THE

HISTORY OF SCOTLAND.

THE FIRST BOOK,

CONTAINING A REVIEW OF THE SCOTTISH HISTORY PREVIOUS TO THE DEATH OF JAMES THE FIFTH.

THE first ages of the Scottish history are dark and fabulous. Nations, as well as men, arrive at maturity by degrees, and the events, which happened during their infancy or early youth, cannot be recollected, and deserve not to be remembered. The gross ignorance which anciently covered all the north of Europe, the continual migrations of its inhabitants, and the frequent and destructive revolutions which these occasioned, render it impossible to give any authentic account of the origin of the different kingdoms now established there. Every thing beyond that short period to which well-attested annals reach, is obscure; an immense space is left for invention to occupy; each nation, with a vanity inseparable from human nature, hath filled that void with events calculated to display its own antiquity and lustre. History, which ought to record truth and to teach wisdom, often sets out with retailing fictions and absurdities.

The origin of nations fabulous and obscure.

The Scots carry their pretensions to antiquity as high as any of their neighbours. Relying upon uncertain legends, and the traditions of their bards, still more uncertain, they reckon up a series of kings several ages before the birth of Christ; and give a particular detail of the occurrences which happened in their reigns.

Origin of the Scots.

But with regard to the Scots, as well as the other northern nations, we receive the earliest accounts on which we can depend, not from their own, but from
A.D. 81. the Roman authors. When the Romans, under Agricola, first carried their arms into the northern parts of Britain, they found it possessed by the Caledonians, a fierce and warlike people; and, having repulsed, rather than conquered them, they erected a strong wall between the firths of Forth and Clyde, and there fixed the boundaries of their empire. Adrian, on account of
A.D. 121. the difficulty of defending such a distant frontier, contracted the limits of the Roman province in Britain, by building a second wall, which ran between Newcastle and Carlisle. The ambition of succeeding emperors endeavoured to recover what Adrian had abandoned; and the country between the two walls was alternately under the dominion of the Romans, and that of the Caledonians. About the beginning of the fifth century, the inroads of the Goths and other barbarians obliged the Romans, in order to defend the centre of their empire, to recall those legions which guarded the frontier provinces; and, at that time, they quitted all their conquests in Britain.

A.D. 421. Their long residence in the island had polished, in some degree, the rude inhabitants, and the Britons were indebted to their intercourse with the Romans, for the art of writing, and the use of numbers, without which it is impossible long to preserve the memory of past events.

North Britain was, by their retreat, left under the dominion of the Scots and Picts. The former, who are not mentioned by any Roman author, before the end of the fourth century, were probably a colony of the Celtæ or Gauls; their affinity to whom appears from their language, their manners, and religious rites; circumstances more decisive, with regard to the origin of nations, than either fabulous traditions, or the tales of ill-informed and credulous annalists. The Scots, if we

may believe the common accounts, settled at first in Ireland; and, extending themselves by degrees, landed at last on the coast opposite to that island, and fixed their habitations there. Fierce and bloody wars were, during several ages, carried on between them and the Picts. At length, Kenneth the second, the sixty-ninth king of the Scots, according to their own fabulous authors, obtained a complete victory over the Picts, and united, under one monarchy, all the country, from the wall of Adrian, to the northern ocean. The kingdom, henceforward, became known by its present name, which it derived from a people who at first settled there as strangers, and remained long obscure and inconsiderable. A.D. 838.

From this period the history of Scotland would merit some attention, were it accompanied with any certainty. But, as our remote antiquities are involved in the same darkness with those of other nations, a calamity peculiar to ourselves has thrown almost an equal obscurity over our more recent transactions. This was occasioned by the malicious policy of Edward the first of England. Towards the end of the thirteenth century, this monarch called in question the independence of Scotland; pretending that the kingdom was held as a fief of the crown of England, and subjected to all the conditions of a feudal tenure. In order to establish his claim, he seized the public archives, he ransacked churches and monasteries, and getting possession, by force or fraud, of many historical monuments, which tended to prove the antiquity or freedom of the kingdom, he carried some of them into England, and commanded the rest to be burned[a]. An universal oblivion of past transactions might have been the effect of this fatal event; but some imperfect chronicles had escaped the rage of Edward; foreign writers had recorded some important facts relating to Scotland; and the traditions concerning recent occurrences were fresh and

History of Scotland peculiarly obscure.

[a] Innes, Essay, 552.

worthy of credit. These broken fragments John de Fordun, who lived in the fourteenth century, collected with a pious industry, and from them gleaned materials which he formed into a regular history. His work was received by his countrymen with applause; and, as no recourse could be had to more ancient records, it supplied the place of the authentic annals of the kingdom. It was copied in many monasteries, and the thread of the narrative was continued, by different monks, through the subsequent reigns. In the beginning of the sixteenth century, John Major and Hector Boethius published their histories of Scotland, the former a succinct and dry writer, the latter a copious and florid one, and both equally credulous. Not many years after, Buchanan undertook the same work; and if his accuracy and impartiality had been, in any degree, equal to the elegance of his taste, and to the purity and vigour of his style, his history might be placed on a level with the most admired compositions of the ancients. But, instead of rejecting the improbable tales of chronicle writers, he was at the utmost pains to adorn them; and hath clothed, with all the beauties and graces of fiction, those legends, which formerly had only its wildness and extravagance.

Four remarkable æras in the Scottish history.

The history of Scotland may properly be divided into four periods. The first reaches from the origin of the monarchy, to the reign of Kenneth the second. The second, from Kenneth's conquest of the Picts, to the death of Alexander the third. The third extends to the death of James the fifth. The last, from thence to the accession of James the sixth to the crown of England.

The first period is the region of pure fable and conjecture, and ought to be totally neglected, or abandoned to the industry and credulity of antiquaries. Truth begins to dawn in the second period, with a light, feeble at first, but gradually increasing; and the events which then happened may be slightly touched, but merit no particular or laborious inquiry. In the third period,

the history of Scotland, chiefly by means of records preserved in England, becomes more authentic: not only are events related, but their causes and effects explained; the characters of the actors are displayed; the manners of the age described; the revolutions in the constitution pointed out: and here every Scotsman should begin not to read only, but to study the history of his country. During the fourth period, the affairs of Scotland were so mingled with those of other nations, its situation in the political state of Europe was so important, its influence on the operations of the neighbouring kingdoms was so visible, that its history becomes an object of attention to foreigners; and without some knowledge of the various and extraordinary revolutions which happened there, they cannot form a just notion, with respect either to the most illustrious events, or to the characters of the most distinguished personages, in the sixteenth century.

A review of the third æra.

The following history is confined to the last of these periods: to give a view of the political state of the kingdom during that which immediately preceded it, is the design of this preliminary book. The imperfect knowledge which strangers have of the affairs of Scotland, and the prejudices Scotsmen themselves have imbibed, with regard to the various revolutions in the government of their country, render such an introduction equally necessary to both.

The period from the death of Alexander the third to the death of James the fifth, contains upwards of two centuries and a half, from the year one thousand two hundred and eighty-six, to the year one thousand five hundred and forty-two.

Rise of the controversy concerning the independence of Scotland.

It opens with the famous controversy concerning the independence of Scotland. Before the union of the two kingdoms, this was a question of much importance. If the one crown had been considered not as imperial and independent, but as feudatory to the other, a treaty of union could not have been concluded on equal terms,

and every advantage which the dependent kingdom procured, must have been deemed the concession of a sovereign to his vassal. Accordingly, about the beginning of the present century, and while a treaty of union between the two kingdoms was negotiating, this controversy was agitated with all the heat which national animosities naturally inspire. What was then the subject of serious concern, the union of the two kingdoms has rendered a matter of mere curiosity. But though the objects, which, at that time, warmed and interested both nations, exist no longer, a question which appeared so momentous to our ancestors, cannot be altogether indifferent or uninstructive to us.

Some of the northern counties of England were early in the hands of the Scottish kings, who, as far back as the feudal customs can be traced, held these possessions of the kings of England, and did homage to them on that account. This homage, due only for the territories which they held in England, was in nowise derogatory from their royal dignity. Nothing is more suitable to feudal ideas, than that the same person should be both a lord and a vassal, independent in one capacity, and dependent in another[b]. The crown of England was, without doubt, imperial and independent, though the princes who wore it were, for many ages, the vassals of the kings of France; and, in consequence of their possessions in that kingdom, bound to perform all the services which a feudal sovereign

[b] A very singular proof of this occurs in the French history. Arpin sold the vicomté of the city of Bourges to Philip the first, who did homage to the count of Sancerre for a part of these lands, which held of that nobleman, a.d. 1100. I believe that no example of a king's doing homage to one of his own subjects, is to be met with in the histories either of England or Scotland. Philip le bel abolished this practice in France, a.d. 1302. Hénault, Abrégé chronol. Somewhat similar to this, is a charter of the abbot of Melrose, a.d. 1535, constituting James the fifth the bailiff or steward of that abbey, vesting in him all the powers which pertained to that office, and requiring him to be answerable to the abbot for his exercise of the same. Archiv. publ. Edin.

has a title to exact. The same was the condition of the monarchs of Scotland; free and independent, as kings of their own country, but, as possessing English territories, vassals to the king of England. The English monarchs, satisfied with their legal and uncontroverted rights, were, during a long period, neither capable, nor had any thoughts, of usurping more. England, when conquered by the Saxons, being divided by them into many small kingdoms, was in no condition to extend its dominion over Scotland, united at that time under one monarch. And though these petty principalities were gradually formed into one kingdom, the reigning princes, exposed to continual invasions of the Danes, and often subjected to the yoke of those formidable pirates, seldom turned their arms towards Scotland, and were little able to establish new rights in that country. The first kings of the Norman race, busied with introducing their own laws and manners into the kingdom which they had conquered, or with maintaining themselves on the throne which some of them possessed by a very dubious title, were as little solicitous to acquire new authority, or to form new pretensions in Scotland. An unexpected calamity that befell one of the Scottish kings first encouraged the English to think of bringing his kingdom under dependence. William, surnamed the Lion, being taken prisoner at Alnwick, Henry the second, as the price of his liberty, not only extorted from him an exorbitant ransom, and a promise to surrender the places of greatest strength in his dominions, but compelled him to do homage for his whole kingdom. Richard the first, a generous prince, solemnly renounced this claim of homage, and absolved William from the hard conditions which Henry had imposed. Upon the death of Alexander the third, near a century after, Edward the first, availing himself of the situation of affairs in Scotland, acquired an influence in that kingdom, which no English monarch before him ever possessed, and,

imitating the interested policy of Henry, rather than the magnanimity of Richard, revived the claim of sovereignty to which the former had pretended.

Pretensions of Bruce and Baliol examined.

Margaret of Norway, granddaughter of Alexander, and heir to his crown, did not long survive him. The right of succession belonged to the descendants of David, earl of Huntingdon, third son of king David the first. Among these, Robert Bruce, and John Baliol, two illustrious competitors for the crown, appeared. Bruce was the son of Isabel, earl David's second daughter; Baliol, the grandson of Margaret the eldest daughter. According to the rules of succession which are now established, the right of Baliol was preferable; and, notwithstanding Bruce's plea of being nearer in blood to earl David, Baliol's claim, as the representative of his mother and grandmother, would be deemed incontestable. But in that age, the order of succession was not ascertained with the same precision. The question appeared to be no less intricate, than it was important. Though the prejudices of the people, and perhaps the laws of the kingdom, favoured Bruce, each of the rivals was supported by a powerful faction. Arms alone, it was feared, must terminate a dispute too weighty for the laws to decide. But, in order to avoid the miseries of a civil war, Edward was chosen umpire, and both parties agreed to acquiesce in his decree. This had well nigh proved fatal to the independence of Scotland; and the nation, by its eagerness to guard against a civil war, was not only exposed to that calamity, but almost subjected to a foreign yoke. Edward was artful, brave, enterprising, and commanded a powerful and martial people, at peace with the whole world. The anarchy which prevailed in Scotland, and the ambition of competitors ready to sacrifice their country in order to obtain even a dependent crown, invited him first to seize, and then to subject the kingdom. The authority of an umpire, which had been unwarily bestowed upon him, and from which the Scots dreaded no dangerous con-

sequences, enabled him to execute his schemes with the greater facility. Under pretence of examining the question with the utmost solemnity, he summoned all the Scottish barons to Norham; and having gained some, and intimidated others, he prevailed on all who were present, not excepting Bruce and Baliol, the competitors, to acknowledge Scotland to be a fief of the English crown, and to swear fealty to him as their 'sovereign,' or 'liege lord.' This step led to another still more important. As it was vain to pronounce a sentence which he had not power to execute, Edward demanded possession of the kingdom, that he might be able to deliver it to him whose right should be found preferable; and such was the pusillanimity of the nobles, and the impatient ambition of the competitors, that both assented to this strange demand, and Gilbert de Umfraville, earl of Angus, was the only man who refused to surrender the castles in his custody to the enemy of his country. Edward, finding Baliol the most obsequious and the least formidable of the two competitors, soon after gave judgment in his favour. Baliol once more professed himself the vassal of England, and submitted to every condition which the sovereign whom he had now acknowledged was pleased to prescribe.

Edward, having thus placed a creature of his own upon the throne of Scotland, and compelled the nobles to renounce the ancient liberties and independence of their country, had reason to conclude that his dominion was now fully established. But he began too soon to assume the master; his new vassals, fierce and independent, bore with impatience a yoke, to which they were not accustomed. Provoked by his haughtiness, even the passive spirit of Baliol began to mutiny. But Edward, who had no longer use for such a pageant king, forced him to resign the crown, and openly attempted to seize it, as fallen to himself by the rebellion of his vassal. At that critical period arose sir William Wallace, a hero, to whom the fond admiration of his

countrymen hath ascribed many fabulous acts of prowess, though his real valour, as well as integrity and wisdom, are such as need not the heightenings of fiction. He, almost single, ventured to take arms in defence of the kingdom, and his boldness revived the spirit of his countrymen. At last, Robert Bruce, the grandson of him who stood in competition with Baliol, appeared to assert his own rights, and to vindicate the honour of his country. The nobles, ashamed of their former baseness, and enraged at the many indignities offered to the nation, crowded to his standard. In order to crush him at once, the English monarch entered Scotland, at the head of a mighty army. Many battles were fought, and the Scots, though often vanquished, were not subdued. The ardent zeal with which the nobles contended for the independence of the kingdom, the prudent valour of Bruce, and, above all, a national enthusiasm inspired by such a cause, baffled the repeated efforts of Edward, and counterbalanced all the advantages which he derived from the number and wealth of his subjects. Though the war continued with little intermission upwards of seventy years, Bruce and his posterity kept possession of the throne of Scotland, and reigned with an authority not inferior to that of its former monarchs.

