

## V.—WIG AND GOWN.

**W**HEREAS it has been suggested that if the law profession ever desire a patron saint they should endeavour to canonise Ananias; AND WHEREAS it would appear that on such an occasion the Devil's advocate would render this very difficult; AND WHEREAS, notwithstanding this prospective circumstance, it is not known why the profession which aims at setting all things right should be identified with dishonesty of speech to any extent; AND WHEREAS the same must ever remain one of those vagaries of human nature for which there is no accounting; AND WHEREAS, notwithstanding the unfavourable traditions which have gained credence, the law profession, as it exists in anecdote and story, affords some interesting illustrations of life and character; THEREFORE in the whole circumstances we prefer to leave off for consideration at present the truthfulness or otherwise of the stigma which lies upon the profession, and turn our attention to the profession in the light of wit and humour; IN WITNESS WHEREOF,

An under-grieve on the estate of the laird of Logan, happening to get involved in an action of damages, took legal counsel how he could extricate

himself. His adviser told him that in his opinion he had no resource left but to make a humble apology, or be assessed in a serious sum, which he had little doubt would be the result of the action. His proud spirit could ill brook the humbling condition of an apologist, and the latter alternative would have been ruinous to him, so he went on scratching his head for a considerable time, without saying which alternative he should adopt. The lawyer, getting impatient, demanded an answer to his proposal in a very angry and decisive tone of voice. "Toots, Mr. M——," said the Laird, who was present at the interview, "dinna be sae flighty—it's a puzzling case; the lad, you see, is thrang consulting the crown lawyers on the matter—you might gi'e him a wee time. Clawawa', Jock."

A man from the country applied to a writer for legal advice. After detailing the circumstances of the case, he was asked if he had stated the facts exactly as they occurred. "Ou, ay, sir," rejoined the applicant, "I thought it best to tell you the plain truth; you can put the lees till't yoursel'."

One sometimes hears about the exorbitant fees which are made at the law, but these did not seem to appeal to the auld laird, who, when engaged in selecting a liberal profession for his son, thus delivered his thoughts upon the subject—"When I gang through the New Toon o' Edinburgh, I see this ane *Vriter*, and that ane *Vriter*—amaist every house has a *Vriter* leevin' in't. Fient ha'e me, but

I think I'll ha'e to mak' oor Jock a Writer too; no' that I think the callant likely ever to mak' onything by it; but juist it may aiblins keep the lave aff him."

When death is likely to take place the writer is called to set things in order. Robbie Davidson lived, or rather subsisted, on a small croft for sixty years. A writer from a neighbouring town, thinking he was worth money, advised him on various occasions to make his will, and at last he reluctantly gave his consent. Seating himself at the table and adjusting his spectacles, the writer proceeded to note down details. "I wad like," explained Robbie, "to leave twa hunder to ma auldest laddie, and say a hunder to the piece o' the ither bairns, and maybe the hoose and plenishin' and onything that's ower to the wife." "Dear me," exclaimed the writer, looking up in astonishment, "I had no idea you had so much as that!" "Me," replied the crofter with a chuckle, "I havena a rap. I'm juist tellin' ye what I wad like to dae."

The "Faculty" in the south are fond of relating the story of the Lochmaben writer, who, after a stirring address to the jury, managed to get a particularly bad character acquitted of a charge of stealing a pair of trousers. When the verdict was announced the prisoner refused to quit the dock. "Ye can leave noo," said the writer. "Man, I daurna," was the reply in a stage whisper, "I've got the breeks on!" Something like this happened in

the same district at a later date. A tramp, named Peter Jackson, was brought before the Kirkcudbright Sheriff, charged with stealing a gold chain and other articles from Ravenshall, where he had been provided with a night's lodgings in an out-house. Sheriff Lyell asked Peter whether he wanted an "agent" to defend him. "No, my Lord," was the reply, "I am only wishing to speak the truth." "Very well," said his Lordship, "there is a saying to the effect that a man who is his own lawyer has a fool for a client." With a magnificent contempt for proverbial philosophy, Peter conducted his own case with great ability, and so far convinced the jury of innocence that they returned a verdict of "Not proven," and he left the Court with flying colours. As soon as the prisoner was liberated Mrs. Cliff-M'Culloch, of Ravenshall, entered into negotiations with him for the return of the watch chain, which she valued very much, and in exchange for a new suit of clothes and ten shillings, Peter sent back not only the chain but other stolen articles which were not specified in the indictment.

Some amusing incidents come out in evidence. A writer, accusing a witness of not having any opinions on any subject, received the reply, "'Deed ay, sir! I havena tried to ha'e ony openions o' my ain for a wheen years." "For how many years?" asked the writer. "I canna rightly say," answered

the witness in a tone of dejection, "but it's sin I was mairrit."

An action was brought before Sheriff G—, Glasgow, to recover the value of two barrels of herrings furnished many years before. "Why such long delay?" asked his Lordship. "Why," said the pursuer, "I again and again, whenever I could find him, asked for payment, until at last he told me to go to the devil; upon which I thought it was high time for me to come to your Lordship."

A notorious poacher was brought before the Sheriff Court at Jedburgh for engaging in the practice of illegally killing salmon. He was found guilty, and fined 30s., with the option of ten days' imprisonment. The culprit pled inability to pay the fine, and the Sheriff asked him how long he would require to make it up. "Weel, my Lord," returned the prisoner, scratching his head, "that a' depends on hoo the fish come up the water."

A couple who had contracted an irregular marriage came before the Sheriff to have the union duly confirmed. The Sheriff, in an absent-minded manner, when the parties came before him, called upon the defender and pursuer to step to the front, whereupon the bride bridled up in indignation, and exclaimed, "There's nae pursuer in the case, your Lordship. We have just come here to be lawfully married."

