

CHAP. III.

JAMES THE FIRST.

 CONTEMPORARY PRINCES.

King of England.
Henry VI.

| *King of France.*
Charles VII.

| *Popes.*
Martin V.
Eugene IV.

IN James the First, Scotland was at length destined to receive a sovereign of no common character and endowments. We have seen, that when a boy of fourteen, he was seized by the English, and from that time till his return in 1424, twenty years of his life, embracing the period of all others the most important and decisive in the formation of future character, had been passed in captivity. If unjust in his detention, Henry the Fourth appears to have been anxious to compensate for his infringement of the law of nations by the care which he bestowed upon the education of the youthful monarch. He was instructed in all the warlike exercises, and in the high-bred observances and polished manners of the school of chivalry; he was generously provided with masters in the various arts and sciences, and as it was the era of the revival of learning in England, the age especially of the rise of poetic literature, in Chaucer and Gower, his mind and imagination became deeply

infected with a passion for those elegant pursuits. But James, during his long captivity, enjoyed far higher advantages. He was able to study the arts of government, to make his observations on the mode of administering justice in England, and to extract wisdom and experience from a personal acquaintance with the disputes between the sovereign and his nobility, whilst in the friendship and confidence with which he appears to have been uniformly treated by Henry the Fifth, who made him the partner of his campaigns in France, he became acquainted with the politics of both countries, received his education in the art of war from one of the greatest captains whom it has produced; and, from his not being personally engaged, had leisure to avail himself to the utmost of the opportunities which his peculiar situation presented. There were other changes also, which were then gradually beginning to manifest themselves in the political condition of the two countries, which, to his acute and discerning mind, must necessarily have presented a subject of thought and speculation—I mean the repeated risings of the commons against the intolerable tyranny of the feudal nobility, and the increased wealth and consequence of the middle classes of the state, events which, in the moral history of those times, are of deep interest and importance, and of which the future monarch of Scotland was a personal observer. The school, therefore, in which James was educated seems to have been eminently qualified to produce a wise and excellent king, and the history of his reign corroborates this observation.

On entering his kingdom, James proceeded to Edinburgh, where he held the festival of Easter; and on the twenty-first of May he and his queen were solemnly crowned in the abbey church of Scone. According to an ancient hereditary right, the king was placed in the royal seat by the late governor, Murdoch Duke of Albany and Earl of Fife, whilst Henry Wardlaw, Bishop of St Andrews, the same faithful prelate to whom the charge of his early education had been committed, anointed his royal master, and placed the crown upon his head, amid a splendid assembly of the nobility and clergy, and the shouts and rejoicings of the people. The king then proceeded to bestow the honour of knighthood upon Alexander Stewart the younger, son of the Duke of Albany; upon the Earls of March, Angus, and Crawford; William Hay of Errol, Constable of Scotland, John Scrymgeour, Constable of Dundee, Alexander Seton of Gordon, and eighteen others of the principal nobility and barons;¹ after which he convoked his parliament on the 26th of May, and proceeded to the arduous task of enquiring into the abuses of the government, and adopting decided measures for their reformation.

Hitherto James had been but imperfectly informed regarding the extent to which the government of Albany and his feeble successor had promoted, or permitted, the grossest injustice and the most unli-

¹ Extracta ex Chronicis Scotiae, MS. fol. 269, 270. Fordun a Goodal, vol. ii. p. 474.

censed speculation. He had probably suspected that the picture had been exaggerated; and with that deep and deliberate policy which constituted a striking part of his character, he resolved to conduct his investigations in person, before he gave the slightest hint of his ultimate intentions. It is said, indeed, that when he first entered the kingdom, the dreadful description given by one of his nobles of the unbridled licentiousness and contempt of the laws which every where prevailed, threw him for a moment off his guard. "Let God but grant me life," cried he, with a loud voice, "and there shall not be a spot in my dominions where the key shall not keep the castle, and the furze-bush the cow, though I myself should lead the life of a dog to accomplish it!"² This, however, was probably spoken in confidence, for the object of the king was to inform himself of the exact condition of his dominions without exciting alarm, or raising a suspicion which might foster opposition and induce concealment. The very persons who sat in this parliament, and through whose assistance the investigation must be conducted, were themselves the most atrocious defaulters; an imprudent word escaping him, and much more a sudden imprisonment or a hasty, perhaps an unsuccessful, attempt at impeachment, would have been the signal for the nobles to fly to their estates and shut themselves up in their feudal castles, where they could have defied every effort of the king to apprehend them; and in this way all his

² Fordun a Goodal, vol. ii. p. 511.

plans might have been defeated or indefinitely protracted, and the country plunged into something approaching to a civil war.

The three estates of the realm having been assembled, certain persons were elected for the determination of the "Articles" to be proposed to them by the king, leave of returning home being given to the other members of the parliament. Committees of parliament had already been introduced by David the Second, on the ground of general convenience, and the anxiety of the barons and landholders to be present on their estates during the time of harvest, "*causa autumnii.*"¹ From this period to the present time, embracing an interval of more than half a century, the destruction of the records of the parliaments of Robert the Second and Third, and of the government of Albany and his son, renders it impossible to trace the progress of this important change, by which we now find the lords of the articles "*certe persone ad articulos,*" in an acknowledged institution, in the room of the parliamentary committees of David the Second; but it is probable that the king availed himself of this privilege to form a small body of the nobility, clergy, and burgesses, of whose fidelity he was secure, and who lent him their cordial assistance in the difficult and dangerous task upon which he now engaged.