But while the sword, the ultimate judge of all disputes between contending nations, was employed to terminate this controversy, neither Edward nor the Scots seemed to distrust the justice of their cause; and both appealed to history and records, and from these produced, in their own favour, such evidence as they pretended to be unanswerable. The letters and memorials addressed by each party to the pope, who was then reverenced as the common father, and often appealed to as the common judge of all christian princes, are still extant. The fabulous tales of the early British history; the partial testimony of ignorant chroniclers; supposititious treaties and charters; are the proofs on

which Edward founded his title to the sovereignty of Scotland; and the homage done by the Scottish monarchs for their lands in England is preposterously supposed to imply the subjection of their whole kingdom[c]. Ill-founded, however, as their right was, the English did not fail to revive it, in all the subsequent quarrels between the two kingdoms; while the Scots disclaimed it with the utmost indignation. To this we must impute the fierce and implacable hatred to each other, which long inflamed both. Their national antipathies were excited, not only by the usual circumstances of frequent hostilities, and reciprocal injuries; but the English considered the Scots as vassals who had presumed to rebel, and the Scots, in their turn, regarded the English as usurpers who aimed at enslaving their country.

1306. State of the kingdom, when Bruce began his reign.

At the time when Robert Bruce began his reign in Scotland, the same form of government was established in all the kingdoms of Europe. This surprising similarity in their constitution and laws demonstrates that the nations which overturned the Roman empire, and erected these kingdoms, though divided into different tribes, and distinguished by different names, were either derived originally from the same source, or had been placed in similar situations. When we take a view of the feudal system of laws and policy, that stupendous and singular fabric erected by them, the first object that strikes us is the king. And when we are told that he is the sole proprietor of all the lands within his dominions, that all his subjects derive their possessions from him, and in return consecrate their lives to his service; when we hear that all marks of distinction, and titles of dignity, flow from him, as the only fountain of honour; when we behold the most potent peers, on their bended knees, and with folded hands, swearing fealty at his feet, and acknowledging him to be their

[c] Anderson's Historical Essay concerning the independency, etc.

'sovereign' and their 'liege lord;' we are apt to pronounce him a powerful, nay, an absolute monarch. No conclusion, however, would be more rash, or worse founded. The genius of the feudal government was purely aristocratical. With all the ensigns of royalty, and with many appearances of despotic power, a feudal king was the most limited of all princes.

Origin of the feudal government, and its aristocratical genius.

Before they sallied out of their own habitations to conquer the world, many of the northern nations seem not to have been subject to the government of kings[d]; and even where monarchical government was established, the prince possessed but little authority. A general, rather than a king, his military command was extensive, his civil jurisdiction almost nothing[e]. The army which he led was not composed of soldiers, who could be compelled to serve, but of such as voluntarily followed his standard[f]. These conquered not for their leader, but for themselves; and, being free in their own country, renounced not their liberty, when they acquired new settlements. They did not exterminate the ancient inhabitants of the countries which they subdued; but, seizing the greater part of their lands, they took their persons under protection. The difficulty of maintaining a new conquest, as well as the danger of being attacked by new invaders, rendering it necessary to be always in a posture of defence, the form of government which they established was altogether military, and nearly resembled that to which they had been accustomed in their native country. Their general still continuing to be the head of the colony, part of the conquered lands were allotted to him; the remainder, under the name of 'beneficia' or 'fiefs,' was divided amongst his principal officers. As the common safety required that these officers should, upon all occasions, be ready to appear in arms, for the common defence, and should continue obedient to their general, they bound them-

[d] Cæs. lib. vi. c. 23.
[e] Tacit. de Mor. Germ. c. 7. 11.
[f] Cæs. ibid.

selves to take the field, when called, and to serve him with a number of men, in proportion to the extent of their territory. These great officers again parcelled out their lands among their followers, and annexed the same condition to the grant. A feudal kingdom was properly the encampment of a great army; military ideas predominated, military subordination was established, and the possession of land was the pay which soldiers received for their personal service. In consequence of these notions, the possession of land was granted during pleasure only, and kings were elective. In other words, an officer disagreeable to his general was deprived of his pay, and the person who was most capable of conducting an army was chosen to command it. Such were the first rudiments, or infancy of feudal government.

But long before the beginning of the fourteenth century, the feudal system had undergone many changes, of which the following were the most considerable. Kings, formerly elective, were then hereditary; and fiefs, granted at first during pleasure, descended from father to son, and were become perpetual. These changes, not less advantageous to the nobles than to the prince, made no alteration in the aristocratical spirit of the feudal constitution. The king, who, at a distance, seemed to be invested with majesty and power, appears, on a nearer view, to possess almost none of those advantages which bestow on monarchs their grandeur and authority. His revenues were scanty; he had not a standing army; and the jurisdiction he possessed was circumscribed within very narrow limits.

General causes which limited the power of the feudal monarchs.

At a time when pomp and splendour were little known, even in the palaces of kings; when the officers of the crown received scarcely any salary besides the fees and perquisites of their office; when embassies to foreign courts were rare; when armies were composed of soldiers who served without pay; it was not necessary that a king should possess a great revenue; nor did the

Their revenues were small.

condition of Europe, in those ages, allow its princes to be opulent. Commerce made little progress in the kingdoms where the feudal government was established. Institutions, which had no other object but to inspire a martial spirit, to train men to be soldiers, and to make arms the only honourable profession, naturally discouraged the commercial arts. The revenues, arising from the taxes imposed on the different branches of commerce, were, by consequence, inconsiderable; and the prince's treasury received little supply from a source, which, among a trading people, flows with such abundance, and is almost inexhaustible. A fixed tax was not levied even on land: such a burthen would have appeared intolerable to men who received their estates as the reward of their valour, and who considered their service in the field as a full retribution for what they possessed. The king's 'demesnes,' or the portion of land which he still retained in his own hands unalienated, furnished subsistence to his court, and defrayed the ordinary expense of government[g]. The only stated taxes which the feudal law obliged vassals to pay to the king, or to those of whom they held their lands, were three: one, when his eldest son was made a knight; another, when his eldest daughter was married; and a third, in order to ransom him, if he should happen to be taken prisoner. Besides these, the king received the feudal casualties of the ward, marriage, etc. of his own vassals. And, on some extraordinary occasions, his subjects granted him an aid, which they distinguished by the name of a 'benevolence,' in order to declare that he received it not in consequence of any right, but as a gift, flowing from their good will[h]. All these added together, produced a revenue so scanty and precarious, as naturally incited a feudal monarch to aim at diminishing the exorbitant power and wealth of the nobility, but, instead of enabling him to carry on

[g] Craig. de Feud. lib. i. Dieg. 14. Du Cange, Gloss. voc. dominicum.
[h] Du Cange, voc. auxilium.

his schemes with full effect, kept him in continual indigence, anxiety, and dependence.

They had no standing armies.

Nor could the king supply the defect of his revenues by the terrour of his arms. Mercenary troops and standing armies were unknown, as long as the feudal government subsisted in vigour. Europe was peopled with soldiers. The vassals of the king, and the sub-vassals of the barons, were all obliged to carry arms. While the poverty of princes prevented them from fortifying their frontier towns, while a campaign continued but a few weeks, and while a fierce and impetuous courage was impatient to bring every quarrel to the decision of a battle, an army, without pay, and with little discipline, was sufficient for all the purposes both of the security and of the glory of the nation. Such an army, however, far from being an engine at the king's disposal, was often no less formidable to him, than to his enemies. The more warlike any people were, the more independent they became; and the same persons being both soldiers and subjects, civil privileges and immunities were the consequence of their victories, and the reward of their martial exploits. Conquerors, whom mercenary armies, under our present forms of government, often render the tyrants of their own people, as well as the scourges of mankind, were commonly, under the feudal constitution, the most indulgent of all princes to their subjects, because they stood most in need of their assistance. A prince, whom even war and victories did not render the master of his own army, possessed hardly any shadow of military power during times of peace. His disbanded soldiers mingled with his other subjects; not a single man received pay from him; many ages elapsed even before a guard was appointed to defend his person; and destitute of that great instrument of dominion, a standing army, the authority of the king continued always feeble, and was often contemptible.

Nor were these the only circumstances which contri-

Their jurisdiction was limited.

buted towards depressing the regal power. By the feudal system, as has been already observed, the king's judicial authority was extremely circumscribed. At first, princes seem to have been the supreme judges of their people, and, in person, heard and determined all controversies among them. The multiplicity of causes soon made it necessary to appoint judges, who, in the king's name, decided matters that belonged to the royal jurisdiction. But the barbarians, who overran Europe, having destroyed most of the great cities, and the countries which they seized being cantoned out among powerful chiefs, who were blindly followed by numerous dependents, whom, in return, they were bound to protect from every injury; the administration of justice was greatly interrupted, and the execution of any legal sentence became almost impracticable. Theft, rapine, murder, and disorder of all kinds, prevailed in every kingdom of Europe, to a degree almost incredible, and scarce compatible with the subsistence of civil society. Every offender sheltered himself under the protection of some powerful chieftain, who screened him from the pursuits of justice. To apprehend, and to punish a criminal, often required the union and effort of half a kingdom[1]. In order to remedy these evils, many per-

[1] A remarkable instance of this occurs in the following history, so late as the year one thousand five hundred and sixty-one. Mary, having appointed a court of justice to be held on the borders, the inhabitants of no less than eleven counties were summoned to guard the person, who was to act as judge, and to enable him to enforce his decisions. The words of a proclamation, which afford such a convincing proof of the feebleness of the feudal government, deserve our notice. "And because it is necessary for the execution of her highness' commandments and service, that her justice be well accompanied, and her authority sufficiently fortified, by the concurrence of a good power of her faithful subjects—Therefore commands and charges all and sundry earls, lords, barons, freeholders, landed-men, and other gentlemen, dwelling within the said counties, that they, and every one of them, with their kin, friends, servants, and household-men, well bodin in feir of war in the most substantious manner, [i. e. completely armed and provided,] and with twenty days' victuals, to meet and to pass forward with him to the borough of Jedburgh, and there to remain during the said space of twenty days, and to receive such direction and commands

sons of distinction were entrusted with the administration of justice within their own territories. But what, we may presume, was, at first, only a temporary grant, or a personal privilege, the encroaching spirit of the nobles gradually converted into a right, and rendered hereditary. The lands of some were, in process of time, erected into 'baronies,' those of others into 'regalities.' The jurisdiction of the former was extensive; that of the latter, as the name implies, royal, and almost unbounded. All causes, whether civil or criminal, were tried by judges, whom the lord of the regality appointed; and if the king's courts called any person within his territory before them, the lord of regality might put a stop to their proceedings, and, by the privilege of 'repledging,' remove the cause to his own court, and even punish his vassal, if he submitted to a foreign jurisdiction[k]. Thus almost every question, in which any person who resided on the lands of the nobles was interested, being determined by judges appointed by the nobles themselves, their vassals were hardly sensible of being, in any degree, subject to the crown. A feudal kingdom was split into many small principalities, almost independent, and held together by a feeble and commonly an imperceptible bond of union. The king was not only stripped of the authority annexed to the person of a supreme judge, but his revenue suffered no small diminution, by the loss of those pecuniary emoluments, which were, in that age, due to the person who administered justice.

In the same proportion that the king sunk in power, the nobles rose towards independence. Not satisfied with having obtained an hereditary right to their fiefs, which they formerly held during pleasure, their ambition aimed at something bolder, and, by introducing

as shall be given by him to them in our sovereign lady's name, for quietness of the country; and to put the same in execution under the pain of losing their life, lands, and goods." Keith's Hist. of Scotland, 198.

[k] Craig, lib. iii. Dieg. 7.

'entails,' endeavoured, as far as human ingenuity and invention can reach that end, to render their possessions unalienable and everlasting. As they had full power to add to the inheritance transmitted to them from their ancestors, but none to diminish it, time alone, by means of marriages, legacies, and other accidents, brought continual accessions of wealth and of dignity; a great family, like a river, became considerable from the length of its course, and, as it rolled on, new honours and new property flowed successively into it. Whatever influence is derived from titles of honour, the feudal barons likewise possessed in an ample manner. These marks of distinction are, in their own nature, either official or personal, and being annexed to a particular charge, or bestowed by the admiration of mankind upon illustrious characters, ought to be appropriated to these. But the son, however unworthy, could not bear to be stripped of that appellation by which his father had been distinguished. His presumption claimed, what his virtue did not merit; titles of honour became hereditary, and added new lustre to nobles already in possession of too much power. Something more audacious and more extravagant still remained. The supreme direction of all affairs, both civil and military, being committed to the great officers of the crown, the fame and safety of princes, as well as of their people, depended upon the fidelity and abilities of these officers. But such was the preposterous ambition of the nobles, and so successful even in their wildest attempts to aggrandize themselves, that in all the kingdoms where the feudal institutions prevailed, most of the chief offices of state were annexed to great families, and held, like fiefs, by hereditary right. A person whose undutiful behaviour rendered him odious to his prince, or whose incapacity exposed him to the contempt of the people, often held a place of power and trust of the greatest importance to both. In Scotland, the offices of lord justice general, great chamberlain,

high steward, high constable, earl marshal, and high admiral, were all hereditary; and in many counties, the office of sheriff was held in the same manner.