A farmer was sued by a gamekeeper for damages for assault, and the pursuer's agent endeavouring

to show that the farmer was of a quarrelsome disposition, asked him if he did not fight with every gamekeeper he came across? "No me," said the farmer, "I never fecht wi' onybody." "Do you mean to say that you did not fight with George Lawson last month?" pursued the agent. "Hoots," said the defender, "I see what ye're drivin' at noo. Geordie and me had a bit argument ae day. He ca'd me a leear, so I juist flung him ower the dyke. But there was nae fechtin' about it."

At a jury trial in Lanark, where three labourers were charged with a serious assault on two Highlandmen, the Fiscal, as usual, put several questions to the complainers, to show to the Court the justness of the charge, and to all these questions the Highlanders answered most readily, always anticipating the legal querist with such as "Ou yes, sir, your honour, it was as you'll spoke, all that and more too, as Donald my friend will told you." "Yes, it is," replied Donald, "it's all true, and moreover, more nor that besides, but she didna want to say no more against the poor lads down there, to make an anger against them—'deed is't." The Fiscal having stated the case, the counsel for the defence commenced a searching cross-examination, when the Donalds got fairly entangled, and fearing the case was to go against them, the elder of the two at length addressed the judge with the words, "Och, sir, would you let the tither man

spoke?" pointing to the Fiscal; "I like him far better."

During the examination of the principal witness in a trial for housebreaking, one of the counsel was rather "taken down" by the witness's reply. "What time of night was it when you saw the prisoner in your room?" enquired the lawyer. "About three o'clock, sir." "Was there any light in the room at the time?" "No, sir, it was quite dark." "Could you see your husband at your side?" "No, sir." "Then," said the lawyer triumphantly, "please explain to the Court, madam, how you could see the prisoner, and yet could not see your husband." "My husband was out of town, sir!" was the unexpected reply.

A village carpenter "processed" a farmer for a long-standing debt which he was unable to collect. On being asked by the Sheriff to give details of how the amount had accumulated, he replied, "Weel, I've made him cairts, an' I've made him barrows; I've made him lethers, and guid kens what I ha'ena made him. I've made him coffin efter coffin, an' I've never seen the colour o' his siller!"

A young man from a country district had the misfortune to appear before the Sheriff of a northern county on a charge of alleged misdemeanour. It was his first offence, and being acquitted, he was eagerly questioned by his comrades as to the court-house. "Weel," said he, "'twas a gey dowie-lookin' placie, wi' a decent lang-haired carl i' the

poopit, but a set o' richt impident deevils i' the choir."

Jock and Tam, two worthies in the East of Scotland, were discussing a case which Tam had before the Sheriff. "An' hoo did ye get on wi' the Shirra, then, Tam?" queried Jock. "Oh," said Tam, "the Shirra took the case to avizandum. "Avizandum?" enquired Jock. "Where in the world's that, Tam?" "'Od, I'm no very sure about it," returned Tam, "but I think it's about twa mile oot frae Kirrie."

"Whaur are ye gaun the day, Donal'?" queried a rustic of a friend whom he saw dressed in his Sabbath suit. "Oh, I am juist gaun to the Sheriff," was Donald's answer. "The Sheriff!" said his friend. "What have ye been daein' that ye're gaun to the Sheriff?" "I havena been daein' naething, but I'll juist tell ye hoo it was," and Donald settled down to an explanation. "My wife's fond o' crab aiples, an' my sister's awfu' fond o' crab aiples, an' we have a freen in Glesca that's awfu' fond o' crab aiples. Weel, ye ken, there's a crab aiple tree at the fit o' oor gairden. So ae day I gaed awa' doon to get some crab aiples, for ye ken they're a' sae fond o' crab aiples. And I took a lang stick, wi' a cleek at the end o't, to pu' doon the brenches, ye ken; an' was juist plouterin' awa' in the watter wi' the cleek—juist ploutrin' awa'—an' a sawmon cam' up an' gruppit the cleek, an' I pu'ed, an' the sawmon pu'ed, an' I got angry, an' the sawmon got



angry, an' wi' that a muckle chiel cam' by, an' he said I was poachin'. So that's the wye I'm gaun to the Sheriff."

It is amazing how women will endeavour to save their husband from goal—and that even when the husbands are on trial for wife-beating. A poor-looking woman endeavoured in Glasgow Sheriff Court to make as much of the provocation as possible, and maintained that she was very much under the influence of liquor all that day, and had pawned her husband's boots without his knowing. Sheriff Balfour, recognising an attempt to screen the enormity of the husband's offence, said to the woman in cautioning tones, "But didn't your boy get his dinner that day?" "Yes," said the witness. "And who cooked it?" queried the Sheriff. "Me," was the reply. "What was it?" continued the judge. "Mince collops," answered the witness. "You cannot have been drunk when you cooked a dinner," concluded the Sheriff. "Oh yes, I was drunk, maintained the woman. "No, no," added his Lordship, smiling, "a drunk woman does not cook a dinner."

A Coupar-Angus man was sued for debt at Perth, and on the day of the trial was met by a friend on the High Street of the Fair City. "By-the-bye," said the friend, "ye've a case in the coort the day." "Hoch! it's owre an oor syne," was the reply. "an' hoo cam' ye on?" inquired the friend. "I wan," replied the litigant. "Ye wan!" exclaimed

the surprised interrogator, who knew that the debt was a just enough one. — “Hoo did ye manage to win?” “Daugon’d!” exclaimed the defender, “I couldna but win; the thing was left to my ain oath.” This anecdote illustrates the common enough belief that the oath is merely a thing of expediency, and on one occasion a number of witnesses “swore” a young man so clearly out of an alleged assault that a spectator, who was subsequently to be called on a similar charge, was heard whispering to a friend—“Lord, Tam, I wad gi’e a pound for half-an-oor o’ thae witnesses.”