The parliament opened with an enactment, commanding all men to honour the church, declaring that

¹ Acts of the Parliament of Scotland, vol. i. sub anno, History, vol. ii. p. 280.

its ministers should enjoy, in all things, their ancient freedom and established privileges, and that no person should dare to hinder the clergy from granting leases of their lands or tithes, under the spiritual censures commonly incurred by such prevention. A proclamation follows, directed against the prevalence of private war and feuds amongst the nobility, enjoining the king's subjects to maintain thenceforward a firm peace throughout the realm, and discharging all barons, under the highest pains of the law, from "moving or making war against each other; from riding through the country with a more numerous following of horse than properly belongs to their estate, or for which, in their progress, due payment is not made to the king's lieges and hostellers. All such riders or gangars," upon complaint being made, are to be apprehended by the officers of the lands where the trespass has been committed, and kept in sure custody till the king declares his pleasure regarding them; and, in order to the due execution of this and other enactments, it is ordained that officers and ministers of the laws be appointed generally throughout the realm, whose personal estate shall be of wealth and sufficiency enough to be proceeded against, in the event of malversation, and from whose vigour and ability the "commons of the land" should be certain of receiving justice.¹

The penalty of rebellion or treason against the

¹ Acts of the Parliaments of Scotland, vol. ii. p. 2. Statutes of the Realm, Rich. II., vol. ii. pp. 9, 10. Statutes against Bonds or Confederacies.

king's person is declared to be the forfeiture of life, lands, and goods, whilst all friends or supporters of rebels are to be punished according to the pleasure of the sovereign. The enactments which follow regarding those troops of sturdy mendicants, who traversed the country, 'extorting the charity which was not speedily and readily bestowed, present us with some curious illustrations of the manners of the times. The king commands that no companies of such loose and unlicensed persons shall be permitted to beg or insist on quarters from any husbandman or churchman, sojourning in the abbeys or on the farm granges, and devouring the wealth of the country. An exception was made in favour of "royal beggars," with regard to whom it is declared that the king has agreed, by advice of his parliament, that no beggars or "thiggars" be permitted to beg, either in the burgh or throughout the country, between the ages of fourteen and threescore and ten years, unless it be first ascertained by the council of the burgh that they are incapacitated from supporting themselves in any other way. It is directed that they who are thus permitted to support themselves shall wear a certain token, to be furnished them by the sheriff, or the alderman and bailies, and that proclamation be made, that all beggars having no such tokens, do immediately betake themselves to such trades as may enable them to win their own living, under the penalty of burning on the cheek and banishment from the country.¹ It is curious to

¹ Acts of the Parliament of Scotland, vol. ii. pp. 2, 8.

discern, in this primitive legislative enactment, the first institution of the king's blue coats or bedesmen, a venerable order of privileged mendicants, whose existence has only expired within these very few years.

During the weak administration of Robert the Second and Third, and still more under the partial and unprincipled government of Albany, the "great customs," or the duties levied throughout the realm upon the exportation or importation of merchandise, had been diminished by various grants to private persons; and, in addition to this, the crown lands had been shamelessly alienated and dilapidated. It was declared by the parliament, that in all time coming the great customs should remain in the hands of the king for the support of his royal estate, and that all persons who make any claim upon such customs, should produce to the sovereign the deed or grant upon which such a demand is maintained.¹ With regard to the lands and rents which were formerly in possession of the ancestors of the king, it is provided, that special directions should be given to the different sheriffs throughout the realm, to make enquiries of the oldest and worthiest officers within their sheriffdom, as to the particular lands or annual rents which belong to the king, or in former times were in the hands of his royal predecessors, David the Second, Robert the Second, and Robert the Third. In these returns by the sheriffs, the names of the

¹ See a statute of Richard the Second on the same subject, pp. 41, 42, vol. ii. Statutes of the Realm.

present possessors of these lands are directed to be included, and an inquest is then to be summoned, who, after having examined the proper evidence, are enjoined to return a verdict under their seals, adjudging the property to belong to the crown. To facilitate such measures, it is declared that the king may summon, according to his free will and pleasure, his various tenants and vassals to exhibit their charters and holdings, in order to discover the exact extent of their lawful property.¹

The next enactment relates to a very important subject, the payment of the fifty thousand merks which were due to England, and the deliverance of the hostages who were detained in security. Upon this subject it is ordained, that a specific sum should be raised upon the whole lands of the kingdom, including regality lands as well as others, as it would be grievous and heavy upon the commons to raise the whole "finance" at once. For this purpose, an aid or donative, expressed in the statute by the old Saxon word a zelde, and amounting to the sum of twelve pennies in every pound, is directed to be raised upon all rents, lands, and goods, belonging to lords and barons within their domains, including both corn and cattle. From this valuation, however, all riding horses, draught oxen, and household utensils, were excepted. The burghesses in like manner are directed to contribute their share out of their goods and rents. In addition to this

¹ Acts of the Parliaments of Scotland, vol. ii. p. 4.

donative, the parliament determined that certain taxes should also be raised upon the cattle and the corn, the particulars of which are minutely detailed in the record. Upon all grain which was then housed, excepting the purveyance of the lords and barons for their own consumption, it was ordained that the boll of wheat should pay two shillings, the boll of rye, bear, and pease sixteenpence, and the boll of oats sixpence. With regard to the green corn, all the standing crops were to remain untaxed until brought into the barn. As to cattle, it was determined that a cow and her calf, or quey of two year old, should pay six shillings and eight pence ; a draught ox the same ; every wedder and ewe, each at the rate of twelve pennies ; every goat, gymmer, and dynmont the same ; each wild mare, with her colt of three year old, ten shillings ; and lastly, every colt of three year and upwards, a mark.¹

For the purpose of the true and just collection of this tax throughout the whole country, it was directed that every sheriff should within his own sheriffdom summon the barons and freeholders of the king, and by their advice select certain honest and discreet men, who should be ready to abide upon all occasions the scrutiny of the sovereign as to their faithful discharge of their office in the said taxation ; and to whom the task of making an " Extent," as it was technically called, or, in other words, of drawing up an exact inventory of the property of the country, should be com-

¹ Acts of the Parliaments of Scotland, p. 4.

mitted. These officers, or "extentours," are directed to be sworn as to the faithful execution of their office, before the barons of the sherifffdom; they are commanded, in order to insure a more complete investigation, to take with them the parish priest, who is to be enjoined by his bishop to inform them faithfully of all the goods in the parish; and having done so, they are then to mark down the extent in a book furnished for the purpose, in which the special names of every town in the kingdom, and of every person dwelling therein, with the exact amount of their property, shall be particularly enumerated; all which books are to be delivered into the hands of the king's auditors at Perth, upon the 12th day of July next. It is deeply to be regretted, that none of these records of the property of the kingdom have reached our time.