Nobles, whose property was so extensive, and whose power was so great, could not fail of being turbulent and formidable. Nor did they want instruments for executing their boldest designs. That portion of their lands, which they parcelled out among their followers, supplied them with a numerous band of faithful and determined vassals; while that which they retained in their own hands, enabled them to live with a princely splendour. The great hall of an ambitious baron was often more crowded than the court of his sovereign. The strong castles, in which they resided, afforded a secure retreat to the discontented and seditious. A great part of their revenue was spent upon multitudes of indigent, but bold retainers. And if at any time they left their retreat to appear in the court of their sovereign, they were accompanied, even in times of peace, with a vast train of armed followers. The usual retinue of William, the sixth earl of Douglas, consisted of two thousand horse. Those of the other nobles were magnificent and formidable in proportion. Impatient of subordination, and forgetting their proper rank, such potent and haughty barons were the rivals, rather than the subjects, of their prince. They often despised his orders, insulted his person, and wrested from him his crown. The history of Europe, during several ages, contains little else but the accounts of the wars and revolutions occasioned by their exorbitant ambition.

Their power greater in Scotland than in any other kingdom.

But, if the authority of the barons far exceeded its proper bounds in the other nations of Europe, we may affirm that the balance which ought to be preserved between a king and his nobles was almost entirely lost in Scotland. The Scottish nobles enjoyed, in common with those of other nations, all the means for extending their authority which arise from the aristocratical ge-

nius of the feudal government. Besides these, they possessed advantages peculiar to themselves: the accidental sources of their power were considerable; and singular circumstances concurred with the spirit of the constitution to aggrandize them. To enumerate the most remarkable of these, will serve both to explain the political state of the kingdom, and to illustrate many important occurrences in the period now under our review.

The particular causes of this.

The nature of the country.

I. The nature of their country was one cause of the power and independence of the Scottish nobility. Level and open countries are formed for servitude. The authority of the supreme magistrate reaches with ease to the most distant corners; and when nature has erected no barrier, and affords no retreat, the guilty or obnoxious are soon detected and punished. Mountains, and fens, and rivers, set bounds to despotic power, and amidst these is the natural seat of freedom and independence. In such places did the Scottish nobles usually fix their residence. By retiring to his own castle, a mutinous baron could defy the power of his sovereign, it being almost impracticable to lead an army, through a barren country, to places of difficult access to a single man. The same causes which checked the progress of the Roman arms, and rendered all the efforts of Edward the first abortive, often protected the Scottish nobles from the vengeance of their prince; and they owed their personal independence to those very mountains and marshes which saved their country from being conquered.

The small number of great cities.

II. The want of great cities in Scotland contributed not a little to increase the power of the nobility, and to weaken that of the prince. Wherever numbers of men assemble together, order must be established, and a regular form of government instituted; the authority of the magistrate must be recognised, and his decisions meet with prompt and full obedience. Laws and subordination take rise in cities; and where there are few cities, as in Poland, or none, as in Tartary, there are

few or no traces of a well-arranged police. But under the feudal governments, commerce, the chief means of assembling mankind, was neglected; the nobles, in order to strengthen their influence over their vassals, resided among them, and seldom appeared at court, where they found a superior, or dwelt in cities, where they met with equals. In Scotland, the fertile counties in the south lying open to the English, no town situated there could rise to be great or populous, amidst continual inroads and alarms; the residence of our monarchs was not fixed to any particular place; many parts of the country were barren and uncultivated; and, in consequence of these peculiar circumstances, added to the general causes flowing from the nature of the feudal institutions, the towns in Scotland were extremely few, and very inconsiderable. The vassals of every baron occupied a distinct portion of the kingdom, and formed a separate and almost independent society. Instead of giving aid towards reducing to obedience their seditious chieftain, or any whom he took under his protection, they were all in arms for his defence, and obstructed the operations of justice to the utmost. The prince was obliged to connive at criminals whom he could not reach; the nobles, conscious of this advantage, were not afraid to offend; and the difficulty of punishing almost assured them of impunity.

III. The division of the country into clans had no small effect in rendering the nobles considerable. The nations which overran Europe were originally divided into many small tribes; and when they came to parcel out the lands which they had conquered, it was natural for every chieftain to bestow a portion, in the first place, upon those of his own tribe or family. These all held their lands of him; and as the safety of each individual depended on the general union, these small societies clung together, and were distinguished by some common appellation, either patronymical or local, long before the introduction of surnames, or ensigns armorial. The institution of clans.

But when these became common, the descendants and relations of every chieftain assumed the same name and arms with him; other vassals were proud to imitate their example, and, by degrees, they were communicated to all those who held of the same superior. Thus clanships were formed; and in a generation or two, that consanguinity, which was at first in a great measure imaginary, was believed to be real. An artificial union was converted into a natural one; men willingly followed a leader, whom they regarded both as the superior of their lands and the chief of their blood, and served him not only with the fidelity of vassals, but with the affection of friends. In the other feudal kingdoms, we may observe such unions as we have described imperfectly formed; but in Scotland, whether they were the production of chance, or the effect of policy, or introduced by the Irish colony above-mentioned, and strengthened by carefully preserving their genealogies, both genuine and fabulous, clanships were universal. Such a confederacy might be overcome, it could not be broken; and no change of manners, or of government, has been able, in some parts of the kingdom, to dissolve associations which are founded upon prejudices so natural to the human mind. How formidable were nobles at the head of followers, who, counting that cause just and honourable which their chief approved, rushed into the field at his command, ever ready to sacrifice their lives in defence of his person or of his fame! Against such men a king contended with great disadvantage; and that cold service which money purchases, or authority extorts, was not an equal match for their ardour and zeal.

The small number of the nobles.

IV. The smallness of their number may be mentioned among the causes of the grandeur of the Scottish nobles. Our annals reach not back to the first division of property in the kingdom; but so far as we can trace the matter, the original possessions of the nobles seem to have been extensive. The ancient thanes were the

equals and the rivals of their prince. Many of the earls and barons, who succeeded them, were masters of territories no less ample. France and England, countries wide and fertile, afforded settlements to a numerous and powerful nobility. Scotland, a kingdom neither extensive nor rich, could not contain many such overgrown proprietors. But the power of an aristocracy always diminishes in proportion to the increase of its numbers; feeble if divided among a multitude, irresistible if centred in a few. When nobles are numerous, their operations nearly resemble those of the people; they are roused only by what they feel, not by what they apprehend; and submit to many arbitrary and oppressive acts, before they take arms against their sovereign. A small body, on the contrary, is more sensible and more impatient; quick in discerning, and prompt in repelling danger; all its motions are as sudden as those of the other are slow. Hence proceeded the extreme jealousy with which the Scottish nobles observed their monarchs, and the fierceness with which they opposed their encroachments. Even the virtue of a prince did not render them less vigilant, or less eager to defend their rights; and Robert Bruce, notwithstanding the splendour of his victories, and the glory of his name, was upon the point of experiencing the vigour of their resistance, no less than his unpopular descendant, James the third. Besides this, the near alliance of the great families, by frequent intermarriages, was the natural consequence of their small number; and as consanguinity was, in those ages, a powerful bond of union, all the kindred of a nobleman interested themselves in his quarrel, as a common cause; and every contest the king had, though with a single baron, soon drew upon him the arms of a whole confederacy.

Their leagues and combinations.

V. Those natural connexions, both with their equals and with their inferiors, the Scottish nobles strengthened by a device, which, if not peculiar to themselves, was at least more frequent among them, than in any

other nation. Even in times of profound peace, they formed associations, which, when made with their equals, were called 'leagues of mutual defence;' and when with their inferiors, 'bonds of manrent.' By the former, the contracting parties bound themselves mutually to assist each other, in all causes, and against all persons. By the latter, protection was stipulated on the one hand, and fidelity and personal service promised on the other[1]. Self-preservation, it is probable, forced men at first into these confederacies; and, while disorder and rapine were universal, while government was unsettled, and the authority of laws little known or regarded, near neighbours found it necessary to unite in this manner for their security, and the weak were obliged to court the patronage of the strong. By degrees, these associations became so many alliances offensive and defensive against the throne; and, as their obligation was held to be more sacred than any tie whatever, they gave much umbrage to our kings, and contributed not a little to the power and independence of the nobility. In the reign of James the second, William, the eighth earl of Douglas, entered into a league of this kind with the earls of Crawford, Ross, Murray, Ormond, the lords Hamilton, Balveny, and other powerful barons; and so formidable was this combination to the king, that he had recourse to a measure no less violent than unjust, in order to dissolve it.

The frequent wars with England.

VI. The frequent wars between England and Scotland proved another cause of augmenting the power of the nobility. Nature has placed no barrier between the two kingdoms; a river, almost everywhere fordable, divides them towards the east; on the west they are separated by an imaginary line. The slender revenues of our kings prevented them from fortifying, or placing garrisons in the towns on the frontier; nor would the jealousy of their subjects have permitted such

[1] Act 30. Parl. 1424. Act 43. Parl. 1555.

a method of defence. The barons, whose estates lay near the borders, considered themselves as bound, both in honour and in interest, to repel the enemy. The 'wardenships' of the different 'marches,' offices of great power and dignity, were generally bestowed on them. This gained them the leading of the warlike counties in the south; and their vassals, living in a state of perpetual hostility, or enjoying at best an insecure peace, became more inured to war than even the rest of their countrymen, and more willing to accompany their chieftain in his most hardy and dangerous enterprises. It was the valour, no less than the number of their followers, that rendered the Douglases great. The nobles in the northern and midland counties were often dutiful and obsequious to the crown, but our monarchs always found it impracticable to subdue the mutinous and ungovernable spirit of the borderers. In all our domestic quarrels, those who could draw to their side the inhabitants of the southern counties, were almost sure of victory; and, conscious of this advantage, the lords who possessed authority there, were apt to forget the duty which they owed their sovereign, and to aspire beyond the rank of subjects.

The frequent minorities which happened in Scotland.

VII. The calamities which befell our kings contributed more than any other cause to diminish the royal authority. Never was any race of monarchs so unfortunate as the Scottish. Of six successive princes, from Robert the third to James the sixth, not one died a natural death; and the minorities, during that time, were longer, and more frequent, than ever happened in any other kingdom. From Robert Bruce to James the sixth, we reckon ten princes; and seven of these were called to the throne while they were minors, and almost infants. Even the most regular and best-established governments feel sensibly the pernicious effects of a minority, and either become languid and inactive, or are thrown into violent and unnatural convulsions. But, under the imperfect and ill-adjusted system of govern-

James R

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invaded the kingdom. The success which at first attended his arms, obliged the young king to retire to France; and Baliol took possession of the throne. A small body of the nobles, however, continuing faithful to their exiled prince, drove Baliol out of Scotland; and, after an absence of nine years, David returned from France, and took the government of the kingdom into his own hands. But nobles, who were thus wasting their blood and treasure in defence of the crown, had a right to the undisturbed possession of their ancient privileges; and even some title to arrogate new ones. It seems to have been a maxim in that age, that every leader might claim, as his own, the territory which his sword had won from the enemy. Great acquisitions were gained by the nobility in that way: and to these the gratitude and liberality of David added, by distributing among such as adhered to him, the vast possessions which fell to the crown by the forfeiture of his enemies. The family of Douglas, which began to rise above the other nobles, in the reign of his father, augmented both its power and its property during his minority.

1405. James the first.

James the first was seized by the English during the continuance of a truce, and ungenerously detained a prisoner almost nineteen years. During that period, the kingdom was governed, first by his uncle Robert, duke of Albany, and then by Murdo, the son of Robert. Both these noblemen aspired to the crown; and their unnatural ambition, if we may believe most of our historians, not only cut short the days of prince David, the king's elder brother, but prolonged the captivity of James. They flattered themselves that they might step with less opposition into a throne, when almost vacant; and, dreading the king's return, as the extinction of their authority and the end of their hopes, they carried on the negotiations for obtaining his liberty with extreme remissness. At the same time, they neglected nothing that could either sooth or bribe the nobles to

approve of their scheme. They slackened the reins of government; they allowed the prerogative to be encroached upon; they suffered the most irregular acts of power, and even wanton instances of oppression, to pass with impunity; they dealt out the patrimony of the crown among those whose enmity they dreaded, or whose favour they had gained; and reduced the royal authority to a state of imbecility, from which succeeding monarchs laboured in vain to raise it.

1437. James the second.

During the minority of James the second, the administration of affairs as well as the custody of the king's person were committed to sir William Crichton and sir Alexander Livingston. Jealousy and discord were the effects of their conjunct authority, and each of them, in order to strengthen himself, bestowed new power and privileges upon the great men whose aid he courted; while the young earl of Douglas, encouraged by their divisions, erected a sort of independent principality within the kingdom; and, forbidding his vassals to acknowledge any authority but his own, he created knights, appointed a privy council, named officers civil and military, assumed every ensign of royalty but the title of king, and appeared in public with a magnificence more than royal.

1460. James the third.

Eight persons were chosen to govern the kingdom during the minority of James the third. Lord Boyd, however, by seizing the person of the young king, and by the ascendant which he acquired over him, soon engrossed the whole authority. He formed the ambitious project of raising his family to the same pitch of power and grandeur with those of the prime nobility; and he effected it. While intent on this, he relaxed the vigour of government, and the barons became accustomed, once more, to anarchy and independence. The power, which Boyd had been at so much pains to acquire, was of no long continuance, and the fall of his family, according to the fate of favourites, was sudden and destructive; but upon its ruins the family of Hamilton

rose, which soon attained the highest rank in the kingdom.

As the minority of James the fifth was longer, it was likewise more turbulent, than those of the preceding kings. And the contending nobles, encouraged or protected either by the king of France, or of England, formed themselves into more regular factions, and disregarded more than ever the restraints of order and authority. The French had the advantage of seeing one, devoted to their interest, raised to be regent. This was the duke of Albany, a native of France, and a grandson of James the second. But Alexander lord Home, the most eminent of all the Scottish peers who survived the fatal battle of Flowden, thwarted all his measures during the first years of his administration; and the intrigues of the queen dowager, sister of Henry the eighth, rendered the latter part of it no less feeble. Though supported by French auxiliaries, the nobles despised his authority, and, regardless either of his threats or his entreaties, peremptorily refused, two several times, to enter England, to the borders of which kingdom he had led them. Provoked by these repeated instances of contempt, the regent abandoned his troublesome station, and, retiring to France, preferred the tranquillity of a private life, to an office destitute of real authority. Upon his retreat, Douglas, earl of Angus, became master of the king's person, and governed the kingdom in his name. Many efforts were made to deprive him of his usurped authority. But the numerous vassals and friends of his family adhered to him, because he divided with them the power and emoluments of his office; the people reverenced and loved the name of Douglas; he exercised, without the title of regent, a fuller and more absolute authority than any who had enjoyed that dignity; and the ancient, but dangerous, preeminence of the Douglases seemed to be restored. James the fifth.