In olden times it seems to have been the habit openly to bribe the jurymen by allowing each of them half a guinea if their verdict was for the Crown counsel, but nothing if the prisoner was allowed to get off. On one occasion in Glasgow, when a merchant was under trial, the Crown counsel, at the close of his speech for the prosecution, reminded the jury that their receipt of the half guinea depended on their verdict. This gross injustice at once roused the accused to call out to the jury “Gentlemen, if ye fin’ for me, I’ll gi’e ye a guinea a-piece.” The judge, however, rebuked him severely for attempting to bribe the jury, but he promptly replied, “That fellow there began it, and I’ll double it wi’ him ony day.”

In the hearing of a poaching case the gamekeeper from the estate from which the game had been taken was examined. He was speaking vigorously

to the great size of the bag containing the rabbits, and the judge asked if he was sure there was nothing but rabbits in the bag. "Naething, your honour, but a lot o' d——d rabbits!" the excited gamekeeper blurted out, when the judge interjected in a quiet, dignified way, "No adjectives, no adjectives!" "No, your honour," replied the witness, misunderstanding the words, "naething but rabbits, naething but rabbits!"

The name of Sheriff Comrie Thomson, the well-known Q.C., is connected with one or two interesting stories. A merchant tailor who lived in Kirriemuir ordered from a book agent a complete set of an Encyclopædia, which was being published in monthly parts. All went well till the delivery of the last volume, which proved to be about one-half larger than any of the others. Delivery was refused on the ground that the book was not according to sample and broke the uniformity of the set, and the disputing parties ultimately agreed to submit their difference to the Sheriff. The book-agent stated his case, and Mr. Thomson advised the tailor to take delivery, adding, "Now, Mr. —, don't be foolish; if the book is larger they don't propose to charge you anything extra; and you ought to consider you are having a bargain." "Well," pleaded the knight of the needle, "I'm a tailor, and if your Lordship were to order a coat from me, and I quoted a price, and afterwards delivered the coat a half bigger than you wanted it, you would, I have no

doubt, refuse delivery. And then I might say, 'Don't be foolish, Sheriff; the coat, it's true, is much larger than you want, but the cloth is the same, and I won't make any extra charge. You ought to consider you are having a bargain.'" Verdict for the tailor with costs.

A Highlander, who spoke English imperfectly, was a very unwilling witness, and his evidence could only be wormed out by the most particular inquiry. At last, however, counsel addressed to him the crucial question he had been leading up to, upon which the witness turned to the Sheriff with an imploring look, and said, "Your worship, if this gentleman be going to ask me any more questions, he'll have to ask them in Gaelic, for my English has run done."

Sandy Gibb, master blacksmith in a Lanarkshire town, was cited as a witness in a case between two of his workmen. The Sheriff, after hearing the testimony, asked Sandy why he did not advise them to settle, seeing the costs had already amounted to three times the disputed claim. "Weel, Shirra," replied Sandy, "I did advise the fules to settle, an' I tell't baith o' them that the Shirra-officer wad tak' their coats, the lawyers their sarks, an' gif they cam' into your worship's haun's ye'd tear the skin aff them."

The manner in which evidence is given is sometimes a great source of annoyance. A rural witness, after relating how the defender struck him, ex-

plained, "So, your Lordship, I juist up and gi'ed him a wipe. Juist then his dog cam' alang, and I hit him again." "Hit the dog?" queried the Sheriff. "No, your Lordship, hit M'Lure. And then I up wi' a stane an' hit him a whack, and he rolled ower an' ower." "Threw a stone at M'Lure?" asked the judge. "At the dog, your Lordship. Weel, he got up an' hit me again." "The *dog*?" interrogated the Sheriff. "No; M'Lure. An' wi' that he stuck his tail atween his legs an' went aff." "M'Lure?" queried the judge. "No; the dog. An' when he cam' back at me he pounded me." "The *dog* came back at you?" asked the Sheriff. "No; M'Lure, your Lordship. An' he isna hurt a bit." "Who isn't hurt?" asked the judge in a state of perplexity. "The dog, your Lordship."

A young girl was charged at the Glasgow Circuit Court with having inflicted a serious wound on an aged female, and it was suspected that the whole affair was got up with a view to ruin the culprit. The witnesses were subjected to a searching cross-examination. "Well," said counsel to the person who had been hurt, "you say it was the prisoner who inflicted the wound?" "Yes." "You're sure of the cow." "Did you not make a noise?" "Oh, yes, "Did anybody see her do it?" "My own dochter Mary heard the loudest noise, and she micht have seen it, but she was away to the barn for strae to the cow. "Did you not make a noise?" "Oh, yes, made a noise as loud as I'll cried, but nobody was

hearing me." "Was there no dog in the house to protect you?—in the farmhouse you usually have dogs." "Oh, yes, there was a tog, and a very good tog he was too; but he was an English tog, and didna understand the language."

Lord Y—— was trying a case by jury one day, when a grocer, who had been summoned as a jurymen, came running into Court saying, "Excuse me, my Lord, but I am in an awful predicament. In fact, I don't know whether my wife or daughter will die first." He was at once excused. A few days later a friend, who had been in court, inquired of him about his wife and daughter's health. "Oh! they are all right," replied the grocer; "but wasna yon a good trick to get off? I'm sure naebody does ken whether my wife or daughter will die first; in fact, I dinna ken myself."

A counsel who had defended a murderer without success went to the cell to condole with the convict. "What can I do for you, Macfarlane?" asked the counsel. "Weel, sir, if you get my Sawbath clothes I should be muckle obleeged." "What do you want them for, Macfarlane?" queried the advocate. "Weel, sir," replied the condemned man, "I wad like to wear them on the occasion, just to show respect for the deceased."