It was further declared upon this important subject, that all the lands of the kingdom should be taxed according to their present value, and that the tax upon all goods and gear should be paid in money of the like value with the coin then current in the realm. It is specially enjoined, that no one in the kingdom, whether he be of the rank of clerk, baron, or burgess, should be excepted from payment of this tax, and that all should have the money ready to be delivered within fifteen days after the taxation has been struck, the officers employed in its collection being empowered, upon failure, to take payment in kind, a cow being estimated at five shillings; a ewe or wedder, at twelve pence; a goat, gymmer, or dynmont, at eight pence; a three-year old colt at a mark; a wild mare and her

foal at ten shillings ; a boll of wheat at twelve pennies ; of rye, bear, and pease, at eight pence ; and of oats at threepence.¹ If the lord of the land, where such payment in kind has been taken, choose to advance the sum for his tenants, the sheriffs are commanded to deliver the goods to him ; if not, they are to be sold at the next market cross, or sent to the king.

It was next determined by the parliament, that the prelates are to tax their rents and kirks in the same manner, and at the same rate, as the baron's land ; every bishop in each deanery of his diocese being directed to cause his official and dean to summon all his tenants and freeholders before him, and to select tax-gatherers, whose duty is to " extend " the ecclesiastical lands in the same way as the rest of the property of the country ; it being provided, in every instance where a churchman pays the whole value of his benefice, that the fruits of his kirk lands shall next year be free from all imposition or exaction. In the taxation of the rents and goods of the burgesses, the sheriff is directed to send a superintendant to see that the tax-gatherers, who are chosen by the aldermen and bailies, execute their duty faithfully and truly ; and it is directed, that the salary and expenses of the various collectors in baronies, burghs, or church lands, shall be respectively determined by the sheriff, aldermen, and prelates, and deducted from the whole amount of the tax, when it

¹ Acts of the Parliament of Scotland, vol. ii. p. 4.

is given into the hands of the "auditors" appointed by the king to receive the gross sum, on the 12th day of July at Perth. These auditors are declared to be the Bishops of Dunkeld and Dumblane, the Abbots of Balmerinoch and St Colm's Inch, Mr John Scheves, the Earl of Athole, Sir Patrick Dunbar, William Borthwick, Patrick Ogilvy, James Douglas of Balveny, and William Erskine of Kinnoul. I have been anxious to give the entire details of this scheme of taxation, as it furnishes us with many interesting and instructive facts illustrative of the state of property in the country at this early period of its history; and as it is not to be found in the ordinary edition of the Statutes of James the First.

After some severe enactments against the slayers of salmon within the forbidden time, which a posterior statute informs us was in the interval between the feast of the Assumption of our Lady and the feast of St Andrew in the winter, it is declared, that all yairs and cruves, (meaning certain mechanical contrivances for the taking of fish by means of wattled traps placed between two walls in the stream of the river,) which have been built in fresh waters where the sea ebbs and flows, shall be put down for three years, on account of the destruction of the spawn, or young fry, which they necessarily occasion. This regulation is commanded to be peremptorily enforced, even by those whose charters include a right of "cruve fishing," under the penalty of a hundred shillings; and the ancient regulation regarding the removal of the cruve on Saturday night, known by

the name of "Saturday's Slop," as well as the rules which determine the statutory width of the "hecks," or wattled interstices, are enjoined to be strictly observed.¹ The extent to which the fisheries had been carried in Scotland, and the object which they formed even to the foreign fish-curers, appears in the statutory provisions regarding the royal custom imposed upon all herring taken within the realm, being one penny upon every thousand fresh herring sold in the market. Upon every last of herring which are taken by Scottish fishermen and barrelled, a duty of four shillings, and on every last taken by strangers, a duty of six shillings is imposed; whilst, from every thousand red herrings made within the kingdom, a duty of four pennies is to be exacted.²

With regard to mines of gold or silver, it is provided, that wherever such have been discovered within the lands of any lord or baron, if it can be proved that three half pennies of silver can be produced out of the pound of lead, the mine should, according to the established practice of other realms, belong to the king, a species of property from which there is no evidence that any substantial wealth ever flowed into the royal exchequer. It was enacted, that no gold or silver should be permitted to be carried forth of the realm, except it pay a duty of forty pence upon every pound which is exported; and in the

¹ Acts of the Parliament of Scotland, vol. ii. p. 5.

² A last, according to Skene, contains twelve great barrels, or fourteen smaller barrels, pp. 139, 140.

event of any attempt to contravene this provision, the defaulter is to forfeit the whole gold or silver, and to pay a fine of forty-one pennies to the king. It was moreover provided, that in every instance where merchant strangers have disposed of their goods for money, they should either expend the same in the purchase of Scottish merchandise, or in the payment of their personal expenses, for proof of which, they must bring the evidence of the host of his inn where they made their abode ; or, if they wish to carry it out of the realm, they must pay the duty upon exportation.¹ It was determined, that the money in present circulation throughout the realm, which had been greatly depreciated from the original standard, should be called in, and a new coinage issued of like weight and fineness with the money of England.

It having been found that a considerable trade had been carried on in the sale and exportation of oxen, sheep, and horses, it was provided, in the same spirit of rude and unenlightened policy which distinguishes the whole body of the statutes relative to the commerce of the country, that upon every pound of the price received in such transactions, a duty of twelve pennies should be levied by the king. Upon the same erroneous principle, so soon as it was discovered that a considerable trade was carried on in the exportation of the skins of harts and hinds, of martins, funarts, rabbits, does, roes, otters, and foxes, it

¹ In England, by a statute of Henry IV. merchant strangers were permitted to export one-half of the money received for their manufactures. Statutes of the Realm, vol. ii. p. 122.

was provided, that a check should be given to this flourishing branch of trade, by imposing a certain tax or custom upon each of such commodities, in the event of their being purchased for exportation.¹ It appears that many grievous abuses had crept into the ecclesiastical state of the country by the frequent purchase of pensions from the Pope, against which malpractices a special statute was directed, declaring, that in all time coming, no person should purchase any pension payable out of any benefice, religious or secular, under the penalty of forfeiting the same to the crown; and that no clerk, without an express license from the king, should either himself pass over the sea, or send procurators for him upon any foreign errand.