To these, and to many other causes, omitted or un-

observed by us, did the Scottish nobility owe that exorbitant and uncommon power, of which instances occur so frequently in our history. Nothing, however, demonstrates so fully the extent of their power, as the length of its duration. Many years after the declension of the feudal system in the other kingdoms of Europe, and when the arms or policy of princes had, everywhere, shaken, or laid it in ruins, the foundations of that ancient fabric remained, in a great measure, firm and untouched in Scotland.

The power of the feudal nobles become intolerable to princes.

The powers which the feudal institutions vested in the nobles, soon became intolerable to all the princes of Europe, who longed to possess something more than a nominal and precarious authority. Their impatience to obtain this, precipitated Henry the third of England, Edward the second, and some other weak princes, into rash and premature attempts against the privileges of the barons, in which they were disappointed or perished. Princes, of greater abilities, were content to mitigate evils which they could not cure; they sought occupation for the turbulent spirit of their nobles, in frequent wars; and allowed their fiery courage to evaporate in foreign expeditions, which, if they brought no other advantage, secured at least domestic tranquillity. But time and accidents ripened the feudal governments for destruction. Towards the end of the fifteenth century, and beginning of the sixteenth, all the princes of Europe attacked, as if by concert, the power of their nobles. Men of genius then undertook, with success, what their unskilful predecessors had attempted in vain. Lewis the eleventh of France, the most profound and the most adventurous genius of that age, began, and in a single reign almost completed, the scheme of their destruction. The sure but concealed policy of Henry the seventh of England, produced the same effect. The means, indeed, employed by these monarchs were very different. The blow which Lewis struck was sudden and fatal. The artifices of Henry

The attempts to humble the nobles successful in France and in England.

resembled those slow poisons, which waste the constitution, but become not mortal till some distant period. Nor did they produce consequences less opposite. Lewis boldly added to the crown whatever he wrested from the nobles. Henry undermined his barons, by encouraging them to sell their lands, which enriched the commons, and gave them a weight in the legislature unknown to their predecessors. But while these great revolutions were carrying on in two kingdoms with which Scotland was intimately connected, little alteration happened there; our kings could neither extend their own prerogative, nor enable the commons to encroach upon the aristocracy; the nobles not only retained most of their ancient privileges and possessions, but continued to make new acquisitions.

But the nobles continue to gather strength in Scotland.

This was not owing to the inattention of our princes, or to their want of ambition. They were abundantly sensible of the exorbitant power of the nobility, and extremely solicitous to humble that order. They did not, however, possess means sufficient for accomplishing this end. The resources of our monarchs were few, and the progress which they made was of course inconsiderable. But as the number of their followers, and the extent of their jurisdiction, were the two chief circumstances which rendered the nobles formidable; in order to counterbalance the one, and to restrain the other, all our kings had recourse to nearly the same expedients.

Our kings endeavoured to extend the royal authority.

General means towards this end.

I. Among nobles of a fierce courage, and of unpolished manners, surrounded with vassals, bold and licentious, whom they were bound by interest and honour to protect, the causes of discord were many and unavoidable. As the contending parties could seldom agree in acknowledging the authority of any common superior or judge, and their impatient spirit would seldom wait the slow decisions of justice, their quarrels were usually terminated by the sword. The offended baron assembled his vassals, and wasted the lands or

Encourage discord among the nobles.

shed the blood of his enemy. To forgive an injury, was mean; to forbear revenge, infamous or cowardly[m]. Hence quarrels were transmitted from father to son, and, under the name of 'deadly feuds,' subsisted for many generations with unmitigated rancour. It was the interest of the crown to foment rather than to extinguish these quarrels; and, by scattering or cherishing the seeds of discord among the nobles, that union, which would have rendered the aristocracy invincible, and which must at once have annihilated the prerogative, was effectually prevented. To the same cause, our kings were indebted for the success with which they sometimes attacked the most powerful chieftains. They employed private revenge to aid the impotence of public laws, and, arming against the person who had incurred their displeasure those rival families which wished his fall, they rewarded their service by sharing among them the spoils of the vanquished. But this expedient, though it served to humble individuals, did not weaken the body of the nobility. Those who were now the instruments of their prince's vengeance became, in a short time, the objects of his fear. Having acquired power and wealth by serving the crown, they, in their turn, set up for independence: and though there might be a

[m] The spirit of revenge was encouraged, not only by the manners, but, what is more remarkable, by the laws of those ages. If any person thought the prosecution of an injury offered to his family too troublesome, or too dangerous, the salique laws permitted him publicly to desist from demanding vengeance; but the same laws, in order to punish his cowardice, and want of affection to his family, deprived him of the right of succession. Hénault's Abrégé chronol. p. 81. Among the Anglo-Saxons, we find a singular institution distinguished by the name of 'sodalitium;' a voluntary association, the object whereof was the personal security of those who joined in it, and which the feebleness of government at that time rendered necessary. Among other regulations, which are contained in one of these still extant, the following deserves notice: "If any associate shall either eat or drink with a person who has killed any member of the 'sodalitium,' unless in the presence of the king, the bishop, or the count, and unless he can prove that he did not know the person, let him pay a great fine." Hickes, Dissert. epistolar. apud Thesaur. Ling. septentr. vol. i. p. 21.

fluctuation of power and of property; though old families fell, and new ones rose upon their ruins; the rights of the aristocracy remained entire, and its vigour unbroken.

Extend the jurisdiction of the king's courts.

II. As the administration of justice is one of the most powerful ties between a king and his subjects, all our monarchs were at the utmost pains to circumscribe the jurisdiction of the barons, and to extend that of the crown. The external forms of subordination, natural to the feudal system, favoured this attempt. An appeal lay from the judges and courts of the barons, to those of the king. The right, however, of judging in the first instance belonged to the nobles, and they easily found means to defeat the effect of appeals, as well as of many other feudal regulations. The royal jurisdiction was almost confined within the narrow limits of the king's demesnes, beyond which his judges claimed indeed much authority, but possessed next to none. Our kings were sensible of these limitations, and bore them with impatience. But it was impossible to overturn, in a moment, what was so deeply rooted; or to strip the nobles, at once, of privileges which they had held so long, and which were wrought almost into the frame of the feudal constitution. To accomplish this, however, was an object of uniform and anxious attention to all our princes. James the first led the way here, as well as in other instances, towards a more regular and perfect police. He made choice, among the estates of parliament, of a certain number of persons, whom he distinguished by the names of 'lords of session,' and appointed them to hold courts for determining civil causes three times in the year, and forty days at a time, in whatever place he pleased to name. Their jurisdiction extended to all matters which formerly came under the cognizance of the king's council, and, being a committee of parliament, their decisions were final. James the second obtained a law, annexing all regalities, which should be forfeited, to the crown, and declaring the

right of jurisdiction to be unalienable for the future. James the third imposed severe penalties upon those judges appointed by the barons, whose decisions should be found, on a review, to be unjust; and, by many other regulations, endeavoured to extend the authority of his own court[n]. James the fourth, on pretence of remedying the inconveniencies arising from the short terms of the court of session, appointed other judges called 'lords of daily council.' The 'session' was an ambulatory court, and met seldom; the 'daily council' was fixed, and sat constantly at Edinburgh; and, though not composed of members of parliament, the same powers which the lords of session enjoyed were vested in it. At last James the fifth erected a new court that still subsists, and which he named the 'college of justice,' the judges or 'senators' of which were called 'lords of council and session.' This court not only exercised the same jurisdiction which formerly belonged to the session and daily council, but new rights were added. Privileges of great importance were granted to its members, its forms were prescribed, its terms fixed, and regularity, power, and splendour conferred upon it[o]. The persons constituted judges in all these different courts had, in many respects, the advantage of those who presided in the courts of the barons; they were more eminent for their skill in law, their rules of proceeding were more uniform, and their decisions more consistent. Such judicatories became the objects of confidence and of veneration. Men willingly submitted their property to their determination, and their encroachments on the jurisdictions of the nobles were popular, and, for that reason, successful. By devices of a similar nature, the jurisdiction of the nobles in criminal causes was restrained, and the authority of the court of 'justiciary' extended. The crown, in this particular,

[n] Act 26. Parl. 1469. Act 94. Parl. 1493. Act 99. Parl. 1487.
[o] Keith, App. 74, etc.

gaining insensibly upon the nobles, recovered more ample authority; and the king, whose jurisdiction once resembled that of a baron, rather than that of a sovereign[P], came more and more to be considered as the head of the community and the supreme dispenser of justice to his people. These acquisitions of our kings, however, though comparatively great, were in reality inconsiderable; and, notwithstanding all their efforts, many of the separate jurisdictions possessed by the nobles remained in great vigour; and their final abo-

[P] The most perfect idea of the feudal system of government may be attained by attending to the state of Germany, and to the history of France. In the former, the feudal institutions still subsist with great vigour; and though altogether abolished in the latter, the public records have been so carefully preserved, that the French lawyers and antiquaries have been enabled, with more certainty and precision than those of any other country in Europe, to trace its rise, its progress, and revolutions. In Germany, every principality may be considered as a fief, and all its great princes as vassals, holding of the emperor. They possess all the feudal privileges; their fiefs are perpetual; their jurisdictions within their own territories separate and extensive; and the great offices of the empire are all hereditary, and annexed to particular families. At the same time the emperor retains many of the prerogatives of the feudal monarchs. Like them, his claims and pretensions are innumerable, and his power small; his jurisdiction within his own demesnes or hereditary countries is complete; beyond the bounds of these it is almost nothing; and so permanent are feudal principles, that although the feudal system be overturned in almost every particular state in Germany, and although the greater part of its princes have become absolute, the original feudal constitution of the empire still remains, and ideas peculiar to that form of government direct all its operations, and determine the rights of all its princes. Our observations with regard to the limited jurisdiction of kings under the feudal governments, are greatly illustrated by what happened in France. The feebleness and dotage of the descendants of Charlemagne encouraged the peers to usurp an independent jurisdiction. Nothing remained in the hands of the crown; all was seized by them. When Hugh Capet ascended the throne, a. d. 987, he kept possession of his private patrimony the comté of Paris; and all the jurisdiction which the kings his successors exercised for some time, was within its territories. There were only four towns in France where he could establish 'grands baillis,' or royal judges: all the other lands, towns, and baillages, belonged to the nobles. The methods to which the French monarchs had recourse for extending their jurisdiction were exactly similar to those employed by our princes. Hénault's Abrégé, p. 617, etc. De l'Esprit des Loix, liv. xxx. ch. 20, etc.

lition was reserved to a distant and more happy period.

Each of our kings pursued some plan of humbling the nobles.

But besides these methods of defending their prerogative and humbling the aristocracy, which may be considered as common to all our princes, we shall find, by taking a review of their reigns, that almost every one of our kings, from Robert Bruce to James the fifth, had formed some particular system for depressing the authority of the nobles, which was the object both of their jealousy and terrour. This conduct of our monarchs, if we rest satisfied with the accounts of their historians, must be considered as flowing entirely from their resentment against particular noblemen; and all their attempts to humble them must be viewed as the sallies of private passion, not as the consequences of any general plan of policy. But, though some of their actions may be imputed to those passions, though the different genius of the men, the temper of the times, and the state of the nation, necessarily occasioned great variety in their schemes; yet, without being chargeable with excessive refinement, we may affirm that their end was uniformly the same; and that the project of reducing the power of the aristocracy, sometimes avowed, and pursued with vigour; sometimes concealed, or seemingly suspended; was never altogether abandoned.

This proved by a review of the events in their reigns.

Robert Bruce.

No prince was ever more indebted to his nobles than Robert Bruce. Their valour conquered the kingdom, and placed him on the throne. His gratitude and generosity bestowed on them the lands of the vanquished. Property has seldom undergone greater or more sudden revolutions, than those to which it was subject at that time in Scotland. Edward the first having forfeited the estates of most of the ancient Scottish barons, granted them to his English subjects. These were expelled by the Scots, and their lands seized by new masters. Amidst such rapid changes, confusion was unavoidable; and many possessed their lands by titles extremely defective. During one of those truces between the two nations,

occasioned rather by their being weary of war than desirous of peace, Robert formed a scheme for checking the growing power and wealth of the nobles. He summoned them to appear, and to shew by what rights they held their lands. They assembled accordingly; and the question being put, they started up at once, and drew their swords, 'By these,' said they, 'we acquired our lands, and with these we will defend them.' The king, intimidated by their boldness, prudently dropped the project. But so deeply did they resent this attack upon their order, that, notwithstanding Robert's popular and splendid virtues, it occasioned a dangerous conspiracy against his life.

David his son, at first an exile in France, afterwards a prisoner in England, and involved in continual war with Edward the third, had not leisure to attend to the internal police of his kingdom, or to think of retrenching the privileges of the nobility. David the second.

Our historians have been more careful to relate the military than the civil transactions of the reign of Robert the second. Skirmishes and inroads of little consequence they describe minutely; but with regard to every thing that happened during several years of tranquillity, they are altogether silent. Robert the second.

The feeble administration of Robert the third must likewise be passed over slightly. A prince of a mean genius, and of a frail and sickly constitution, was not a fit person to enter the lists with active and martial barons, or to attempt wresting from them any of their rights. Robert the third.

The civil transactions in Scotland are better known since the beginning of the reign of James the first, and a complete series of our laws supplies the defects of our historians. The English made some amends for their injustice in detaining that prince a prisoner, by their generous care of his education. During his long residence in England, he had an opportunity of observing the feudal system in a more advanced state, and refined James the first.

from many of the imperfections, which still adhered to it in his own kingdom. He saw there, nobles great, but not independent; a king powerful, though far from absolute: he saw a regular administration of government; wise laws enacted; and a nation flourishing and happy, because all ranks of men were accustomed to obey them. Full of these ideas, he returned into his native country, which presented to him a very different scene. The royal authority, never great, was now contemptible, by having been so long delegated to regents. The ancient patrimony and revenues of the crown were almost totally alienated. During his long absence the name of king was little known, and less regarded. The licence of many years had rendered the nobles independent. Universal anarchy prevailed. The weak were exposed to the rapine and oppression of the strong. In every corner some barbarous chieftain ruled at pleasure, and neither feared the king, nor pitied the people [q].