An amusing incident occurred some years ago at a Circuit Court, in presence of a judge whose peculiarities of temper were more than compensated by his many excellent qualities. Their lordships and

suite had just met, and were proceeding to investigate a rather interesting case, when their deliberations were interrupted by a continued knocking at the outer court-door. Again and again the shrill-tongued officer ejaculated, "Silence! silence there!" to little or no purpose. At length the judge exclaimed, "What's the meaning of all that noise? Officers, what are you all about, that you don't put an end to that constant shuffle-shuffling?" "It's a man, my lord," replied the officer. "A man! what man, sir? who, where is he, and what does he want?" "He's at the outside, please your lordship, and wants to get in." "Well, keep him *out*; keep him out, I say, sir" The officer bowed or nodded assent, and the business of the court proceeded. By-and-bye, however, an individual possessing the right of entrance walked into the hall of justice, and the man, watching his opportunity, slipped in at the same time. With a levity and restlessness, however, by no means uncommon, he had not been well inside ere he wished to get out again, and began to jostle everybody near him, a proceeding which, as it created a hubbub, necessarily drew forth a fresh rebuke from the president of the court. "What's all this now? enquired the judge "Even if my ears were as sharp as those of Dionysius, and the room in which I sit as well contrived as the celebrated vault in which he kept his prisoners, it would be impossible for me to hear one word that the witness is saying." "It's *the man*,

my lord." "What! the same man?" "The verra same." "Well, what does he want?" "He wants to get out, please your worship." "Then keep him *in*; keep him in, I say, sir." The obedient officer did as he was directed; but the persevering "man" was not to be so easily driven from his purpose. Watching an opportunity, and elbowing his way to an open window, he attempted to mount the sill, and appeared, contrary to all rule, to be meditating his escape in that direction; but the vigilant officer again caught the delinquent, and a fresh tumult ensued. His lordship appeared angry, as well he might, and a third time exclaimed, "What's the matter now? Is there to be no end to this?" "It's *the man*, my lord." "What! the same man again! Show me the fellow, and I'll *man* him." The officer here pointed to a respectable enough looking individual, who, as he said, wanted to get up. "Well, keep him *down*." There was silence for a minute or two, but the disturber of the court contrived to effect his purpose, and it was not long till he began to testify as much dissatisfaction with his elevation as he had done in all his former situations. The business was once more interrupted, and the judge demanded what was the matter. The officer informed him that "the *man* had *cruppen* up on the window-sole, and wanted to get down again." "Up on the window-sole! Well, keep him *up*; keep him up, I say, sir, if it should be to the day of judgment!"



“What is golf?” was a question which the innocence of the bench once raised, and a learned advocate thus irreverently defined the game for the benefit of the judge, “I believe, my Lord, that the game of golf is played in irregular fields or waste grounds with a small ball which the player tries to hit with a stick. If he succeeds in hitting the ball, he spends the rest of the day in looking for it.”

A judge who talked in an inflated and pompous manner, told a legal friend that his brother in the country had fallen from a stile and sprained his foot. “It was fortunate for your brother,” remarked the friend, “that it was not from your *style* he fell, or he had certainly broken his neck.”

Many attempts are made to evade the law, but these nearly always meet with the success they deserve. A dealer hired a horse to a lawyer, who, either through bad usage or by accident, killed the animal, and the hirer insisted on payment of its value. As it was not convenient to pay the costs, he agreed to accept a bill, and the horse-dealer was so obliging as to allow the lawyer to fix his own time, upon which the writer wrote out a promissory note payable at the day of judgment. An action ensued, and in defence, the lawyer asked the judge to look at the bill. “The bill is perfectly good, sir,” said the judge, observing the attempt to defeat justice; “and, as this is the day of judgment, I decree that you pay to-morrow.”

Lord Kames, like other judges, could be coarse

upon occasion. Matthew Hay, with whom he had often played chess, was tried before him for murder at Ayr in 1780, and when the jury brought in a verdict of guilty, his lordship unfeelingly exclaimed, "That's checkmate to you, Matthew!"

Lord Dun, when Lord Ordinary, was distinguished for his piety. When any difficult case came before him he used to say, "O Lord, what am I to do? Eh, sirs, I wish ye wad go an' mak' it up!"

James Ferguson, an eloquent advocate, when debating a case before Lord Polkemmet, repeatedly and vigorously thumped the table to emphasize his pleadings, till at length his lordship exclaimed, "Maister Jamie, dinna dunt—ye may think ye're duntin' it *intill* me, but ye're juist duntin' it *oot* o' me, man!"

Lord Cockburn when at the bar defended a prisoner, who, notwithstanding his impassioned eloquence, was sentenced to be hanged on the 17th of the following month. After sentence had been pronounced the condemned man reproached his counsel with having failed to get justice done him. "Never mind that," said Cockburn somewhat sharply, and with apparent reference to his guilt, "have a little patience, and justice will be done you on the 17th."

In his "Circuit Journeys," Cockburn tells of a shepherd at New Galloway with whom he had a "crack," being much offended at the slight put upon his river by asking him if it was the "Tarf?"



"Tarf! de'il a drap o' 'Tarf's in't. That's the Black Water o' Dee!—the *auuncientest water in Scotland.*"

Lord Braxfield was perhaps the coarsest judge who ever donned the ermine. On his butler giving him notice to leave, his lordship demanded the reason. "Because," said the man, "her ladyship is aye flytin' me." "Hech!" said the judge, "is that a'? Ye've little to complain o', Sandy. I tell ye, ye may be thankfu' ye're no' married to her!"

A prisoner was once brought before him on a capital charge. The accused pleaded his own case with singular ingenuity, but the judge drily observed, "Ye're a vera clever chiel, man, but ye wad be nane the waur o' a hangin'."

In a political case which came before him, it was pled in defence that "Christianity was an innovation, and that all great men had been reformers, even our Saviour Himself." "Muckle He made o' that," chuckled Braxfield, in an under voice, "He was hangit."

Two drouthy lawyers were one morning pleading before Lord Braxfield, and as it was evident that they were suffering from the effects of their respective debauches of the previous night, he thus unceremoniously addressed them, "Gentlemen, ye may juist pack up your papers and gang hame. The tane o' ye's riftin' punch, and the ither's belching claret, and there'll be nae good got oot o' ye the day."