A very singular and primitive enactment follows, regarding rookeries; in which, after a preamble stating the mischief to the corn which was occasioned by rooks building in the trees of kirkyards and orchards, it is provided, that the proprietors of such trees shall, by every method in their power, prevent the birds from building; and, if this cannot be accomplished, that they shall at least take special care that the young rooks, or branchers, shall not be suffered to take wing, under the penalty, that all trees upon which the nests are found at Beltane, and from which it can be established by good evidence, that the young birds have escaped, shall be forfeited to the crown, and forthwith cut down, unless redeemed by the pro-

¹ Acts of the Parliament of Scotland, vol. ii. p. 6.

prietor. No man, under a penalty of forty shillings, was to burn muirs from the month of March till the corn be cut down; and if any such defaulter was unable to raise the sum, he was commanded to be imprisoned for forty days.

The great superiority of the English archers has been frequently pointed out in the course of this history; and the importance of introducing a more frequent practice of the long bow, appears to have impressed itself deeply on the mind of the king, who had an excellent opportunity, under Henry the Fifth, of witnessing its destructive effects during his French campaigns. It was accordingly provided, that all the male subjects of the realm, after reaching the age of twelve years, "busk them to be archers," that is, provide themselves with the usual arms of an archer; and that upon every ten-pound land bow-marks be constructed, especially in the vicinity of parish churches, where the people may practice archery, and, at the least, shoot thrice about, under the penalty of paying a wedder to the lord of the land, in the event of neglecting the injunction. To give further encouragement to archery, the pastime of foot-ball, which appears to have been a favourite national game in Scotland, was forbidden, under a severe penalty, in order that the common people might give the whole of their leisure time to the acquisition of a just eye, and a steady hand, in the use of the long bow.¹

¹ Acts of the Parliament of Scotland, vol. ii. pp. 5, 6.

Such is an abstract of the statutory regulations of the first parliament of James ; and it is evident, that, making allowance for the different circumstances in which the two countries were situated, the most useful provisions, as well as those which imply the deepest ignorance of the true principles of commercial policy, are borrowed from England. Those, for instance, which impose a penalty upon the exportation of sheep, horses, and cattle ; which imply so deep a jealousy of the gold and silver being carried out of the realm ; which forbid the riding armed, or with too formidable a band of servants ; which encourage archery ; which relate to mendicants and vagabonds ; to the duties and qualifications of bailies and magistrates ; which extend to the privileges of the church, and forbid the interference of the Pope with the benefices of the realm, are, with a few changes, to be found amongst the statutes of Richard the Second, and the fourth and fifth Henries, and prove, that the king, during his long detention in England, had made himself intimately acquainted with the legislative policy of that kingdom.

It admits of little doubt, that during the sitting of this parliament, James was secretly preparing for those bold and determined measures, by which, eight months afterwards, he effectually crushed the family of Albany, and compelled the fierce nobility, who had so long despised all restraint, to respect the authority of the laws, and tremble before the power of the crown. But in these measures it was necessary to proceed with

extreme caution ; and the institution of the Lords of the Articles seems to have furnished the king with an instrument well suited for the purpose he had in view, which, without creating alarm, enabled him gradually to mature his plans, and conduct them to a successful issue. Who were the persons selected for this committee it is, unfortunately, impossible to discover ; but we may be certain that they enjoyed the confidence of the king, and were prepared to support him to the utmost of their power. With them, after the return of the rest of the most powerful lords and barons to their estates, who, from the warmth and cordiality with which they were received, had little suspicion of the secret measures meditated against them, James prepared and passed into laws many statutes, which, from the proud spirit of his nobles, he knew they would not hesitate to despise and disobey, and thus furnish him with an opportunity to bring the offenders within the power of the laws, which he had determined to enforce to the utmost rigour against them. Amongst the statutes which were evidently designed to be the future means of coercing his nobility, those which regarded the resumption of the lands of the crown, and the exhibition of the charters by which their estates were held, may be at once recognised ; and to these may be added the enactments against the numerous assemblies of armed vassals with which the feudal nobility of the time were accustomed to traverse the country, and bid defiance to the local magistracy.

The loss of many original records, which might have thrown some certain light upon this interesting portion of our history, renders it impossible to trace the various links in the projects of the king. Some broad and prominent facts alone remain; yet from these it is not difficult to discover, at least the outline of his proceedings.

He suffered eight months to expire before he convoked that celebrated parliament at Perth, at which he had secretly resolved to exhibit his own strength, and to inflict a signal vengeance upon the powerful family of Albany. During this interval, he appears to have gained to his party the influence and support of the clergy, and to have cautiously and quietly consolidated his own power amongst a portion of the barons. The Earl of Mar, and his son Sir Thomas Stewart, William Lauder, Bishop of Glasgow, and Chancellor, Sir Walter Ogilvy, the Treasurer, John Cameron, Provost of the Collegiate Church of Lincluden, and private secretary to the king, Sir John Forester of Corstorfine, chamberlain, Sir John Stewart and Sir Robert Lauder of the Bass, Thomas Somervill of Carnwath, and Alexander Levingston of Callendar, members of the king's council, were, in all probability, the only persons whom James admitted to his confidence, and intrusted with the execution of his designs;¹ whilst the utmost

¹ See Hay's MS. Collection of Diplomata, vol. iii. p. , for a deed dated 30th of December, 1424, which gives the members of the king's privy council.

secrecy appears to have been observed with regard to his ultimate purposes.