James was too wise a prince to employ open force to correct such inveterate evils. Neither the men nor the times would have borne it. He applied the gentler and less offensive remedy of laws and statutes. In a parliament, held immediately after his return, he gained the confidence of his people, by many wise laws, tending visibly to reestablish order, tranquillity, and justice, in the kingdom. But, at the same time that he endeavoured to secure these blessings to his subjects, he discovered his intention to recover those possessions of which the crown had been unjustly bereaved; and, for that purpose, obtained an act, by which he was empowered to summon such as had obtained crown lands during the three last reigns, to produce the rights by

[q] A contemporary monkish writer describes these calamities very feelingly in his rude Latin: "In diebus illis, non erat lex in Scotia, sed quilibet potentiorum juniorem oppressit; et totum regnum fuit unum latrocinium; homicidia, deprædationes, incendia, et cætera maleficia remanserunt impunita; et justitia relegata extra terminos regni exulavit." Chartular. Morav. apud Innes, Essay, vol. i. p. 272.

which they held them[r]. As this statute threatened the property of the nobles, another, which passed in a subsequent parliament, aimed a dreadful blow at their power. By it the leagues and combinations which we have already described, and which rendered the nobles so formidable to the crown, were declared unlawful[s]. Encouraged by this success in the beginning of his enterprise, James's next step was still bolder and more decisive. During the sitting of parliament, he seized, at once, his cousin Murdo, duke of Albany, and his sons; the earls of Douglas, Lennox, Angus, March, and above twenty other peers and barons of prime rank. To all of them, however, he was immediately reconciled, except to Albany and his sons, and Lennox. These were tried by their peers, and condemned; for what crime is now unknown. Their execution struck the whole order with terrour, and their forfeiture added vast possessions to the crown. He seized, likewise, the earldoms of Buchan and Strathern, upon different pretexts; and that of Mar fell to him by inheritance. The patience and inactivity of the nobles, while the king was proceeding so rapidly towards aggrandizing the crown, are amazing. The only obstruction he met with was from a slight insurrection headed by the duke of Albany's youngest son, and that was easily suppressed. The splendour and presence of a king, to which the great men had been long unaccustomed, inspired reverence: James was a prince of great abilities, and conducted his operations with much prudence. He was in friendship with England, and closely allied with the French king: he was adored by the people, who enjoyed unusual security and happiness under his administration: and all his acquisitions, however fatal to the body of the nobles, had been gained by attacks upon individuals; were obtained by decisions of law; and, being founded on circumstances peculiar to the persons who

[r] Act 9. Parl. 1424. [s] Act 30. ibid.

suffered, might excite murmurs and apprehensions, but afforded no colourable pretext for a general rebellion. It was not so with the next attempt which the king made. Encouraged by the facility with which he had hitherto advanced, he ventured upon a measure that irritated the whole body of the nobility, and which the events shew either to have been entered into with too much precipitancy, or to have been carried on with too much violence. The father of George Dunbar, earl of March, had taken arms against Robert the third, the king's father; but that crime had been pardoned, and his lands restored by Robert, duke of Albany. James, on pretext that the regent had exceeded his power, and that it was the prerogative of the king alone to pardon treason, or to alienate lands annexed to the crown, obtained a sentence, declaring the pardon to be void, and depriving Dunbar of the earldom. Many of the great men held lands by no other right than what they derived from grants of the two dukes of Albany. Such a decision, though they had reason to expect it, in consequence of the statute which the king had obtained, occasioned a general alarm. Though Dunbar was, at present, the only sufferer, the precedent might be extended, and their titles to possessions which they considered as the rewards of their valour, might be subjected to the review of courts of law, whose forms of proceeding, and jurisdiction, were in a martial age little known, and extremely odious. Terrour and discontent spread fast upon this discovery of the king's intentions; the common danger called on the whole order to unite, and to make one bold stand, before they were stripped successively of their acquisitions, and reduced to a state of poverty and insignificance. The prevalence of these sentiments among the nobles encouraged a few desperate men, the friends or followers of those who had been the chief sufferers under the king's administration, to form a conspiracy against his life. The first uncertain intelligence of this was brought him, while he lay

in his camp before Roxburgh castle. He durst not confide in nobles, to whom he had given so many causes of disgust, but instantly dismissed them and their vassals, and retiring to a monastery near Perth, was soon after murdered there in the most cruel manner. All our historians mention with astonishment this circumstance of the king's disbanding his army, at a time when it was so necessary for his preservation. A king, say they, surrounded with his barons, is secure from secret treason, and may defy open rebellion. But those very barons were the persons whom he chiefly dreaded; and it is evident from this review of his administration, that he had greater reason to apprehend danger, than to expect defence, from their hands. It was the misfortune of James, that his maxims and manners were too refined for the age in which he lived. Happy! had he reigned in a kingdom more civilized; his love of peace, of justice, and of elegance, would have rendered his schemes successful; and, instead of perishing because he had attempted too much, a grateful people would have applauded and seconded his efforts to reform and to improve them.

James the second.

Crichton, the most able man of those who had the direction of affairs during the minority of James the second, had been the minister of James the first, and well acquainted with his resolution of humbling the nobility. He did not relinquish the design, and he endeavoured to inspire his pupil with the same sentiments. But what James had attempted to effect slowly and by legal means, his son and Crichton pursued with the impetuosity natural to Scotsmen, and with the fierceness peculiar to that age. William, the sixth earl of Douglas, was the first victim to their barbarous policy. That young nobleman, as we have already observed, contemning the authority of an infant prince, almost openly renounced his allegiance, and aspired to independence. Crichton, too high-spirited to bear such an insult, but too weak to curb or to bring to justice so powerful an

offender, decoyed him by many promises to an interview in the castle of Edinburgh, and, notwithstanding these, murdered both him and his brother. Crichton, however, gained little by this act of treachery, which rendered him universally odious. William, the eighth earl of Douglas, was no less powerful, and no less formidable to the crown. By forming the league which we already mentioned with the earl of Crawford and other barons, he had united against his sovereign almost one half of his kingdom. But his credulity led him into the same snare which had been fatal to the former earl. Relying on the king's promises, who had now attained to the years of manhood, and having obtained a safe-conduct under the great seal, he ventured to meet him in Stirling castle. James urged him to dissolve that dangerous confederacy into which he had entered; the earl obstinately refused; 'If you will not,' said the enraged monarch, drawing his dagger, 'this shall;' and stabbed him to the heart. An action so unworthy of a king filled the nation with astonishment and with horrour. The earl's vassals ran to arms with the utmost fury, and dragging the safeconduct, which the king had granted and violated, at a horse's tail, they marched towards Stirling, burnt the town, and threatened to besiege the castle. An accommodation, however, ensued; on what terms is not known. But the king's jealousy, and the new earl's power and resentment, prevented it from being of long continuance. Both took the field, at the head of their armies, and met near Abercorn. That of the earl, composed chiefly of borderers, was far superior to the king's, both in number and in valour; and a single battle must, in all probability, have decided whether the house of Stuart or of Douglas was henceforth to possess the throne of Scotland. But, while his troops impatiently expected the signal to engage, the earl ordered them to retire to their camp; and sir James Hamilton of Cadyow, the person in whom he placed the greatest confidence, con-

vinced of his want of genius to improve an opportunity, or of his want of courage to seize a crown, deserted him that very night. This example was followed by many; and the earl, despised or forsaken by all, was soon driven out of the kingdom, and obliged to depend for his subsistence on the friendship of the king of England. The ruin of this great family, which had so long rivalled and overawed the crown, and the terrour with which such an example of unsuccessful ambition filled the nobles, secured the king, for some time, from opposition; and the royal authority remained uncontrolled, and almost absolute. James did not suffer this favourable interval to pass unimproved; he procured the consent of parliament to laws more advantageous to the prerogative, and more subversive of the privileges of the aristocracy, than were ever obtained by any former or subsequent monarch of Scotland.

By one of these, not only all the vast possessions of the earl of Douglas were annexed to the crown, but all prior and future alienations of crown lands were declared to be void; and the king was empowered to seize them at pleasure, without any process or form of law, and oblige the possessors to refund whatever they had received from them[t]. A dreadful instrument of oppression in the hands of a prince!

Another law prohibited the wardenship of the marches to be granted hereditarily; restrained, in several instances, the jurisdiction of that office; and extended the authority of the king's courts[u].

By a third, it was enacted that no 'regality,' or exclusive right of administering justice within a man's own lands, should be granted in time to come, without the consent of parliament[x]; a condition which implied almost an express prohibition. Those nobles who already possessed that great privilege, would naturally be solicitous to prevent it from becoming common, by being

[t] Act 41. Parl. 1455. [u] Act 42. ibid. [x] Act 43. ibid.

bestowed on many. Those who had not themselves attained it, would envy others the acquisition of such a flattering distinction, and both would concur in rejecting the claims of new pretenders.

By a fourth act, all new grants of hereditary offices were prohibited, and those obtained since the death of the last king were revoked[y].

Each of these statutes undermined some of the great pillars on which the power of the aristocracy rested. During the remainder of his reign, this prince pursued the plan which he had begun, with the utmost vigour; and, had not a sudden death, occasioned by the splinter of a cannon which burst near him at the siege of Roxburgh, prevented his progress, he wanted neither genius nor courage to perfect it: and Scotland might, in all probability, have been the first kingdom in Europe which would have seen the subversion of the feudal system.

James the third.

James the third discovered no less eagerness than his father or grandfather to humble the nobility; but, far inferior to either of them in abilities and address, he adopted a plan extremely impolitic, and his reign was disastrous, as well as his end tragical. Under the feudal governments, the nobles were not only the king's ministers, and possessed of all the great offices of power or of trust; they were likewise his companions and favourites, and hardly any but them approached his person, or were entitled to his regard. But James, who both feared and hated his nobles, kept them at an unusual distance, and bestowed every mark of confidence and affection upon a few mean persons, of professions so dishonourable as ought to have rendered them unworthy of his presence. Shut up with these in his castle of Stirling, he seldom appeared in public, and amused himself in architecture, music, and other arts, which were then little esteemed. The nobles beheld the

[y] Act 44. Parl. 1455.

power and favour of these minions with indignation. Even the sanguinary measures of his father provoked them less than his neglect. Individuals alone suffered by the former; by the latter, every man thought himself injured, because all were contemned. Their discontent was much heightened by the king's recalling all rights to crown lands, hereditary offices, regalities, and every other concession which was detrimental to his prerogative, and which had been extorted during his minority. Combinations among themselves, secret intrigues with England, and all the usual preparatives for civil war, were the effects of their resentment. Alexander, duke of Albany, and John, earl of Mar, the king's brothers, two young men of turbulent and ambitious spirits, and incensed against James, who treated them with the same coldness as he did the other great men, entered deeply into all their cabals. The king detected their designs, before they were ripe for execution, and, seizing his two brothers, committed the duke of Albany to Edinburgh castle. The earl of Mar, having remonstrated with too much boldness against the king's conduct, was murdered, if we may believe our historians, by his command. Albany, apprehensive of the same fate, made his escape out of the castle, and fled into France. Concern for the king's honour, or indignation at his measures, were perhaps the motives which first induced him to join the malecontents. But James's attachment to favourites rendering him every day more odious to the nobles, the prospect of the advantages which might be derived from their general disaffection, added to the resentment which he felt on account of his brother's death and his own injuries, soon inspired Albany with more ambitious and criminal thoughts. He concluded a treaty with Edward the fourth of England, in which he assumed the name of Alexander, king of Scots; and, in return for the assistance which was promised him towards dethroning his brother, he bound himself, as soon as he

was put in possession of the kingdom, to swear fealty and do homage to the English monarch, to renounce the ancient alliance with France, to contract a new one with England, and to surrender some of the strongest castles and most valuable counties in Scotland[z]. That aid, which the duke so basely purchased at the price of his own honour, and the independence of his country, was punctually granted him, and the duke of Gloucester, with a powerful army, conducted him towards Scotland. The danger of a foreign invasion obliged James to implore the assistance of those nobles whom he had so long treated with contempt. Some of them were in close confederacy with the duke of Albany, and approved of all his pretensions. Others were impatient for any event which would restore their order to its ancient preeminence. They seemed, however, to enter with zeal into the measures of their sovereign for the defence of the kingdom against its invaders[a], and took the field, at the head of a powerful army of their followers, but with a stronger disposition to redress their own grievances than to annoy the enemy; and with a fixed resolution of punishing those minions whose insolence they could no longer tolerate. This resolution they executed in the camp near Lauder, with a military despatch and rigour. Having previously concerted their plan, the earls of Angus, Huntly, Lennox, followed by almost all the barons of chief note in the army, forcibly entered the apartment of their sovereign, seized all his favourites except one Ramsay, whom they could not tear from the king, in whose arms he took shelter, and, without any form of trial, hanged them instantly over a bridge. Among the most remarkable of those who had engrossed the king's affection, were Cochran a mason, Hommil a tailor, Leonard a smith, Rogers a musician, and Torsifan a fencing-master. So despicable a retinue discovers the capriciousness of James's character, and

[z] Abercr. Mart. Atch. vol. ii. p. 443. [a] Black Acts, fol. 65.

accounts for the indignation of the nobles, when they beheld the favour, due to them, bestowed on such unworthy objects.