When Erskine succeeded Dundas as Lord-Advo-

cate, the latter offered to lend him his official robes, playfully assuring him that it was not worth while having them made, as he would not require them long. "No, thank you," retorted Erskine, "I will not assume the abandoned habits of my predecessors."

Sir James Colquhoun, Bart., of Luss, Principal Clerk of Session, was one of the odd characters of his time, and was much teased by the wags of Parliament House. Henry Erskine, when at the Inner House during the advising of an important case, amused himself by making faces at Sir James, who was sitting at the Clerk's table, beneath the judges. Annoyed at the strange conduct of the tormenting lawyer, the Principal Clerk disturbed the gravity of the Court by exclaiming, "My Lord, my Lord, I wish you would speak to Harry, he's aye making faces at me!" Erskine, however, was now as grave as a judge, and the advising went on, when Sir James looking towards the bar, witnessed a new grimace from his tormentor, and convulsed the bench, bar, and audience by roaring out, "There, my Lord, he's at it again!"

Erskine was as remarkable for his ready wit as he was indifferent to the rules of pronunciation, and in pleading before a learned senator he spoke of a *curator bonis*. "Allow me to correct you," said his Lordship, "the word is *curaator*." "Thank you, my Lord," said Erskine. "I doubt not your Lord-

ship is right, since you are so learned a senaator, and so eloquent an oraator."

Eskgrove succeeded Braxfield as head of the Criminal Court. When addressing a jury, if a name could be pronounced in more ways than one he gave them all. Syllable he invariably called *sylla-bill*, and the letter "g," when the final letter in any word, was pronounced, and strongly so. He was fond of employing unnecessary adjectives, and the article "a" was generally made into *one*. He described a good man as "one excellent, and worthy, and amia-bill, and agreeabill, and very good man." Condemning a tailor to death for murdering a soldier by stabbing him, he addressed him with the words, "And not only did you murder him, whereby he was bereaved of his life, but you did thrust, or push, or pierce, or project, or propell the le-thal weapon through the belly-band of his regimen-tal breeches, which were his Ma-jes-ty's!"

In addressing a jury he frequently proceeded to direct their judgment with the words, "And so, gentlemen, having shown you that the pannell's argument is utterly impossibill, I shall now proceed to show you that it is extremely improbabill."

Lord Hermand was another well-known legal luminary. As an advocate he was eminently successful, and when it was known he was to speak the Court was filled. His eagerness made him froth and splutter, and a story is told to the effect that, when he was pleading in the House of Lords, the

Duke of Gloucester, who was about fifty feet from the bar, and always attended when "Mr. George Fergusson, the Scotch counsel," was to speak, rose and said, with pretended gravity, "I shall be much obliged to the learned gentleman if he will be so good as to refrain from spitting in my face."

The austerity of the Court does not prevent a joke being made, and tricks were sometimes played on the judges. In a provincial Court somebody put a musical snuffbox under one of the cushions, and it soon began to play "Jack's Alive." Lord Hermand, who was the presiding judge, was struck with horror and indignation, and cried out, "Macer, what is that? What can it be?" The macer was as much puzzled as his lordship; but a person in the audience answered, "It's 'Jack's Alive,' my Lord." "Alive or dead, put him out this minute!" exclaimed the angry judge. The culprit, however, could not be found; and, to the relief of everybody, the music suddenly ceased. But a short time afterwards it recommenced, and produced another explosion on the part of the irate judge. "Ah! He's there again, is he? But he shall not escape this time. Bar the doors of the Court, and let no man leave, living or dead, at your peril!" Search proved fruitless; the disorderly intruder remained invisible; and the perplexed Judge was at length constrained to admit that the thing had been "a *deceptio auris*—a delusion of the Evil One himself."

Hermand showed great contempt for statute law,

and frequently exclaimed, "A statute! What's a statute? Words—mere words! And am *I* to be tied down by words? No, my Laards. I go by the law of *right reason*, my Laards. I *feel* my law—*here*, my Laards"—striking his heart. It must have been the recollection of this anecdote that prompted a young solicitor before the Stirling Sheriff Court to explain, when a number of cases were cited bearing on the point at issue, that he was there to get *justice*, not law."

Drinking, in Hermand's estimation, was a virtue; and this was shewn when he was engaged in a case where a man was charged with stabbing another to death in the course of a night's carousal. "They had been carousing the whole night," exclaimed Hermand, "and yet he stabbed him! After drinking a whole bottle of rum with him! Good God, my Laards, if he will do this when he's drunk, what will he not do when he's sober?"

Hermand was very intimate with Lord Eldon, and they were counsel together in Eldon's first important entail case in the House of Lords. Eldon wrote out his intended speech, and getting Hermand to dine with him, took out the document, read it, enquired Hermand's opinion of it, and asked him if it would do. "Do, sir?" exclaimed Hermand, "it is delightful—absolutely delightful! I could listen to it for ever! It is so beautifully written and so beautifully read! But, sir, it is the greatest non-



sense! It may do very well for an English Chancellor; but it would disgrace a clerk with us."

John Clerk, after pleading a case before Lord Hermand, resumed his seat to await judgment. Hermand took up the case rather warmly, and in the excited, and, as Clerk thought, party views which the bench took, the saliva from the judge's lips was spurted on the face of the sarcastic advocate, who remarked, "I ha'e often heard o' the dew's of Hermon, but never felt them afore this nicht."

Although a very distinguished advocate, and afterwards Lord Eldin, Clerk never got away from the vernacular, and his speech betrayed his nationality to the last. In an appeal case before the House of Lords, he concluded his argument with, "That's the hail thing in plain English, ma lorrds." "Plain Scotch you mean, Mr. Clerk," said Lord Eldon. "Nae maitter," returned the advocate, "in plain commonsense, ma lorrds, an' that's the same in a' languages, we ken weel eneuch."

