Brown proposes a rejoinder to his critics.

en quête de pilote, montent à bord. Ils trouvent Thurot à table en compagnie d'une douzaine d'officiers. Macdonald annonce la dérouté de Conflans aux Cardinaux (20-21 novembre). Thurot refuse d'y croire : l'Écossais sort une gazette de sa poche 'Tous baissent la tête ; couteaux et fourchettes leur tombent des mains.' A quoi bon, dès lors, leur expédition ?

'Le lendemain, au conseil, tous, sauf deux, émettent l'avis de piller, brûler et ravager Islay. Thurot s'y oppose avec violence, et ne vainc les résistances qu'en produisant l'article de son instruction secrète interdisant tout acte d'hostilité contre l'Écosse. Il oblige un officier, qui la veille a pillé un navire de farine, à signer au maître de ce navire un billet à ordre de cinquante et une guinées. D'accord avec les habitants, il débarque 200 hommes pour charger des provisions qu'il paie comptant. A peine à terre, ces malheureux déracinent avec leurs baionnettes les premières herbes qu'ils trouvent et, tombant sur un champ de pommes de terre, les arrachent, les essuient à leurs vêtements, et les dévorent crues.

'Mais un pays pauvre comme celui-là offre peu de ressources ; il faut quitter. La ration de pain descend à trois onces par jour. Un nouveau conseil se montre partisan du retour en France immédiat par le canal Saint-Georges.'

M. Joseph Reinach prints the first instalment of *L'offensive de la Somme*.

The *Bulletin Historique* is devoted to an estimate by M. Bémont of recent works on British history, including Howarth's *Golden Days of the Early English Church*, which raises the interesting question of the extent to which an English historian is entitled to assume a knowledge of continental history on the part of his readers. Miss Levett's *The Black Death* is very highly praised as 'un modèle à proposer aux érudits qui voudraient s'y aventurer à leur tour.' An analysis of recent Italian historical reviews merits attention, and M. Pfister contributes a short estimate of the work of M. Vidal de la Blache, whose recent death will be regretted by every student of Lavisé.

The most interesting feature of the March-April number of the *Revue Historique* is a detailed study by M. Bourrilly of the campaign of Charles V. in Province in 1536. The article by M. Bourrilly, who is known to students as the author of a number of interesting monographs on the period, is a further indication of the keen contemporary interest in the events which preceded the melancholy years of the French religious wars. M. Tricoche deals with the battle of Bushy Run of August, 1763, which he invests with importance as a critical point in the French Canadian wars. The *Bulletin Historique* contains an illuminating estimate of the import of M. Brémond's *Histoire littéraire du sentiment religieux en France* from the somewhat unsympathetic pen of M. Hauser, who also deals with the *Mémoires* of the Cardinal de Richelieu. The number also contains reviews of the treatise of M. Pierre Roussel on *Délos colonie athénienne*, and of M. Mâla's *L'Art allemand et l'art français du moyen âge*.

Communications

TESTE ME IPSO. Mr. David Baird's Smith's valuable communication in the April number of this *Review* (*S.H.R.* xv. 265) raises afresh the disputed question as to when the formula *Teste me ipso* was first in use. He quotes the great authority of Léopold Delisle for the opinion that the number of charters of Henry II. in which the formula occurs is too large and the sources from which they are derived too various to justify the conclusion that they are the work of forgers. Now the number, as he says, is nine, and it may be convenient to tabulate them, with notes of identification,¹ and with the dates of the transcripts in which they are preserved. I add brief comments which I take from Delisle himself and from Mr. Round and Professor Haskins, our two chief living guides for the study of Anglo-Norman charters.

1. Saint-Évroul [c. 1158]. No. 60, *Recueil*, lxxix. Transcript of 13th cent. 'Le copiste n'avait guère souci des formules,' Delisle, *Rec.* intr. p. 287.
2. Blanchelande [1156-9]. No. 84, *Recueil*, cxix. Transcript of 14th cent. 'C'est un acte faux ou tout au moins falsifié,' Delisle, *Rec.* i. 224; cf. intr. p. 294. 'Clearly untrustworthy in this form,' Round, *Calendar of Documents preserved in France*, p. 311, note 11.
3. Saint-Évroul [1156-1162]. No. 141, *Recueil*, ccxiv. Transcript of 13th cent. 'Suspicious in form,' Haskins, *Norman Institutions*, p. 218; with a note, 'This charter combines the king's style of the latter half of the reign with a witness who cannot be later than 1162, and contains the suspicious phrase *teste me ipso* which appears in two other fabrications of this period from Saint-Évroul (Delisle, Nos. 347, 362).'
4. Équeurdreville [unknown date]. No. 214, *Recueil*, cccxl. Transcript of 15th cent.
- 5, 6. Saint-Évroul [1172-8]. Nos. 347, 362. Transcripts of 13th cent. 'Sinon absolument fausses, du moins entachées de très graves altérations,' Delisle, *Rec.*, intr. p. 316; 'très suspectes,' p. 317. Mr. Round has 'the gravest doubt' of their authenticity, *Calendar*, p. 223, note 3.