James had no reason to confide in an army so little under his command, and, dismissing it, shut himself up in the castle of Edinburgh. After various intrigues, Albany's lands and honours were, at length, restored to him, and he seemed even to have regained his brother's favour by some important services. But their friendship was not of long duration. James abandoned himself, once more, to the guidance of favourites; and the fate of those who had suffered at Lauder did not deter others from courting that dangerous preeminence. Albany, on pretext that an attempt had been made to take away his life by poison, fled from court, and, retiring to his castle at Dunbar, drew thither a greater number of barons than attended on the king himself. At the same time he renewed his former confederacy with Edward; the earl of Angus openly negotiated that infamous treaty; other barons were ready to concur with it; and if the sudden death of Edward had not prevented Albany's receiving any aid from England, the crown of Scotland would probably have been the reward of this unworthy combination with the enemies of his country. But, instead of any hopes of reigning in Scotland, he found, upon the death of Edward, that he could not reside there in safety; and, flying first to England and then to France, he seems from that time to have taken no part in the affairs of his native country. Emboldened by his retreat, the king and his ministers multiplied the insults which they offered to the nobility. A standing guard, a thing unknown under the feudal governments, and inconsistent with the familiarity and confidence with which monarchs then lived amidst their nobles, was raised for the king's defence, and the command of it given to Ramsay, lately created earl of Bothwell, the same person who had so narrowly escaped, when his companions were put to

death at Lauder. As if this precaution had not been sufficient, a proclamation was issued, forbidding any person to appear in arms within the precincts of the court [b]; which, at a time when no man of rank left his own house without a numerous retinue of armed followers, was, in effect, debarring the nobles from all access to the king. James, at the same time, became fonder of retirement than ever, and, sunk in indolence or superstition, or attentive only to amusements, devolved his whole authority upon his favourites. So many injuries provoked the most considerable nobles to take arms; and, having persuaded or obliged the duke of Rothesay, the king's eldest son, a youth of fifteen, to set himself at their head, they openly declared their intention of depriving James of a crown, of which he had discovered himself to be so unworthy. Roused by this danger, the king quitted his retirement, took the field, and encountered them near Bannockburn; but the valour of the borderers, of whom the army of the malecontents was chiefly composed, soon put his troops to flight, and he himself was slain in the pursuit. Suspicion, indolence, immoderate attachment to favourites, and all the vices of a feeble mind, are visible in his whole conduct; but the character of a cruel and unrelenting tyrant seems to be unjustly affixed to him by our historians. His neglect of the nobles irritated, but did not weaken them; and their discontent, the immoderate ambition of his two brothers, and their unnatural confederacies with England, were sufficient to have disturbed a more vigorous administration, and to have rendered a prince of superior talents unhappy.

The indignation which many persons of rank expressed against the conduct of the conspirators, together with the terrour of the sentence of excommunication, which the pope pronounced against them,

[b] Ferrerius, 398.

obliged them to use their victory with great moderation and humanity. Being conscious how detestable the crime of imbruing their hands in the blood of their sovereign appeared, they endeavoured to regain the good opinion of their countrymen, and to atone for the treatment of the father, by their loyalty and duty towards the son. They placed him instantly on the throne, and the whole kingdom soon united in acknowledging his authority.

James the fourth.

James the fourth was naturally generous and brave; he felt, in an high degree, all the passions which animate a young and noble mind. He loved magnificence, he delighted in war, and was eager to obtain fame. During his reign, the ancient and hereditary enmity between the king and nobles seems almost entirely to have ceased. He envied not their splendour, because it contributed to the ornament of his court; nor did he dread their power, which he considered as the security of his kingdom, not as an object of terrour to himself. This confidence on his part met with the proper return of duty and affection on theirs; and, in his war with England, he experienced how much a king beloved by his nobles is able to perform. Though the ardour of his courage, and the spirit of chivalry, rather than the prospect of any national advantage, induced him to declare war against England, such was the zeal of his subjects for the king's glory, that he was followed by as gallant an army as ever any of his ancestors had led upon English ground. But though James himself formed no scheme dangerous or detrimental to the aristocracy, his reign was distinguished by an event extremely fatal to it; and one accidental blow humbled it more than all the premeditated attacks of preceding kings. In the rash and unfortunate battle of Flowden, a brave nobility chose rather to die than to desert their sovereign. Twelve earls, thirteen lords, five eldest sons of noblemen, and an incredible number of barons, fell

with the king[c]. The whole body of the nobles long and sensibly felt this disaster; and if a prince of full age had then ascended the throne, their consternation and feebleness would have afforded him advantages which no former monarch ever possessed.

James the fifth.

But James the fifth, who succeeded his father, was an infant of a year old; and though the office of regent was conferred upon his cousin, the duke of Albany, a man of genius and enterprise, a native of France, and accustomed to a government, where the power of the king was already great; though he made many bold attempts to extend the royal authority; though he put to death lord Home, and banished the earl of Angus, the two noblemen of greatest influence in the kingdom, the aristocracy lost no ground under his administration. A stranger to the manners, the laws, and the language of the people whom he was called to rule, he acted, on some occasions, rather like a viceroy of the French king, than the governor of Scotland; but the nobles asserted their own privileges, and contended for the interest of their country with a boldness, which convinced him of their independence, and of the impotence of his own authority. After several unsuccessful struggles, he voluntarily retired to France; and, the king being then in his thirteenth year, the nobles agreed that he should assume the government, and that eight persons should be appointed to attend him by turns, and to advise and assist him in the administration of public affairs. The earl of Angus, who was one of that number, did not long remain satisfied with such divided power. He gained some of his colleagues, removed others, and intimidated the rest. When the term of his attendance expired, he still retained authority, to which all were obliged to submit, because none of them was in a condition to dispute it. The affection of the young king was the only thing wanting, to fix and per-

[c] Aber. ii. 540.

petuate his power. But an active and high-spirited prince submitted, with great impatience, to the restraint in which he was kept. It ill suited his years, or disposition, to be confined as a prisoner within his own palace; to be treated with no respect, and to be deprived of all power. He could not, on some occasions, conceal his resentment and indignation. Angus foresaw that he had much to dread from these; and, as he could not gain the king's heart, he resolved to make sure of his person. James was continually surrounded by the earl's spies and confidents; many eyes watched all his motions, and observed every step he took. But the king's eagerness to obtain liberty eluded all their vigilance. He escaped from Falkland, and fled to the castle of Stirling, the residence of the queen his mother, and the only place of strength in the kingdom which was not in the hands of the Douglases. The nobles, of whom some were influenced by their hatred to Angus, and others by their respect for the king, crowded to Stirling, and his court was soon filled with persons of the greatest distinction. The earl, though astonished at this unexpected revolution, resolved, at first, to make one bold push for recovering his authority, by marching to Stirling, at the head of his followers; but he wanted either courage or strength to execute this resolution. In a parliament held soon after, he and his adherents were attainted, and, after escaping from many dangers, and enduring much misery, he was, at length, obliged to fly into England for refuge.

James had now not only the name, but, though extremely young, the full authority of a king. He was inferior to no prince of that age in gracefulness of person, or in vigour of mind. His understanding was good, and his heart warm; the former capable of great improvement, and the latter susceptible of the best impressions. But, according to the usual fate of princes, who are called to the throne in their infancy, his education had been neglected. His private preceptors were

more ready to flatter, than to instruct him. It was the interest of those who governed the kingdom, to prevent him from knowing too much. The earl of Angus, in order to divert him from business, gave him an early taste for such pleasures, as afterwards occupied and engrossed him more than became a king. Accordingly, we discover in James all the features of a great, but uncultivated, spirit. On the one hand, violent passions, implacable resentment, an immoderate desire of power, and the utmost rage at disappointment. On the other, love to his people, zeal for the punishment of private oppressors, confidence in his favourites, and the most engaging openness and affability of behaviour.

What he himself had suffered from the exorbitant power of the nobles, led him early to imitate his predecessors, in their attempts to humble them. The plan he formed for that purpose was more profound, more systematic, and pursued with greater constancy and steadiness, than that of any of his ancestors. And the influence of the events in his reign upon those of the subsequent period renders it necessary to explain his conduct at greater length, and to enter into a more minute detail of his actions. He had penetration enough to discover those defects in the schemes adopted by former kings, which occasioned their miscarriage. The example of James the first had taught him, that wise laws operate slowly on a rude people, and that the fierce spirit of the feudal nobles was not to be subdued by these alone. The effects of the violent measures of James the second convinced him, that the oppression of one great family is apt either to excite the suspicion and resentment of the other nobles, or to enrich with its spoils some new family, which would soon adopt the same sentiments, and become equally formidable to the crown. He saw, from the fatal end of James the third, that neglect was still more intolerable to the nobles than oppression, and that the ministry of new men and favourites was both dishonourable and dangerous to a

prince. At the same time, he felt, that the authority of the crown was not sufficient to counterbalance the power of the aristocracy, and that, without some new accession of strength, he could expect no better success in the struggle than his ancestors. In this extremity, he applied himself to the clergy, hoping that they would both relish his plan, and concur, with all their influence, in enabling him to put it in execution. Under the feudal government, the church, being reckoned a third estate, had its representatives in parliament; the number of these was considerable, and they possessed great influence in that assembly. The superstition of former kings, and the zeal of many ages of ignorance, had bestowed on ecclesiastics a great proportion of the national wealth; and the authority which they acquired, by the reverence of the people, was superior even to that which they derived from their riches. This powerful body, however, depended entirely on the crown. The popes, notwithstanding their attention to extend their usurpations, had neglected Scotland, as a distant and poor kingdom, and permitted its kings to exercise powers which they disputed with more considerable princes. The Scottish monarchs had the sole right of nomination to vacant bishoprics and abbeys[d]; and James naturally concluded, that men who expected preferment from his favour, would be willing to merit it, by promoting his designs. Happily for him, the nobles had not yet recovered the blow which fell on their order at Flowden; and, if we may judge either from their conduct, or from the character given of them by sir Ralph Sadler, the English envoy in Scotland, they were men of little genius, of no experience in business, and incapable of acting either with unanimity, or with vigour. Many of the clergy, on the other hand, were distinguished by their great abilities, and no less by their ambition. Various causes of disgust subsisted between

[d] Epist. Reg. Scot. i. 197, etc. Act 125. Parl. 1540.

them and the martial nobles, who were apt to view the pacific character of ecclesiastics with some degree of contempt, and who envied their power and wealth. By acting in concert with the king, they not only would gratify him, but avenge themselves, and hoped to aggrandize their own order, by depressing those who were their sole rivals. Secure of so powerful a concurrence, James ventured to proceed with greater boldness. In the first heat of resentment, he had driven the earl of Angus out of the kingdom; and, sensible that a person so far superior to the other nobles in abilities, might create many obstacles, which would retard or render ineffectual all his schemes, he solemnly swore, that he would never permit him to return into Scotland; and, notwithstanding the repeated solicitations of the king of England, he adhered to his vow with unrelenting obstinacy. He then proceeded to repair the fortifications of Edinburgh, Stirling, and other castles, and to fill his magazines with arms and ammunition. Having taken these precautions, by way of defence, he began to treat the nobility with the utmost coldness and reserve. Those offices, which they were apt, from long possession, to consider as appropriated to their order, were now bestowed on ecclesiastics, who alone possessed the king's ear, and, together with a few gentlemen of inferior rank, to whom he had communicated his schemes, were intrusted with the management of all public affairs. These ministers were chosen with judgment; and cardinal Beatoun, who soon became the most eminent among them, was a man of superior genius. These served the king with fidelity; they carried on his measures with vigour, with reputation, and with success. James no longer concealed his distrust of the nobles, and suffered no opportunity of mortifying them to escape. Slight offences were aggravated into real crimes, and punished with severity. Every accusation against persons of rank was heard with pleasure, every appearance of guilt was examined with rigour, and every trial proved fatal to

those who were accused: the banishing Hepburn, earl of Bothwell, for reasons extremely frivolous, beheading the eldest son of lord Forbes, without sufficient evidence of his guilt, and the condemning lady Glamis, a sister of the earl of Angus, to be burnt for the crime of witchcraft, of which even that credulous age believed her innocent, are monuments both of the king's hatred of the nobility, of the severity of his government, and of the stretches he made towards absolute power. By these acts of authority, he tried the spirit of the nobles, and how much they were willing to bear. Their patience increased his contempt for them, and added to the ardour and boldness with which he pursued his plan. Meanwhile they observed the tendency of his schemes with concern, and with resentment; but the king's sagacity, the vigilance of his ministers, and the want of a proper leader, made it dangerous to concert any measures for their defence, and impossible to act with becoming vigour. James and his counsellors, by a false step which they took, presented to them, at length, an advantage which they did not fail to improve.