Meanwhile Duke Murdoch and his sons, with the Earls of Douglas, March, and Angus, and the most powerful of the nobility, had separated without any suspicion of the blow which was meditated against them, and once more settled on their own estates, and, surrounded by their feudal retainers, soon forgot the statutes which had been so lately enacted, and with that spirit of fierce independence which had been nourished under the government of Albany and his son, dreamt little of producing their charters, or giving up the crown lands, or rents, which they had received ; of abridging their feudal state, or dismissing their armed followers, or, indeed, of yielding obedience to any part of the laws which interfered with their individual importance and authority. They considered the statutes in precisely the same light in which there is reason to believe all parliamentary enactments had been regarded in Scotland for a long period before this ; as mandates to be obeyed by the lower orders, under the strictest exactions of penalty and forfeitures ; and to be attended to by the great and the powerful, provided they suited their own convenience, and did not offer any very great violence to their feelings of pride, or their possession of power. The weak and feeble government of Robert the Second and Third, with the indulgence to which the aristocracy were accustomed under Albany, had riveted this idea very firmly in their minds ; and they acted upon it without the suspicion, that a monarch

might one day be found not only with sagacity to procure the enactment of laws which should level their independence, but endowed with a determination of character, and a command of means, which should enable him to carry these laws into execution.

On being summoned, therefore, by the king to attend a parliament, to be held at Perth on the 12th of March, they obeyed without hesitation; and as the first subject which appears to have been brought before the three Estates, was the dissemination of the heretical opinions of the Lollards, which began to revive about this time in the country, no alarm was excited, and the business of the parliament proceeded as usual. It was determined that due inquiry should be made by the ministers of the king, whether the statutes passed in his former parliament had been obeyed; and in the event of its being discovered that they had been disregarded, orders were issued for the punishment of the offenders. All leagues or confederacies amongst the king's lieges, were strictly forbidden, all assistance afforded to rebels, all false reports, or "leasing-makings," which tend to create discord between the sovereign and his people, were prohibited under the penalty of forfeiting life and lands, and in every instance where the property of the church was found to have been illegally occupied, restoration was ordered to be made by due process of law.¹

¹ Acts of the Parliament of Scotland, vol. ii. p. 7.

The parliament had now continued for eight days, and as yet every thing went on without disturbance ; but on the ninth an extraordinary scene presented itself. Murdoch, the late governor, with Lord Alexander Stewart, his youngest son, were suddenly arrested, and immediately afterwards twenty-six of the principal nobles and barons shared the same fate. Amongst these were Archibald Earl of Douglas, William Douglas Earl of Angus, George Dunbar Earl of March, William Hay of Errol, constable of Scotland, Scrimgeour, constable of Dundee, Alexander Lindesay, Adam Hepburn of Hailes, Thomas Hay of Yester, Herbert Maxwell of Caerlaverock, Alexander Ramsay of Dalhousie, Alan Otterburn, secretary to the Duke of Albany, Sir John Montgomery, Sir John Stewart of Dundonald, commonly called the Red Stewart, and thirteen others. During the course of the same year, and a short time previous to this energetic measure, the king had imprisoned Walter, the eldest son of Albany, along with the Earl of Lennox, and Sir Robert Graham, a man of a dark, fierce, and vindictive disposition, who from that moment vowed the most determined revenge, which he lived to execute in the murder of his sovereign.¹ The heir of Albany was shut up in the strong castle of the Bass, belonging to Sir Robert Lauder, a firm friend of the king, whilst Graham and Lennox were committed to Dunbar, and the Duke of Albany himself, confined in the first instance in the cas-

¹ Fordun a Hearne, p. 1269, vol. iv.

tle of St Andrews, and afterwards transferred to that of Caerlaverock. At the same moment the king took possession of the castles of Falkland, and of the fortified palace of Doune, the favourite residence of Albany.¹ Here he found Isabella, the wife of Albany, a daughter of the Earl of Lennox, whom he immediately committed to the castle of Tantallan; and with a success and a rapidity which can only be accounted for by the supposition of the utmost vigour in the execution of his plans, and a strong military power to overawe all opposition, he possessed himself of the strongest fortresses in the country; and after adjourning the parliament, to meet within the space of two months at Stirling, upon the 18th of May,² he proceeded to adopt measures for inflicting a speedy and dreadful revenge upon the most powerful of his opponents.

In the palace of Stirling, on the 24th of May, a court was held with great pomp and solemnity for the trial of Walter Stewart, the eldest son of the Duke of Albany. The king, sitting on his throne, clothed with the robes and insignia of majesty, with the sceptre in his hand, and wearing the royal crown, presided as supreme judge of his people. The loss of all record of this trial is peculiarly to be regretted, as the proceeding would have thrown important light upon a most interesting, but unfortunately, most obscure portion of our history. We know only from an ancient chronicle that the heir of

¹ Statistical Account of Scotland, vol. xx. pp. 57, 60.

² Fordun a Hearne, vol. iv. p. 1270.

Albany was tried for robbery, "de roboria." The jury was composed of twenty-one of the principal nobles and barons, and it is a remarkable circumstance, that amongst their names which have been preserved, are to be found seven of the twenty-six barons whom the king had seized and imprisoned two months before at Perth, when he arrested Albany and his sons. Amongst these seven, were the three most powerful lords in the body of the Scottish aristocracy—the Earls of Douglas, March, and Angus; the rest were Sir John de Montgomery, Gilbert Hay of Errol the constable, Sir Herbert Herries of Terregles, and Sir Robert Cuninghame of Kilmaurs.¹ Others who sat upon this jury we know to have been the assured friends of the king, and members of his privy council. These were, Alexander Stewart, Earl of Mar, Sir John Forrester of Corstorfin, Sir Thomas Somerville of Carnwath, and Sir Alexander Levingston of Callendar. It is probable that the seven jurymen above mentioned were persons attached to the party of Albany, and that the intention of the king, in their imprisonment, was to compel them to renounce all idea of supporting him, and to abandon him to his fate. In this result, whatever were the means adopted for its accomplishment, the king succeeded. The trial of Walter Stewart occupied a single day. He was found guilty, and condemned to death. His fate excited a deep feeling of sympathy and compassion in the breasts of the people; for the

¹ Fordun a Hearne, pp. 1269, 1270, 1271. See also *Extracta ex Chronicis Scotiæ*, MS. p. 272.

noble figure and dignified manners of the eldest son of Albany were peculiarly calculated to make him friends amongst the lower classes of the community.