The judges are men who never scruple to make merry at the expense of all with whom they come in contact. They have also the quality of being able to relish a pleasantry directed against themselves—if it is not too severe. When on one occasion they decided against a young lawyer, he exclaimed, with some heat, that "he was astonished at such a decision." The Court, scandalised at this impertinence, threatened to commit the rash junior to the Tolbooth for contempt. John Clerk, however,

arose, and instantly restored good humour. "My lords," he said, "if my young friend had known your lordships as long as I have, he would long since have ceased to be astonished at any decision of your lordships."

Certain localities are in bad odour with the bench for their habitual litigiousness, and the numerous cases of doubtful character that are brought from them by appeal from the lower courts. A country practitioner, who had a case under debate before Lord Eldin, in the Court of Session, frequently interrupted the course of the debate by thrusting himself forward, and making suggestions to his counsel. At length the repeated intrusion became intolerable, and his Lordship in his usual pawky manner addressed the country writer with the query, "Gin I may speir, my man, whar do ye belang to?" "My Lord, I practise in Beith." "Ay, and whar were ye brought up?" "I served my time, my Lord, in Kilwinning." "Ou ay, and sin' ye ha'e been sae free, ye'll maybe tell us whar ye were born?" "'Deed, my Lord, I was born in Kilmaurs." "Born in Kilmaurs, bred in Kilwinning, and practising in Beith. It's my opinion, lad, ye would stand a gude chance if ye would put up as a candidate for procurator to the deevil!"

While Meadowbank was yet an advocate, but had prospects of being raised to the bench, he asked Clerk to suggest a title. "Lord Preserve Us!" said Clerk, and moved off. After Mr. M'Conachie be-

came Lord Meadowbank, he had a case brought before him in which Clerk was counsel, and his Lordship took occasion to suggest to Clerk that in a number of process he might have varied the frequently used expression "also," by "likewise." "I beg your pardon, my Lord," said Clerk, "but the terms are not always synonymous." "In every case," retorted Meadowbank, gruffly. Clerk still dissented. "Then cite an instance," demanded the Judge. "Well," remarked Clerk, "your Lordship's father was a Judge of Session. You are a Judge of Session *also*, but not *like-wise*."

Clerk was waited on by one of the civic dignitaries of Hawick for advice about the rights of the burgh, which were attempted to be infringed on by a selfish lord of the soil in the neighbourhood. The Magistrate, in explaining his case, stated it exactly as "Dandie Dinmont" did to "Pleydell;" in other words, took the most favourable points, and in effect just pled his own case, and tried the patience of the sarcastic counsel by his prosy harangue. Mr. Clerk heard him to the end with as much patience as he could command, and changed the subject by remarking, "You'll be grand breeders o' nowt about Hawick, nae doubt?"

Witnesses are often the source of much amusement. Cockburn was exceedingly happy in the management of witnesses who hailed from country places, and one case in which Jeffrey and he were engaged as counsel is memorable. The principal

question concerned the sanity of one of the parties. "Is the defender, in your opinion, perfectly sane?" said Jeffrey, examining a plain, simple-looking country man. The witness gazed in bewilderment, and gave no answer. "Do you think," said Jeffrey repeating the question, "the defender is perfectly capable of managing his own affairs?" Still there was no response. "I ask you, do you consider the man is perfectly rational?" said the counsel for the third time, but again without success. "Let me tackle him," said Cockburn. Assuming his broadest tone and accent, Cockburn turned to the witness, and asked, "Ha'e ye your mull wi' ye?" "Ou ay!" said the countryman, and drawing forth his snuff-horn he handed it to the witty counsel. "Noo, hoo lang ha'e ye kent John Sampson?" inquired Cockburn, tapping the mull and taking a pinch. "Ever since he was that heicht," was the ready reply, the witness indicating with his hand the alleged altitude, "An' d'ye really think noo," continued the advocate, seeing he had got on the right track, "atween you an' me, that there's onything ava intill the creatur'?" "I wadna lippen him wi' a bull-stirk," was the instant rejoinder.

Jeffrey once poured out a flood of abuse upon an unfortunate witness at such breathless speed that the reporters toiled after him in vain, and when he had finished his harangue, the victim remarked, with an air of the utmost indifference, "Weel, that's

wonnerfu' ! He has spoken the hale English language three times ower in twa hours !”

Although there is much to interest spectators in the conducting of criminal causes, it stands to reason that the “address to the jury” must in many cases be a time of weariness to disengaged counsel.

At a trial in Jedburgh, in which Moncrieff, Jeffrey, and Cockburn were engaged as counsel, while the former was addressing the jury, Jeffrey, with a view to passing time, handed a slip of paper to Cockburn, with the following case for his Opinion :—“A legacy was lately left by an old lady to the *Peer* of Aberdeen. As the will was written by the Dowager herself, and by no means distinguished for correctness of orthography or expression, a dispute has arisen as to the intent of the testator ; and the following claimants have appeared for the legacy—1st, the Earl of Aberdeen ; 2nd, the Commissioners for erecting the pier at Aberdeen ; and, 3rd, the Manager of the Charity Workhouse, who grounds his right on the fact that the old lady was in the habit, *more majorum*, of pronouncing poor *Peer*. To which of the parties does the money belong ?” Without much consideration Cockburn penned his Opinion. It was in the following amusing terms :—“To none of the three ; but to the Horticultural Society of Scotland for the purpose of promoting the culture of a sort of fruit called, or to be called, *the Pear of Aberdeen*.”

Jeffrey, in addressing a jury, had occasion to

speaking freely of a military officer who was a witness, and having frequently described him as "this soldier," the witness, resenting such reference as undignified, at last called out, "Don't call me a soldier, sir; I am an officer!" "Well, gentlemen of the jury," proceeded Jeffrey, "this officer, who, according to his own statement, is no soldier," etc.