Motives, which are well known, had prompted Henry the eighth to disclaim the pope's authority, and to seize the revenues of the regular clergy. His system of reformation satisfied none of his subjects. Some were enraged, because he had proceeded so far, others murmured, because he proceeded no farther. By his imperious temper, and alternate persecutions of the zealots for popery, and the converts to the protestant opinions, he was equally formidable to both. Henry was afraid that this general dissatisfaction of his people might encourage his enemies on the continent to invade his kingdom. He knew that both the pope and the emperor courted the friendship of the king of Scots, and endeavoured to engage him in an alliance against England. He resolved, therefore, to disappoint the effects of their negotiations, by entering into a closer union with his

nephew. In order to accomplish this, he transmitted to James an elaborate memorial, presenting the numerous encroachments of the see of Rome upon the rights of sovereigns[e]; and that he might induce him more certainly to adopt the same measures for abolishing papal usurpation, which had proved so efficacious in England, he sent ambassadors into Scotland, to propose a personal interview with him at York. It was plainly James's interest to accept this invitation; the assistance of so powerful an ally, the high honours which were promised him, and the liberal subsidies he might have obtained, would have added no little dignity to his domestic government, and must have greatly facilitated the execution of his favourite plan. On the other hand, a war with England, which he had reason to apprehend, if he rejected Henry's offers of friendship, was inconsistent with all his views. This would bring him to depend on his barons; an army could not be raised without their assistance. To call nobles, incensed against their prince, into the field, was to unite his enemies, to make them sensible of their own strength, and to afford them an opportunity of revenging their wrongs. James, who was not ignorant that all these consequences might follow a breach with England, listened, at first, to Henry's proposal, and consented to the interview at York. But the clergy dreaded an union, which must have been established on the ruins of the church. Henry had taken great pains to infuse into his nephew his own sentiments concerning religion, and had frequently solicited him, by ambassadors, to renounce the usurped dominion of the pope, which was no less dishonourable to princes than grievous to their subjects. The clergy had, hitherto, with great address, diverted the king from regarding these solicitations. But, in an amicable conference, Henry expected, and they feared, that James would yield to his entreaties,

[e] Strype, Eccles. Mem. i. App. 155.

or be convinced by his arguments. They knew that the revenues of the church were an alluring object to a prince who wanted money, and who loved it; that the pride and ambition of ecclesiastics raised the indignation of the nobles; that their indecent lives gave offence to the people; that the protestant opinions were spreading fast throughout the nation; and that an universal defection from the established church would be the consequence of giving the smallest degree of encouragement to these principles. For these reasons, they employed all their credit with the king, and had recourse to every artifice and insinuation, in order to divert him from a journey, which must have been so fatal to their interest. They endeavoured to inspire him with fear, by magnifying the danger to which he would expose his person, by venturing so far into England, without any security but the word of a prince, who, having violated every thing venerable and sacred in religion, was no longer to be trusted; and, by way of compensation for the sums which he might have received from Henry, they offered an annual donative of fifty thousand crowns; they promised to contribute liberally towards carrying on a war with England, and flattered him with the prospect of immense riches, arising from the forfeiture of persons who were to be tried and condemned as heretics. Influenced by these considerations, James broke his agreement with Henry, who, in expectation of meeting him, had already come to York; and that haughty and impatient monarch resented the affront, by declaring war against Scotland. His army was soon ready to invade the kingdom. James was obliged to have recourse to the nobles, for the defence of his dominions. At his command, they assembled their followers, but with the same dispositions which had animated their ancestors, in the reign of James the third, and with a full resolution of imitating their example, by punishing those to whom they imputed the grievances of which they had reason to com-

plain; and if the king's ministers had not been men of abilities, superior to those of James the third, and of considerable interest even with their enemies, who could not agree among themselves what victims to sacrifice, the camp of Fala would have been as remarkable as that of Lauder, for the daring encroachments of the nobility on the prerogative of the prince. But, though his ministers were saved by this accident, the nobles had soon another opportunity of discovering to the king their dissatisfaction with his government, and their contempt of his authority. Scarcity of provisions, and the rigour of the season, having obliged the English army, which had invaded Scotland, to retire, James imagined, that he could attack them, with great advantage, in their retreat; but the principal barons, with an obstinacy and disdain which greatly aggravated their disobedience, refused to advance a step beyond the limits of their own country. Provoked by this insult to himself, and suspicious of a new conspiracy against his ministers, the king instantly disbanded an army which paid so little regard to his orders, and returned abruptly into the heart of the kingdom.

An ambitious and high-spirited prince could not brook such a mortifying affront. His hopes of success had been rash, and his despair upon a disappointment was excessive. He felt himself engaged in an unnecessary war with England, which, instead of yielding him the laurels and triumphs that he expected, had begun with such circumstances, as encouraged the insolence of his subjects, and exposed him to the scorn of his enemies. He saw how vain and ineffectual all his projects to humble the nobles had been; and that, though, in times of peace, a prince may endeavour to depress them, they will rise, during war, to their former importance and dignity. Impatience, resentment, indignation, filled his bosom by turns. The violence of these passions altered his temper, and, perhaps, impaired his reason. He became pensive, sullen, and retired. He

seemed, through the day, to be swallowed up in profound meditation, and, through the night, he was disturbed with those visionary terrours which make impression upon a weak understanding only, or a disordered fancy. In order to revive the king's spirits, an inroad on the western borders was concerted by his ministers, who prevailed upon the barons in the neighbouring provinces to raise as many troops as were thought necessary, and to enter the enemy's country. But nothing could remove the king's aversion to his nobility, or diminish his jealousy of their power. He would not even intrust them with the command of the forces which they had assembled; that was reserved for Oliver Sinclair, his favourite, who no sooner appeared to take possession of the dignity conferred upon him, than rage and indignation occasioned an universal mutiny in the army. Five hundred English, who happened to be drawn up in sight, attacked the Scots in this disorder. Hatred to the king, and contempt of their general, produced an effect to which there is no parallel in history. They overcame the fear of death, and the love of liberty; and ten thousand men fled before a number so far inferior, without striking a single blow. No man was desirous of a victory, which would have been acceptable to the king, and to his favourite; few endeavoured to save themselves by flight; the English had the choice of what prisoners they pleased to take; and almost every person of distinction, who was engaged in the expedition, remained in their hands[f]. This astonishing event was a new proof to the king of the general disaffection of the nobility, and a new discovery of his own weakness and want of authority. Incapable of bearing these repeated insults, he found himself unable to revenge them. The deepest melan-

[f] According to an account of this event in the Hamilton manuscripts, about thirty were killed, above a thousand were taken prisoners; and among them, a hundred and fifty persons of condition. Vol. ii. 286. The small number of the English prevented their taking more prisoners.

choly and despair succeeded to the furious transports of rage, which the first account of the rout of his army occasioned. All the violent passions, which are the enemies of life, preyed upon his mind, and wasted and consumed a youthful and vigorous constitution. Some authors of that age impute his untimely death to poison; but the diseases of the mind, when they rise to an height, are often mortal; and the known effects of disappointment, anger, and resentment, upon a sanguine and impetuous temper, sufficiently account for his unhappy fate. "His death," says Drummond, "proveth his mind to have been raised to an high strain, and above mediocrity; he could die, but could not digest a disaster." Had James survived this misfortune, one of two things must have happened: either the violence of his temper would have engaged him openly to attack the nobles, who would have found in Henry a willing and powerful protector, and have derived the same assistance from him, which the malecontents, in the succeeding reign, did from his daughter Elizabeth; in that case, a dangerous civil war must have been the certain consequence: or, perhaps, necessity might have obliged him to accept of Henry's offers, and be reconciled to his nobility; in that event, the church would have fallen a sacrifice to their union; a reformation, upon Henry's plan, would have been established by law; a great part of the temporalities of the church would have been seized; and the friendship of the king and barons would have been cemented by dividing its spoils.

Such were the efforts of our kings towards reducing the exorbitant power of the nobles. If they were not attended with success, we must not, for that reason conclude, that they were not conducted with prudence. Every circumstance seems to have combined against the crown. Accidental events concurred with political causes, in rendering the best-concerted measures abortive. The assassination of one king, the sudden death of another, and the fatal despair of a third, contributed,

no less than its own natural strength, to preserve the aristocracy from ruin.

The extraordinary influence of the Scottish kings in parliament.

Amidst these struggles, the influence, which our kings possessed in their parliaments, is a circumstance seemingly inexplicable, and which merits particular attention. As these assemblies were composed chiefly of the nobles, they, we are apt to imagine, must have dictated all their decisions; but, instead of this, every king found them obsequious to his will, and obtained such laws, as he deemed necessary for extending his authority. All things were conducted there with despatch and unanimity; and, in none of our historians, do we find an instance of any opposition formed against the court in parliament, or mention of any difficulty in carrying through the measures which were agreeable to the king. In order to account for this singular fact, it is necessary to inquire into the origin and constitution of parliament.

The reasons of it.

The genius of the feudal government, uniform in all its operations, produced the same effects in small, as in great societies; and the territory of a baron was, in miniature, the model of a kingdom. He possessed the right of jurisdiction, but those who depended on him being free men, and not slaves, could be tried by their peers only; and, therefore, his vassals were bound to attend his courts, and to assist both in passing and executing his sentences. When assembled on these occasions, they established, by mutual consent, such regulations, as tended to the welfare of their small society; and often granted, voluntarily, such supplies to their 'superior,' as his necessities required. Change now a single name; in place of baron, substitute king, and we behold a parliament, in its first rudiments, and observe the first exertions of those powers, which its members now possess as judges, as legislators, and as dispensers of the public revenues. Suitable to this idea, are the appellations of the 'king's court[g],' and of the 'king's

[g] Du Cange, voc. curia.

great council,' by which parliaments were anciently distinguished; and suitable to this, likewise, were the constituent members of which it was composed. In all the feudal kingdoms, such as held of the king in chief were bound, by the condition of their tenure, to attend and to assist in his courts. Nor was this esteemed a privilege, but a service[h]. It was exacted, likewise, of bishops, abbots, and the greater ecclesiastics, who, holding vast possessions of the crown, were deemed subject to the same burthen. Parliaments did not continue long in this state. Cities gradually acquired wealth, a considerable share of the public taxes were levied on them, the inhabitants grew into estimation, and, being enfranchised by the sovereign, a place in parliament was the consequence of their liberty, and of their importance. But, as it would have been absurd to confer such a privilege, or to impose such a burthen, on a whole community, every borough was permitted to choose one or two of its citizens to appear, in the name of the corporation; and the idea of 'representation' was first introduced in this manner. An innovation, still more important, naturally followed. The vassals of the crown were, originally, few in number, and extremely powerful; but, as it is impossible to render property fixed and permanent, many of their possessions came, gradually, and by various methods of alienation, to be split and parcelled out into different hands. Hence arose the distinction between the 'greater' and the 'lesser barons.' The former were those who retained their original fiefs undivided; the latter were the new and less potent vassals of the crown. Both were bound, however, to perform all feudal services, and, of consequence, to give attendance in parliament. To the lesser barons, who formed no inconsiderable body, this was an intolerable grievance. Barons sometimes denied their tenure, boroughs renounced their right of elect-

[h] Du Cange, voc. placitum, col. 519. Magna Charta, art. 14. Act. Jac. I. 1425. cap. 52.

ing, charters were obtained, containing an exemption from attendance; and the anxiety, with which our ancestors endeavoured to get free from the obligation of sitting in parliament, is surpassed by that only with which their posterity solicit to be admitted there. In order to accommodate both parties, at once, to secure to the king a sufficient number of members in his great council, and to save his vassals from an unnecessary burthen, an easy expedient was found out. The obligation to personal attendance was continued upon the greater barons, from which the lesser barons were exempted, on condition of their electing in each county, a certain number of 'representatives,' to appear in their name. Thus a parliament became complete in all its members, and was composed of lords spiritual and temporal, of knights of the shires, and of burgesses. As many causes contributed to bring government earlier to perfection in England than in Scotland; as the rigour of the feudal institutions abated sooner, and its defects were supplied with greater facility in the one kingdom than in the other; England led the way in all these changes, and burgesses and knights of the shire appeared in the parliaments of that nation, before they were heard of in ours. Burgesses were first admitted into the Scottish parliaments by Robert Bruce[i]; and in the preamble to the laws of Robert the third, they are ranked among the constituent members of that assembly. The lesser barons were indebted to James the first for a statute exempting them from personal attendance, and permitting them to elect representatives: the exemption was eagerly laid hold on; but the privilege was so little valued, that, except one or two instances, it lay neglected during one hundred and sixty years; and James the sixth first obliged them to send representatives regularly to parliament[k].

A.D. 1326.

A.D. 1427.

[i] Abercromby, i. 635.

[k] Essays on Brit. Antiq. Ess. ii. Dalrymp. Hist. of Feud. Prop. ch. 8.

A Scottish parliament, then, consisted anciently of great barons, of ecclesiastics, and a few representatives of boroughs. Nor were these divided, as in England, into two houses, but composed one assembly, in which the lord chancellor presided[l]. In rude ages, when the science of government was extremely imperfect among a martial people, unacquainted with the arts of peace, strangers to the talents which make a figure in debate, and despising them, parliaments were not held in the same estimation as at present; nor did haughty barons love those courts, in which they appeared with such evident marks of inferiority. Parliaments were often hastily assembled, and it was, probably, in the king's power, by the manner in which he issued his writs, for that purpose, to exclude such as were averse from his measures. At a time, when deeds of violence were common, and the restraints of law and decency were little regarded, no man could venture with safety to oppose the king in his own court. The great barons, or lords of parliament, were extremely few; even so late as the beginning of the reign of James the sixth[m], they amounted only to fifty-three. The ecclesiastics equalled them in number, and, being devoted implicitly to the crown, for reasons which have been already explained, rendered all hopes of victory in any struggle desperate. Nor were the nobles themselves so anxious, as might be imagined, to prevent acts of parliament favourable to the royal

[l] In England, the peers and commons seem early to have met in separate houses; and James the first, who was fond of imitating the English in all their customs, had probably an intention of introducing some considerable distinction between the greater and lesser barons in Scotland; at least he determined that their consultations should not be carried on under the direction of the same president, for by his law, a. d. 1327, it is provided, "that out of the commissioners of all the shires shall be chosen a wise and expert man, called the common speaker of the parliament, who shall propose all and sundry needs and causes pertaining to the commons in the parliament or general council." No such speaker, it would seem, was ever chosen; and, by a subsequent law, the chancellor was declared perpetual president of parliament.

[m] And. Coll. vol. i. pref. 40.

prerogative; conscious of their own strength, and of the king's inability to carry these acts into execution, without their concurrence, they trusted that they might either elude or venture to contemn them; and the statute revoking the king's property, and annexing alienated jurisdictions to the crown, repeated in every reign, and violated and despised as often, is a standing proof of the impotence of laws, when opposed to power. So many concurring causes are sufficient, perhaps, to account for the ascendant which our kings acquired in parliament. But, without having recourse to any of these, a single circumstance, peculiar to the constitution of the Scottish parliament, the mentioning of which we have hitherto avoided, will abundantly explain this fact, seemingly so repugnant to all our reasonings concerning the weakness of the king, and the power of the nobles.