On the following day, Albany himself, with his second son, Alexander, and his father-in-law, the Earl of Lennox, were tried before the same jury. What were the crimes alleged against the Earl of Lennox and Alexander Stewart, it is now impossible to determine; but it may be conjectured, on strong grounds, that the usurpation of the government and the assumption of supreme authority, during the captivity of the king, offences amounting to high treason, constituted the principal charge against Duke Murdoch. His father undoubtedly succeeded to the regency by the determination of the three Estates assembled in parliament, but there is no evidence that any such solemn decision was passed which sanctioned the high station assumed by the son, and if so, every single act of his government was an act of treason, upon which the jury could have no difficulty in pronouncing their verdict. Albany was accordingly found guilty; the same sentence was pronounced upon his son, Alexander Stewart; the Earl of Lennox was next condemned; and these three noble persons were publicly executed on that fatal eminence, before the castle of Stirling, known by the name of the Heading Hill. As the condemnation of Walter Stewart had excited unwonted commiseration amongst the people, the spectacle now afforded was calculated to raise that feeling to a still higher pitch of distress and pity. Albany and his two sons were men of almost gigan-

tic stature,¹ and of so noble a presence, that it was impossible to look upon them without an involuntary feeling of admiration; whilst the venerable appearance and white hairs of Lennox, who had reached his eightieth year, inspired a sentiment of tenderness and pity, which, even if they admitted the justice of the sentence, was apt to raise in the bosom of the spectators a disposition to condemn the rapid and unrelenting severity with which it was carried into execution. Even in their days of pride and usurpation, the family of Albany had been the favourites of the people. Its founder, the regent, courted popularity, and although a usurper, and stained with murders, seems in a great measure to have gained his end. It is impossible, indeed, to reconcile the high eulogium of Fordun and Winton² with the dark actions of his life; but it is evident, from the tone of these historians, that the severity of James did not carry along with it the feelings of the people. Yet, looking at the state of things in Scotland, it is easy to understand the object of the king. It was his intention to exhibit to a nation, long accustomed to regard the laws with contempt, and the royal authority as a name of empty menace, a memorable example of stern and inflexible justice, and to convince

¹ Albany and his sons were buried in the church of the preaching friars at Stirling, on the south side of the high altar, "figuris et armis eorundem depictis."—Extracta ex Chronicis Scotiæ, MS. p. 272. Fordun a Goodal, vol. ii, p. 483. "Homines giganteæ staturæ."

² Fordun a Goodal, vol. ii. p. 466. Winton, vol. ii. p. 419, 420. Appendix, F.

them that a great change had already taken place in the executive part of the government.

With this view, another dreadful exhibition followed the execution of the family of Albany. James Stewart, the youngest son of this unfortunate person, was the only member of the family who had avoided the arrest of the king, and escaped to the Highlands. Driven to despair, by the ruin which threatened his house, he collected a band of armed freebooters, and, assisted by Finlay, Bishop of Lismore, and Argyle, his father's chaplain, attacked the burgh of Dumbarton, with a fury which nothing could resist. The king's uncle, Sir John of Dundonald, called the Red Stewart, was slain, the town sacked and given to the flames, and thirty men murdered, after which the son of Albany returned to his fastnesses in the north. But so hot was the pursuit which was instituted by the royal vengeance, that he, and the ecclesiastical bandit who accompanied him, were dislodged from their retreats, and compelled to fly to Ireland.¹ Five of his accomplices, however, were seized, and their execution, which immediately succeeded that of Albany, was unpardonably cruel and disgusting. They were torn to pieces by wild horses, after which their warm and quivering limbs were suspended upon gibbets; a terrible warning to the people of the punishment which awaited those, who imagined that the fidelity which impelled them to execute the commands of their feudal lord, was

¹ Fordun a Hearne, vol. iv. p. 1270.

superior to the ties which bound them to obey the laws of the country.

These executions were followed by the forfeiture to the crown of the immense estates belonging to the family of Albany and to the Earl of Lennox; a seasonable supply of revenue, which, amid the general plunder to which the royal lands had been exposed, was much wanted to support the dignity of the throne, and in the occupation of a considerable portion of which, there is reason to believe, the king only resumed what had formerly belonged to him. With regard to the conduct of the Bishop of Lismore, James appears to have made complaint to the Pope, who directed a bull, addressed to the Bishops of St Andrews and Dumblane, by which they were empowered to enquire into the treason of the prelate, and other rebels against the king.¹

The remaining barons, who had been imprisoned at the time of Albany's arrest, appear to have been restored to liberty immediately after his execution, and the Parliament proceeded to the enactment of several statutes, which exhibit a singular combination of wisdom and ignorance, some being as truly calculated to promote, as others were eminently fitted to retard, the improvement and prosperity of the country. It was ordained, that every man, of such simple estate, as made it reasonable that he should be a labourer or husbandman, should either combine with his neighbour to pay half the expense of an ox

¹ Innes MS. Chronology, quoted by Chalmers in his *Life of James the First*, p. 14, prefixed to the *Poetic Remains*.

and a plough, or dig every day a portion of land seven feet in length and six feet in breadth. In every sheriffdom within the realm, "weaponschawings," or an armed muster of the whole fighting men in the county for the purpose of military exercise and an inspection of their weapons, were appointed to be held four times in the course of the year. Symptoms of the decay of the forest and green wood, or perhaps, more correctly speaking, proofs of the improved attention of the nobles to the enclosure of their parks and the ornamental woods around their castles, are to be discerned in the enactment, which declares it to be a part of the duty of the Justice Clerk to make enquiries regarding those defaulters, who steal green wood, or strip the trees of their bark under cover of night, or break into orchards to purloin the fruit; and provides, that where any man finds his stolen woods in other lords' lands, it should be lawful for him on the instant to seize both the goods and the thief, and to have him brought to trial in the court of the baron upon whose lands the crime was committed.¹

With regard to the commerce of the country, some regulations were now passed, which are dictated by the same jealous spirit which has been already remarked as pervading the whole body of our commercial legislation. It is strictly enjoined, that no tallow should be exported out of the country under the penalty of being forfeited to the king; that no horses are