Scotch canniness is often seen in the verdict which is so frequently given in the civil court, and which is fast becoming as proverbial and famous as the historic "Jeddart justice." The verdict, "not proven," is in many cases nothing more than a defeating of the ends of justice. The *Sketch*, writing of the famous Ardlamont case, commented strongly on the verdict returned by the "intelligent jury." The case, although uneventful (said the *Sketch*), had a certain fascination, because all the time one was expecting something to happen. The verdict will probably cause some derision in foreign countries; even in England a few people are saying that it is so very Scotch, so drily humorous to have the fifteen men listening all those weary hours to the evidence—to evidence reported by the *Scotsman* in 346,000 words—and in the end making up their minds that they could not make them up at all.

Bench and Bar do not seem now to be the arena of wit and humour they once were. Recently in an action a learned judge, emulating a distinguished predecessor, took great pains to make clear to the "gentlemen of the jury" the various terms which

had been used in the evidence. The epithet "Johnny" had been employed, and his Lordship explained that a "Johnny" seemed to be a man who owed more to his tailor than to Nature. The definition satisfied the Court, and it was left for the press to add point to the observation. A writer in the *Scotsman* pointed out that the legal definition was probably a good one, but that it should also be borne in mind that a "Johnny" was a man who owed more to his tailor than he was ever likely to pay.

Apart from the Courts, the doings of "Wig and Gown" are chronicled in many stories. Lord Forglen was very eccentric in his ways, and his piety was quite as remarkable as his learning. Charles Forbes and Betty Kinloch—who afterwards became Lady Milton—formed part of his household, and every Sabbath evening family worship was regularly held. At the usual time his lordship would observe, "Betty, ye ha'e a sweet voice, raise ye the psalm. Charlie, ye ha'e a strong voice, read ye the chapter. Davie, my man, see that ye fire the plate!" The plate contained some excellent burnt brandy for the use of the company. Whenever David, the serving man, blew out the flame the worship ceased, and the family brought the day's proceedings to a close by participating in a modest nightcap.

The dignity of the ermine could not always restrain Lord Forglen's vivacity. Once walking along the river side with Lord Newhall, a judge dis-

tinguished for his solemnity of character, Lord Forglen shocked him by remarking, "Noo, my lord, this is a fine walk. If ye want to pray to God, can there be a better place? An' if ye want to kiss a bonny lass, can there be a better place?"

Sir Walter Scott, while making a tour of the Western Highlands, wrote to the innkeeper of Arrochar to have rooms prepared for him. On the appointed day it rained ceaselessly. As Scott approached the inn, he was met on the hill near the house by the landlord, who, with bared head, and backing every yard as Scott advanced, thus addressed him, "Gude guide us, Sir Walter! This is just awfu'! Sick a downpour! Was ever the like? I really beg your pardon! I'm sure it's no fault of mine. I canna think how it should happen to rain this way, just as you, o' a' men of the warld, should come to see us. It looks amaist personal! I can only say, for my part, I'm just ashamed o' the weather!"

It was once customary for the judges to give a dinner at the Circuit towns to all the legal training which followed them. Lord Kames, while in Perth, being of a parsimonious disposition, defrauded the company then dining with him of their usual allowance of claret. The conversation having turned on Sir Charles Hardy's fleet, which was then blockaded by the French, one of the company asked what had become of the British fleet. Mr. Henry Erskine, who was present, replied, with some point and hu-



mour, "They are like us, sir; they are confined to port."

Lord Kellie, presiding at a convivial party in Edinburgh, requested a gentleman present to do something to amuse the company. The gentleman begged to be excused. Lord Kellie insisted that he should either sing a song, crack a joke, or tell a story, whereupon the gentleman thus pressed began, "One day," said he, "a thief, in the course of his rounds, saw the door of a church open. He walked in, and laid his hands upon all he considered worthy of lifting; but on returning to the door he found it, to his consternation, shut. As the only means of escape left, he resolved to let himself down by the bell-rope. The bell, of course, rang, the people were alarmed, and the thief was taken just as he reached the ground. When they were dragging him away, he looked up and addressed the bell as I now address your lordship, 'Had it not been,' he said, 'for your lang tongue and your empty head, I had made my escape.'"

A self-important Sheriff was one day walking through a field, when he saw a bull making at him full speed. Taking to his heels he made for the fence, and clambering over just as the bull reached him, he found its owner on the other side calmly surveying the situation, and indulging in a fit of laughter at his discomfiture. "What do you mean, sir," asked the irate Sheriff, "by having a bull like that roaming at large in the fields?" "Well," said

the farmer, "I think he has some right in the field, which is more than you have." "Right! right," said the incensed man of law. "Do you know who you are speaking to? I am Sheriff So-and-so." "Then," replied the farmer, "why the deil did ye no' tell the bull that."

The game of curling, like death, levels all class distinction. Jack is as good as his master at a curling match. A noted poacher in the south was as famous as a curler as he was notorious as a poacher. At a curling match he was playing on the same side as the Sheriff of the county, who had more than once sentenced Archie, as the poacher was called, to various terms of imprisonment. It was the Sheriff's turn to play, and Archie was standing at the "tee" in the greatest excitement. "Noo, Shirra," cried Archie, "div you see that stan?" pointing to one belonging to the opposite side, lying close to the "tee." "Yes, I see it, Archie," said the Sheriff. "Aweel, Shirra," returned Archie, "juist gi'e that ane sixty days, and we're a' richt."