As far back as our records enable us to trace the constitution of our parliaments, we find a committee distinguished by the name of 'lords of articles.' It was their business to prepare and to digest all matters, which were to be laid before the parliament. There was rarely any business introduced into parliament, but what had passed through the channel of this committee; every motion for a new law was first made there, and approved of, or rejected by the members of it; what they approved was formed into a bill, and presented to parliament; and it seems probable, that what they rejected could not be introduced into the house. This committee owed the extraordinary powers vested in it, to the military genius of the ancient nobles; too impatient to submit to the drudgery of civil business, too impetuous to observe the forms, or to enter into the details necessary in conducting it, they were glad to lay that burthen upon a small number, while they themselves had no other labour than simply to give, or to refuse, their assent to the bills which were presented to them. The lords of articles, then, not only directed all the proceedings of parlia-

ment, but possessed a negative before debate. That committee was chosen and constituted in such a manner, as put this valuable privilege entirely in the king's hands. It is extremely probable, that our kings once had the sole right of nominating the lords of articles[n]. They came afterwards to be elected by the parliament, and consisted of an equal number out of each estate, and most commonly of eight temporal and eight spiritual lords, of eight representatives of boroughs, and of the eight great officers of the crown. Of this body, the eight ecclesiastics, together with the officers of the crown, were entirely at the king's devotion, and it was scarce possible that the choice could fall on such temporal lords and burgesses, as would unite in opposition to his measures. Capable either of influencing their election, or of gaining them when elected, the king commonly found the lords of articles no less obsequious to his will, than his own privy council; and, by means of his authority with them, he could put a negative upon his parliament before debate, as well as after it; and, what may seem altogether incredible, the most limited prince in Europe actually possessed, in one instance, a

[n] It appears from authentic records, that a parliament was appointed to be held March 12, 1566, and that the lords of articles were chosen, and met on the 7th, five days before the assembling of parliament. If they could be regularly elected so long before the meeting of parliament, it is natural to conclude that the prince alone possessed the right of electing them. There are two different accounts of the manner of their election, at that time, one by Mary herself, in a letter to the archbishop of Glasgow: "We, accompanied with our nobility for the time, past to the Tolbooth of Edinburgh, for holding of our parliament on the 7th day of this instant, and elected the lords articulars." If we explain these words according to the strict grammar, we must conclude, that the queen herself elected them. It is, however, more probable, that Mary meant to say, that the nobles, then present with her, viz. her privy counsellors, and others, elected the lords of articles. Keith's Hist. of Scotland, p. 331. The other account is lord Ruthven's, who expressly affirms that the queen herself elected them. Keith's Append. 126. Whether we embrace the one or the other of these opinions, is of no consequence. If the privy counsellors and nobles, attending the court, had a right to elect the lords of articles, it was equally advantageous for the crown, as if the prince had had the sole nomination of them.

prerogative which the most absolute could never attain[o].

[o] Having deduced the history of the committee of lords of articles as low as the subject of this preliminary book required, it may be agreeable, perhaps, to some of my readers, to know the subsequent variations in this singular institution, and the political use which our kings made of these. When parliaments became more numerous, and more considerable, by the admission of the representatives of the lesser barons, the preserving their influence over the lords of articles became, likewise, an object of greater importance to our kings. James the sixth, on pretence that the lords of articles could not find leisure to consider the great multitude of affairs laid before them, obtained an act, appointing four persons to be named out of each 'estate,' who should meet twenty days before the commencement of parliament[1], to receive all supplications, etc. and, rejecting what they thought frivolous, should engross in a book what they thought worthy the attention of the lords of articles. No provision is made in the act for the choice of this select body, and the king would, of course, have claimed that privilege. In 1633, when Charles the first was beginning to introduce those innovations which gave so much offence to the nation, he dreaded the opposition of his parliament, and, in order to prevent that, an artifice was made use of to secure the lords of articles for the crown. The temporal peers were appointed to choose eight bishops, and the bishops eight peers; these sixteen met together, and elected eight knights of the shire, and eight burgesses, and to these the crown officers were added as usual. If we can only suppose eight persons of so numerous a body, as the peers of Scotland were become by that time, attached to the court, these, it is obvious, would be the men whom the bishops would choose, and, of consequence, the whole lords of articles were the tools and creatures of the king. This practice, so inconsistent with liberty, was abolished during the civil war; and the statute of James the sixth was repealed. After the restoration, parliaments became more servile than ever. What was only a temporary device, in the reign of Charles the first, was then converted into a standing law. "For my part," says the author from whom I have borrowed many of these particulars, "I should have thought it less criminal in our restoration parliament, to have openly bestowed upon the king a negative before debate, than, in such an under-hand artificial manner, to betray their constituents, and the nation." Essays on Brit. Antiq. 55. It is probable, however, from a letter of Randolph's to Cecil, 10 Aug. 1560, printed in the appendix, that this parliament had some appearance of ancient precedent to justify their unworthy conduct. Various questions concerning the constituent members of the Scottish parliament; concerning the æra at which the representatives of boroughs were introduced into that assembly; and concerning the origin and power of the committee of lords of articles, occur, and have been agitated with great warmth. Since the first publication of

[1] Act 222. Parl. 1594.

State of Europe, at the beginning of the sixteenth century.

To this account of the internal constitution of Scotland, it will not be improper to add a view of the political state of Europe, at that period, where the following history commences. A thorough knowledge of that general system, of which every kingdom in Europe forms a part, is not less requisite towards understanding the history of a nation, than an acquaintance with its peculiar government and laws. The latter may enable us to comprehend domestic occurrences and revolutions; but, without the former, foreign transactions must be altogether mysterious and unintelligible. By attending to this, many dark passages in our history may be placed in a clear light; and where the bulk of historians have seen only the effect, we may be able to discover the cause.

The subversion of the feudal government in France, and its declension in the neighbouring kingdoms, occasioned a remarkable alteration in the political state of Europe. Kingdoms, which were inconsiderable, when broken, and parcelled out among nobles, acquired firmness and strength, by being united into a regular monarchy. Kings became conscious of their own power and importance. They meditated schemes of conquest, and engaged in wars at a distance. Numerous armies were raised, and great taxes imposed for their subsistence. Considerable bodies of infantry were kept in constant pay; that service grew to be honourable; and cavalry, in which the strength of European armies had, hitherto, consisted, though proper enough for the short and voluntary excursions of barons, who served at their own expense, were found to be unfit either for making or defending any important conquest.

It was in Italy, that the powerful monarchs of France and Spain and Germany first appeared to make a trial of their new strength. The division of that country into

this work, all these disputed points have been considered with calmness and accuracy in Mr. Wight's Inquiry into the Rise and Progress of Parliament, etc. 4to. edit. p. 17, etc.

many small states, the luxury of the people, and their effeminate aversion to arms, invited their more martial neighbours to an easy prey. The Italians, who had been accustomed to mock battles only, and to decide their interior quarrels by innocent and bloodless victories, were astonished, when the French invaded their country, at the sight of real war; and, as they could not resist the torrent, they suffered it to take its course, and to spend its rage. Intrigue and policy supplied the want of strength. Necessity and self-preservation led that ingenious people to the great secret of modern politics, by teaching them how to balance the power of one prince, by throwing that of another into the opposite scale. By this happy device, the liberty of Italy was long preserved. The scales were poized by very skilful hands; the smallest variations were attended to, and no prince was allowed to retain any superiority, that could be dangerous.

A system of conduct, pursued with so much success in Italy, was not long confined to that country of political refinement. The maxim of preserving a balance of power is founded so much upon obvious reasoning, and the situation of Europe rendered it so necessary, that it soon became a matter of chief attention to all wise politicians. Every step any prince took was observed by all his neighbours. Ambassadors, a kind of honourable spies, authorized by the mutual jealousy of kings, resided almost constantly at every different court, and had it in charge to watch all its motions. Dangers were foreseen at a greater distance, and prevented with more ease. Confederacies were formed to humble any power which rose above its due proportion. Revenge or self-defence were no longer the only causes of hostility, it became common to take arms out of policy; and war, both in its commencement and its operations, was more an exercise of the judgment, than of the passions of men. Almost every war in Europe became general, and the most inconsiderable states acquired

importance, because they could add weight to either scale.

Francis the first, who mounted the throne of France in the year one thousand five hundred and fifteen, and Charles the fifth, who obtained the imperial crown in the year one thousand five hundred and nineteen, divided between them the strength and affections of all Europe. Their perpetual enmity was not owing solely either to personal jealousy, or to the caprice of private passion, but was founded so much in nature and true policy, that it subsisted between their posterity for several ages. Charles succeeded to all the dominions of the house of Austria. No family had ever gained so much by wise and fortunate marriages. By acquisitions of this kind, the Austrian princes rose, in a short time, from obscure counts of Hapsbourg, to be archdukes of Austria and kings of Bohemia, and were in possession of the imperial dignity by a sort of hereditary right. Besides these territories in Germany, Charles was heir to the crown of Spain, and to all the dominions which belonged to the house of Burgundy. The Burgundian provinces engrossed, at that time, the riches and commerce of one half of Europe; and he drew from them, on many occasions, those immense sums, which no people, without trade and liberty, are able to contribute. Spain furnished him a gallant and hardy infantry, to whose discipline he was indebted for all his conquests. At the same time, by the discovery of the new world, a vein of wealth was opened to him, which all the extravagance of ambition could not exhaust. These advantages rendered Charles the first prince in Europe; but he wished to be more, and openly aspired to universal monarchy. His genius was of that kind which ripens slowly, and lies long concealed; but it grew up, without observation, to an unexpected height and vigour. He possessed, in an eminent degree, the characteristic virtues of all the different races of princes to whom he was allied. In forming his schemes, he dis-

covered all the subtilty and penetration of Ferdinand his grandfather; he pursued them with that obstinate and inflexible perseverance which has ever been peculiar to the Austrian blood; and, in executing them, he could employ the magnanimity and boldness of his Burgundian ancestors. His abilities were equal to his power; and neither of them would have been inferior to his designs, had not providence, in pity to mankind, and in order to preserve them from the worst of all evils, universal monarchy, raised up Francis the first, to defend the liberty of Europe. His dominions were less extensive, but more united, than the emperor's. His subjects were numerous, active, and warlike, lovers of glory, and lovers of their king. To Charles, power was the only object of desire, and he pursued it with an unwearied and joyless industry. Francis could mingle pleasure and elegance with his ambition; and, though he neglected some advantages, which a more phlegmatic or more frugal prince would have improved, an active and intrepid courage supplied all his defects, and checked or defeated many of the emperor's designs.

The rest of Europe observed all the motions of these mighty rivals with a jealous attention. On the one side, the Italians saw the danger which threatened christendom, and, in order to avert it, had recourse to the expedient, which they had often employed with success. They endeavoured to divide the power of the two contending monarchs into equal scales, and, by the union of several small states, to counterpoize him whose power became too great. But what they concerted with much wisdom, they were able to execute with little vigour; and intrigue and refinement were feeble fences against the encroachments of military power.

On the other side, Henry the eighth, of England, held the balance with less delicacy, but with a stronger hand. He was the third prince of the age in dignity and in power; and the advantageous situation of his dominions, his domestic tranquillity, his immense wealth,

and absolute authority, rendered him the natural guardian of the liberty of Europe. Each of the rivals courted him with emulation; he knew it to be his interest to keep the balance even, and to restrain both, by not joining entirely with either of them. But he was seldom able to reduce his ideas to practice; he was governed by caprice more than by principle; and the passions of the man were an over-match for the maxims of the king. Vanity and resentment were the great springs of all his undertakings, and his neighbours easily found the way, by touching these, to force him upon many rash and inconsistent enterprises. His reign was a perpetual series of blunders in politics; and while he esteemed himself the wisest prince in Europe, he was a constant dupe to those who found it necessary, and could submit, to flatter him.

In this situation of Europe, Scotland, which had hitherto wasted her strength, in the quarrels between France and England, emerged from her obscurity, took her station in the system, and began to have some influence upon the fate of distant nations. Her assistance was frequently of consequence to the contending parties, and the balance was often so nicely adjusted, that it was in her power to make it lean to either side. The part assigned her, at this juncture, was to divert Henry from carrying his arms into the continent. That prince having routed the French at Guinegat and invested Terouenne, France attempted to divide his forces, by engaging James the fourth in that unhappy expedition which ended with his life. For the same reason, Francis encouraged and assisted the duke of Albany to ruin the families of Angus and Home, which were in the interest of England, and would willingly have persuaded the Scots to revenge the death of their king, and to enter into a new war with that kingdom. Henry and Francis having united, not long after, against the emperor, it was the interest of both kings, that the Scots should continue inactive; and a long tranquillity

was the effect of their union. Charles endeavoured to break this, and to embarrass Henry by another inroad of the Scots. For this end, he made great advances to James the fifth, flattering the vanity of the young monarch, by electing him a knight of the Golden Fleece, and by offering him a match in the imperial family; while, in return for these empty honours, he demanded of him to renounce his alliance with France, and to declare war against England. But James, who had much to lose, and who could gain little, by closing with the emperor's proposals, rejected them with decency, and, keeping firm to his ancient allies, left Henry at full liberty to act upon the continent with his whole strength.

Henry himself began his reign, by imitating the example of his ancestors, with regard to Scotland. He held its power in such extreme contempt, that he was at no pains to gain its friendship; but, on the contrary, he irritated the whole nation, by reviving the antiquated pretensions of the crown of England to the sovereignty over Scotland. But his own experience, and the examples of his enemies, gave him a higher idea of its importance. It was impossible to defend an open and extensive frontier against the incursions of an active and martial people. During any war on the continent, this obliged him to divide the strength of his kingdom. It was necessary to maintain a kind of army of observation in the north of England; and, after all precautions, the Scottish borderers, who were superior to all mankind in the practice of irregular war, often made successful inroads, and spread terrour and desolation over many counties. He fell, at last, upon the true secret of policy, with respect to Scotland, which his predecessors had too little penetration to discover, or too much pride to employ. The situation of the country, and the bravery of the people, made the conquest of Scotland impossible; but the national poverty, and the violence of faction, rendered it an easy matter to divide

and to govern it. He abandoned, therefore, the former design, and resolved to employ his utmost address in executing the latter. It had not yet become honourable for one prince to receive pay from another, under the more decent name of a subsidy. But, in all ages, the same arguments have been good in courts, and of weight with ministers, factious leaders, and favourites. What were the arguments, by which Henry brought over so many to his interest, during the minority of James the fifth, we know by the original warrant still extant[P], for remitting considerable sums into Scotland. By a proper distribution of these, many persons of note were gained to his party, and a faction, which held secret correspondence with England, and received all its directions from thence, appears henceforward in our domestic contests. In the sequel of the history, we shall find Henry labouring to extend his influence in Scotland. His successors adopted the same plan, and improved upon it. The affairs of the two kingdoms became interwoven, and their interests were often the same. Elizabeth divided her attention almost equally between them; and the authority which she inherited in the one, was not greater than that which she acquired in the other.

[P] Burn. Hist. Ref. vol. i. p. 7.