¹ Acts of the Parliament of Scotland, vol. ii. pp. 7, 8.

to be carried forth of the realm till they are past the age of three years, and that no merchant is to be permitted to pass the sea for the purposes of trade, unless he either possess in property, or at least in commission, three serplaiths of wool, or the value of such in merchandise, to be determined by an inquest of his neighbours, under a penalty of forty-one pounds to the king, in the event of being found guilty of disobeying the law. Upon the subject of the administration of justice to the people in general, and more especially to such poor and needy persons who cannot afford to pay an advocate for conducting their cause, a statute was passed in this parliament which breathes a spirit of enlarged humanity. After declaring that all bills of complaints, which, for divers reasons, affecting the profit of the realm, cannot be determined by the parliament, should be brought before the particular judge of the district to which they belong, to whom the king is to give injunction to distribute justice, without fraud or favour, as well to the poor as to the rich, in every part of the realm, it proceeds as follows, in language remarkable for its strength and simplicity: "And gif thar be ony pur creatur," it observes, "that for defalte of cunnyng or dispens, can nocht, or may nocht folow his caus; the king, for the lufe of God, sall ordane that the juge before quhame the causs suld be determyt purway and get a lele and wyss advocate to folow sic creaturis caus. And gif sic caus be obtenyt, the wrangar sall assythe the party skathit, and ye advocatis costis that travale. And gif the juge refusys to doe the

lawe evinly, as is befor saide, ye party plenzeand sall haf recours to ye king, ye quhilk sall sa rigorously punyst sic jugis, yat it be ane ensampill till all utheris.”¹

It is declared to be the intention of the sovereign to grant a remission or pardon of any injury committed upon person or property in the Lowland districts of his dominions, where the defaulter makes reparation, or, according to the Scottish phrase, “assythement,” to the injured party, and where the extent of the loss has been previously ascertained by a jury of honest and faithful men; but from the operation of this rule, the Highlands, or northern divisions of the country, are excepted, where, it is observed, on account of the practice of indiscriminate robbery and murder which had prevailed, previous to the return of the king, it was impossible to ascertain correctly the extent of the depredation, or the amount of the assythement. The condition of his northern dominions, and the character and manners of his Highland subjects,—if indeed they could be called his subjects, whose allegiance was of so peculiar and capricious a nature,—had given birth to many anxious thoughts in the king, and led not long after this to a personal visit to these remote regions, which formed an interesting episode in his reign.

The only remaining matter of importance which came under the consideration of this parliament, was the growth of heresy, a subject which, connected as

¹ Acts of the Parliament of Scotland, vol. ii. p. 8.

it undoubtedly is, with the first feeble dawnings of the light of the gospel, in an age of no common darkness, is peculiarly interesting and worthy of attention. It was directed that every bishop within his diocese should make inquisition of all Lollards and heretics, where such are to be found, in order that they be punished according to the laws of the holy Catholic church, and that the civil power be called in for the support of the ecclesiastical, if required. Eighteen years had now elapsed since John Resby, the follower of the great Wickliff, was burnt at Perth. It was then known, that the preaching of this primitive martyr, and the little treatises which he or his disciples had disseminated through the country,¹ had made a deep impression, and the ancient historian who informs us of the circumstance, observes, that even in his own day, these same books and conclusions were secretly preserved by some unhappy persons under the instigation of the devil, and upon the principle that stolen waters are sweet.²

There can be no doubt, that at this period the consciences of not a few in the country were agitated and alarmed as to the foundations of a faith upon which they had hitherto blindly and inconsiderately relied, and that they began to judge and reason for themselves upon a subject of all others the most important which can occupy the human mind,—the grounds of a sinner's pardon and acceptance with God. An under current of reformation, which the

¹ Acts of the Parliament of Scotland, vol. ii. pp. 7, 8.

² Fordun a Hearne, vol. iv. p. 1169.

church denominated heresy, was beginning gradually to sap and wear away the foundations upon which the ancient fabric of Papal error and superstition had been hitherto securely resting, and the Scottish clergy, alarmed at the symptoms of spiritual rebellion, and possessing a great influence over the mind of the monarch, prevailed upon him to interpose the authority of a legislative enactment, to discountenance the growth of the new opinions, and to confirm and follow up the efforts of the church, by the strength and terror of the secular arm. The education of James in England, under the direction of two monarchs, who had sullied their reign by the cruel persecution of the followers of Wickliff, was little calculated to open his mind to the doctrines of the truth, or to the principles of toleration, and at this moment he owed so much to the clergy, and was so engrossed with his efforts for the consolidation of the royal power, that he could neither refuse their request, nor enquire into the circumstances under which it was preferred. The statute, therefore, against Lollards and heretics was passed, the healing light, which had begun only to dawn, was quenched by the benighted beings who ought to have blest its arrival, and night returned with double gloom upon the church.

In the destruction of our national records, many links in the history of this remarkable parliament have been lost, but the success with which the king conducted this overthrow of the house of Albany, cannot fail to give us a high idea of the address and courage of this able prince; and in the great outlines

enough has been left to convince us, that the undertaking was of a nature the most delicate and dangerous which could have presented itself to a monarch recently seated on a precarious throne, surrounded by a fierce nobility, to whom he was almost a stranger, and the most powerful of whom were connected by blood or by marriage with the ancient house whose destruction he meditated. The example indeed was terrible, the scaffold was flooded with royal and noble blood, and it is impossible not to experience a feeling of sorrow and indignation at the cruel and unrelenting severity of James. It seems as if his rage and mortification at the escape of his uncle, the prime offender, was but imperfectly satisfied with the punishment of the feeble Murdoch, and that his deep revenge almost delighted to glut itself in the extermination of every scion of that unfortunate house. To form a just opinion, indeed, of the conduct of the king, we must not forget the galling circumstances in which he was individually situated. Deprived for nineteen years of his paternal kingdom, by a system of unprincipled usurpation, living almost within sight of his throne, yet unable to reach it, feeling his royal spirit strong within him, but detained and dragged back by the successful and selfish intrigues of Albany, it is not very astonishing that when he did at last escape from his bonds, his rage should be that of the chafed lion who has broken the toils, and that the principle of revenge, in those dark days esteemed as much a duty as a pleasure, should mingle itself with his more cool determination to inflict punishment upon his enemies.