Sheriff Logan went with a friend to one of the balls which are regularly given during the winter season for the amusement of the patients at the Lunatic Asylum, Morningside. The Sheriff, after two or three dances were finished, thinking he would like to experience the sensation of dancing with a lunatic, mentioned the matter to Dr. Skae, the medical superintendent. "Certainly," said the doctor; "come and I'll introduce you to a partner." The

Sheriff had observed among the inmates a fine-looking young woman, and he had made up his mind to dance with her if he were allowed to dance at all. Accordingly, he said to the doctor, "Thank you, but if you have no objection, I'll find a partner for myself." Having secured the partner of his choice and gone to the floor, the Sheriff thought he would endeavour to find out on what point the young lady he had chosen was insane. To do this, he asked her when opportunity occurred. "Are you a queen?" "Are you a princess?" "Are you a countess?" "Are you an angel?" and a great many similar questions. To each question he got not only a negative, but a very rational reply. The Sheriff having escorted his partner to her seat when the dance was finished, the doctor joined him, and hoped he had enjoyed his quadrille. "Oh, very much indeed," said he, "but tell me," he added, "what is wrong with that lady I was dancing with, for I could find nothing wrong with her; to every question I put she gave me a rational and most intelligent answer." "I don't wonder at that," said the doctor, "your partner was one of the housemaids." The housemaid's opinion of her partner must also be told. Sitting down beside a fellow servant, she said, "Did you see that gentleman I was dancing with? He's awful bad; he asked me if I was a queen, and if I was a princess, and an angel, and a lot more things. I think he must be one of last week's arrivals. Anyway, he's awful bad, poor fellow, awful bad!"

Long ago more so than now there was many a lawyer with more law in his head than cash in his pocket. One such, by name Baldie Robertson, got Boswell the obliging to accompany him to Luckie Rannie's in search of rooms. Boswell, he thought, was a capital hand to help him to beat down the price. After the preliminary skirmish, Luckie delivered her ultimatum, "Ye sall ha'e them for a guinea a week, nae less, an' you maun furnish coal an' caunle." "But," cried Baldie, with great emotion, "I tell you, woman, I have neither coal nor candle!"

Lord Newton was as eminent for his tipping qualifications as he was for his legal ability. He was proposing to buy an estate, and mentioned this to a legal friend, saying at the same time he should like it to be one with a well-sounding name, as he might perhaps take his title from it. "Well, my lord," was the reply, "there is the estate of Drunkie in the market. Buy it, and then ye'll no' need to tak' it amiss when fowk say ye're drunk aye."

The Edinburgh lawyers of a past generation were much addicted to hard drinking. On one occasion a well-known advocate engaged with a judge in a tremendous bouse, which lasted all night until within a single hour of the time when the Court was to meet next morning. The advocate, in the hurry of his toilet, thrust the pack of cards he had been using over night into the pocket of his gown, and in opening his case to plead before the judge—his

boon companion of the previous evening—he, in pulling out his handkerchief, drew out at the same time the fifty-two witnesses of the previous evening's debauch, which fell scattered within the bar. "Mr C——," said his judicial associate in guilt, with the utmost coolness, "before you begin your case I think ye had better tak' up your hand."

A lawyer, who was rather fond of the barley bree, was one day visiting some friends, with whom his two daughters were spending a short holiday. They, knowing their father's weakness, told him when he arrived that they could guess what were mother's last words before he left home. "And what were they, my dears?" asked the father. "Her last words were," said they, "be sure and not get fou." "Ah, you are wrang there, my lasses," returned the father triumphantly; "for her last words were, 'Be sure ye come back sober!'"

Somehow or other, as remarked at the outset, the lawyer has the reputation of being wicked.

A sign painter carried a bill to a lawyer for payment, and the lawyer, after examining it, asked, "Do you expect any painters will go to heaven if they make such charges as these?" "I have heard of but one that went," said the painter, "and he behaved so bad that they determined to turn him out; but there being no lawyer present to draw up a writ of ejectment, he remained."

John Clerk when away from the bar could indulge in a flowing bowl with a boon companion. On one occasion he dined freely at the house of a friend in

Queen Street, Edinburgh, and wending his way homewards in the morning, he failed to discover his own house in Picardy Place. Observing a housemaid engaged in cleaning a doorstep, he enquired, "My good girl, can you tell me whaur John Clerk lives?" "Awa' wi' your nonsense," said the girl in some astonishment, "you're John Clerk himsel'." "That's true enough, lassie," replied the advocate, "but it's no' John Clerk I'm seekin', it's John Clerk's house."

Clerk had a halt in his gait, and when passing along the street one day, he overheard a lady remark to a friend, "That's John Clerk, the lame lawyer." "No, madam," said he, turning back and looking at the lady, "I am a lame man, but not a lame lawyer."

A distinguished luminary of the bench was once enjoying a round on the golf links at Musselburgh. The party behind, aggrieved at his leisurely movements, repeatedly "drove into" him, at which his Lordship was exceedingly wroth. Irritated eventually beyond endurance he stood aside and requested his tormentors to pass. As they did so he inquired of his caddy the identity of one of the offending players, and was informed that he was a well-known bailie, who had held for many years an important position on the Water Trust. With a significant glance at the bailie's enlarged and roseate proboscis, the judge viciously retorted, "I could trust that man with any amount of water."

Lord Young when one of the Lords Ordinary in the Outer House, had a somewhat heavy roll of business, partly owing to a vacancy on the bench having been kept open longer than usual. One of his colleagues at the time was Lord Craighill, and the new judge, when at last he was appointed, took the courtesy title of Lord Curriehill. On the appointment being announced Lord Young gratefully quoted the opening lines of the 121st Psalm—

"I to the *Hills* will lift mine eyes,  
From whence doth come mine aid."

Once Lord Young and Lord Deas were on Circuit together at Glasgow. According to custom Court was opened with prayer by a prominent divine. At luncheon afterwards Lord Young said to a friend who was lunching with the judges, "Very long prayer that fellow gave us to-day, but after all I suppose it quite right that when Deas goes on Circuit the attention of the Almighty should be called to the fact."

The chairman of the Second Division of the Court of Session is the Lord Justice-Clerk, the Right Honourable John Hay Athole Macdonald. In a cause in that Court one of the litigants was named Macdonald. "Dear me," said Lord Young, reading over the papers in the case. "I thought there were no Macdonalds outside Skye." "Not at all," replied the Lord Justice-Clerk, "you'll find Macdonalds all the world over." "Well," was the rejoinder, "that's very true; you sometimes find them in the most unexpected places."