¹The numbers are those of Delisle's original collection, to which I have appended the numbers in his *Recueil* so far as it is published.

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7. Cluny [c. 1178]. No. 367. Transcript of 13th cent. (*Chartes de Cluny*, ed. A. Bruel, v. 613.)
8. Grammont [1185-89]. No. 491. Transcript of 13th cent. The number of suspicious charters of Henry II. and Richard I. for the order of Grammont is considerable: see Delisle, *Recueil*, intr. pp. 296-303. In 1259 the prior of Grammont was imprisoned for forgery.
9. Robert Marmion [unknown date.] No. 509. Transcript of the 14th cent.

It should be added that more than 300 charters of Henry II. are preserved in the originals, and not one of them contains the formula *Teste me ipso*.

REGINALD L. POOLE.

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With reference to the Rev. W. J. Couper's article in the January number of *S.H.R.*, it may be of interest to note that the title-page of *An Essay on Ways and Means for Planting, &c., Scotland*, written by Brigadier William Mackintosh of Borlum, the well-known Jacobite leader in 1715, in the second year of his confinement in Edinburgh Castle, bears that the book was 'Printed and Sold at Mr. Freebairn's Shop in the Parliament Closs... 1729.' The Brigadier and Freebairn in 1729 probably renewed an acquaintance begun when both were with Mar in 1715.

A. M. MACKINTOSH.

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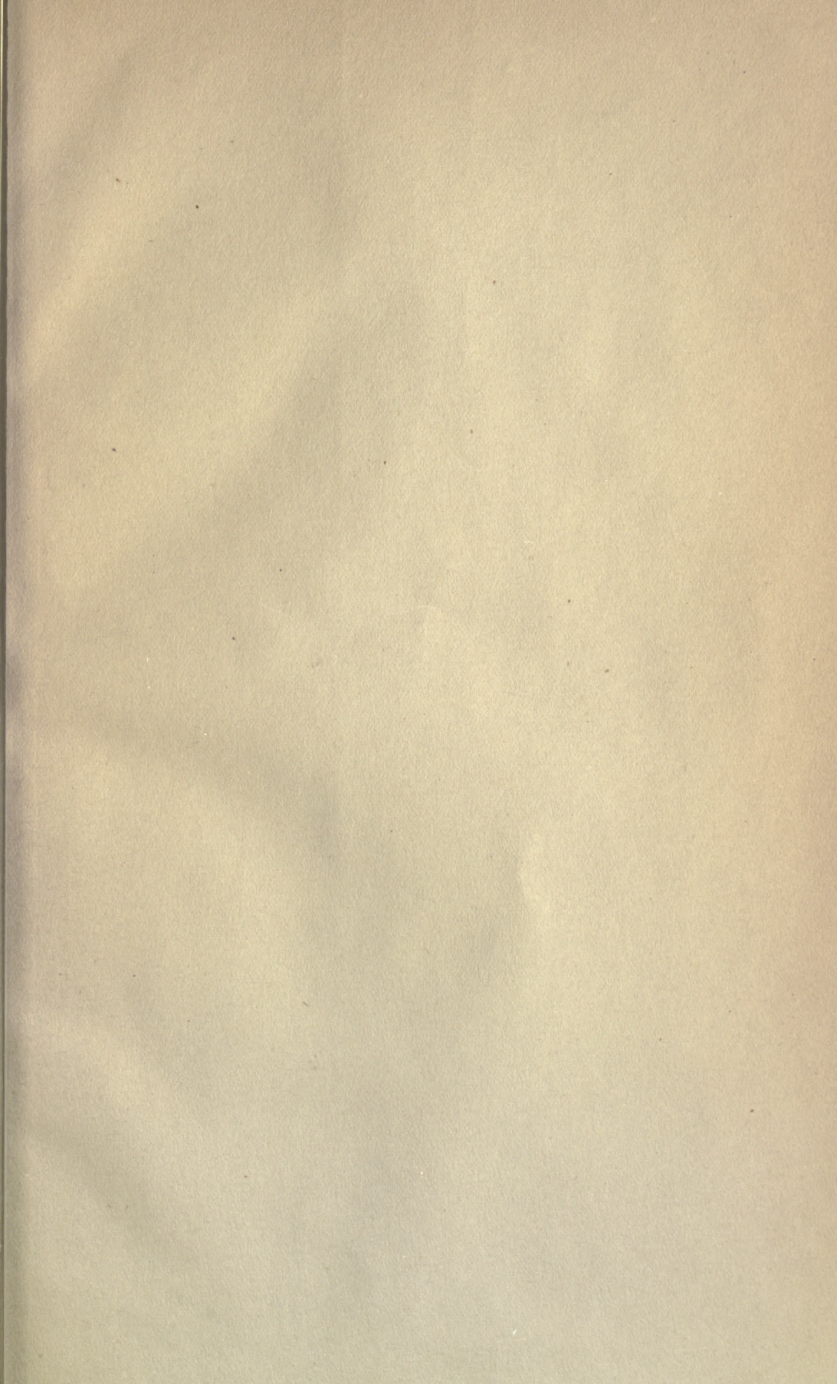
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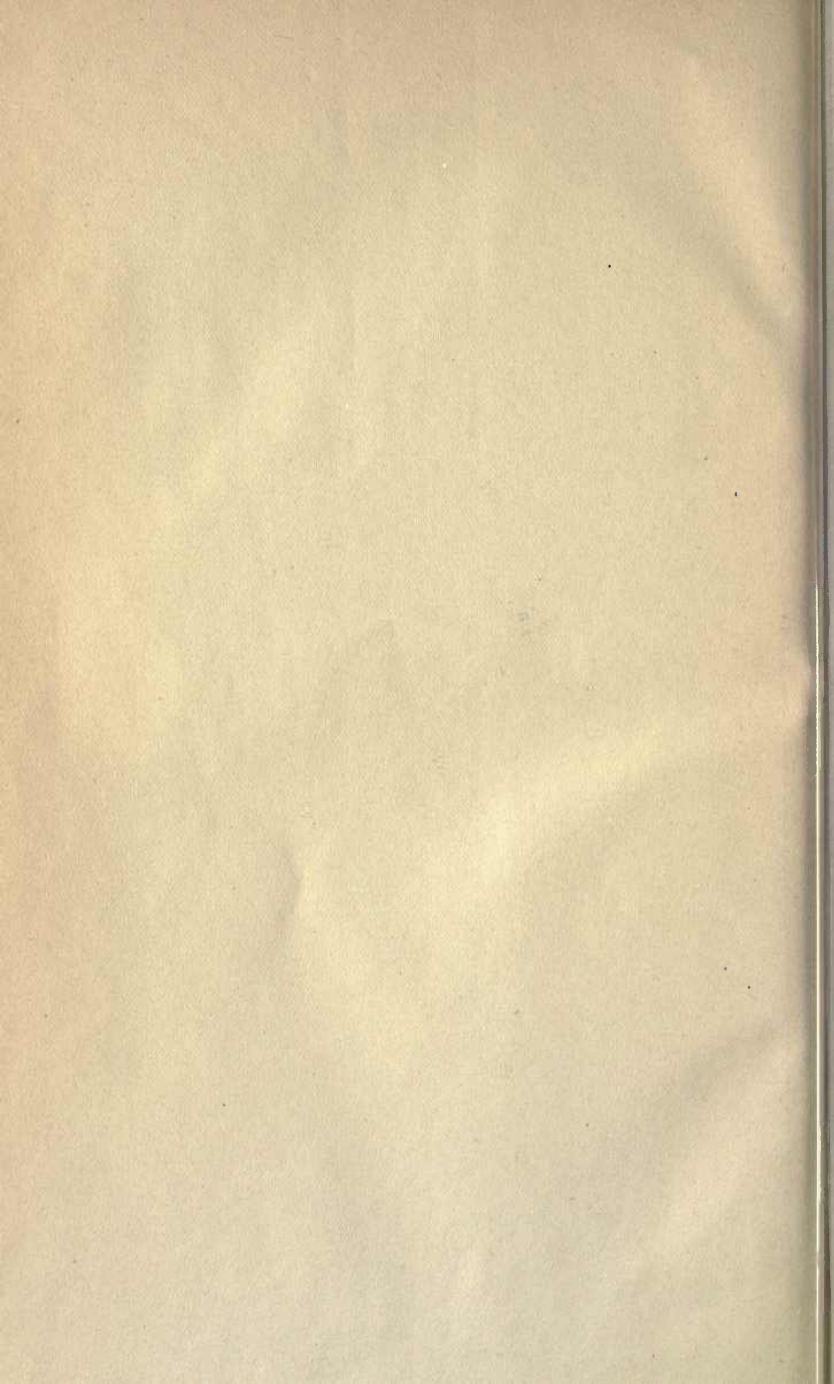
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