But laying individual feelings aside, the barbarism of the times, and the precarious state in which he found the government, compelled James to adopt severe measures. Nothing but an example of speedy and inflexible severity could have made an impression upon the iron-nerved and ferocious nobles, whose passions, under the loose government of the house of Albany, had been nursed up into a state of reckless indulgence, and a contempt of all legitimate authority; and there seems reason to believe, that the conduct pursued by the king was deemed by him absolutely necessary to consolidate his own power, and enable him to carry into effect his ultimate designs for promoting the best interests of the country. Immediately after the conclusion of the parliament, James dispatched Lord Montgomery of Eliotston, and Sir Humphrey Cunningham, to seize the castle of Lochlomond,¹ the property of Sir James Stewart, the youngest son of Albany, who had fled to Ireland along with his father's chaplain, the Bishop of Lismore. Such was the terror inspired by the severity of James, that this fierce youth never afterwards returned, but died in banishment; so that the ruin of the house of Albany appeared to be complete.

In the course of the preceding year the queen had brought into the world a daughter, her first born, who was baptised by the name of Margaret; and, as

¹ "In the south end of the island Inchmurin, the ancient family of Lennox had a castle, but it is now in ruins." This is probably the castle alluded to, Stat. Acct. vol. ix. p. 16. Extracta ex Chronicis Scotiae, fol. 273.

the policy of France led those who then ruled in her councils to esteem the alliance of Scotland of great importance in her protracted struggle with England, it was determined to negotiate a marriage between Louis of Anjou, the heir to the throne, and the infant princess. Indeed, the affairs of this kingdom were still in a very precarious situation. Although the great military genius of Henry the Fifth no longer directed and animated the operations of the campaign, yet, under the Duke of Bedford, who had been appointed Regent of France, fortune still favoured the arms of the invaders; and the successive defeats of Crevant and Verneuil, in which the auxiliary forces of the Scots were almost entirely cut to pieces, had struck a vigour and confidence into the councils and conduct of the English, and imparted a proportionable timidity and despondency to the French, which seemed to augur a fatal result to the efforts of that brave people. It became necessary, therefore, to court every alliance from which effectual assistance might be expected, and the army of seven thousand Scottish men-at-arms, which had passed over under the command of the Earls of Buchan and Wigton in 1420, with the additional auxiliary force which the Earl of Douglas, in return for the dukedom of Touraine, led to join the army of Charles the Seventh, convinced that monarch that the assistance of Scotland was an object, to attain which no efforts should be spared. Accordingly, Stewart of Dernley, Lord of Aubigny and Constable of the Scottish army in France, along with the Archbishop of Rheims, the

first prelate in the realm, were dispatched in 1425 upon a solemn embassy to negotiate the marriage between Margaret of Scotland and Louis the Dauphin, and to renew the ancient league which had so long connected the two countries with each other.¹

James received the ambassadors with great distinction, agreed to the proposed alliance, and dispatched Leighton, Bishop of Aberdeen, along with Lauder, Archdeacon of Lothian, and Sir Patrick Ogilvy, Justiciar of Scotland, to return his answer to the Court of France. It was determined, that in five years the parties should be betrothed, after which, the Scottish princess was to be conveyed with all honour to her royal consort. About the same time the king appears to have sent ambassadors to the Court of Rome, with regard to whose negotiations it is difficult to discover whether they merely conveyed those general expressions of spiritual allegiance which it was usual for sovereigns to transmit to the Holy See after their coronation, or related to matters more intimately affecting the ecclesiastical state of the kingdom. If we may judge from the numbers and dignity of the envoys, the communication was one of importance, and may perhaps have related to those measures for the extirpation of heresy which we have seen occupying the attention of the legislature under James's second parliament. It was a principle of this enterprising monarch, in his schemes for the recovery and consolidation of his own power, to cultivate the

¹ Fordun a Goodal, vol. ii. p. 484.

friendship of the clergy, whom he regarded as a counterpoise to the power of the nobles; and with this view he issued a commission to Leighton the Bishop of St Andrews, authorising him to resume all alienations of the lands of the church which had been made during the regencies of the two Albanys, commanding his justiciars and officers of the law to assist in all proper measures for the recovery of the property which had been lost, and conferring upon the prelate the power of anathema in case of resistance.¹

During the same year there arrived in Scotland an embassy from the States of Flanders, upon a subject of great commercial importance. It appears that the Flemings, as allies of England, had committed hostilities against the Scottish merchants during the captivity of the King, which had induced him to order the staple of the Scottish commerce in the Netherlands to be removed to Middelburgh in Zealand. The measure had been attended with much loss to the Flemish traders, and the object of the embassy was to solicit the return of the trade. The king, who, at the period of its arrival, was engaged in keeping his birthday, surrounded by his nobles and barons at St Andrews, received the Flemish envoys with distinction; and, aware of the high importance of encouraging the commercial enterprise of his people, seized the opportunity of procuring more ample privileges for the Scottish merchants in

¹ MS. in Harleian Coll. quoted in Pinkerton's History, vol. i. p. 116.

Flanders, in return for which, he agreed that the staple should be restored.¹

At this period, besides the wealthy citizens and burghers, who adopted commerce as a profession, it was not uncommon for the richer barons and gentry, and even for the sovereign, to embark in mercantile adventures. In 1408 the Earl of Douglas freighted a vessel, with one or two super-cargoes, and a crew of twenty mariners, to trade in Normandy and Rochelle; in the succeeding year the Duke of Albany was the proprietor of a vessel which carried six hundred quarters of malt, and was navigated by a master and twenty-four sailors; and, at a still later period, a vessel, the *Mary of Leith*, obtained a safe conduct from the English monarch to unship her cargo, which belonged to his dear cousin James, the King of Scotland, in the port of London, and expose the merchandise to sale.² At the same time the Lombards, esteemed perhaps the most wealthy and enterprising merchants in Europe, continued to carry on a lucrative trade with Scotland; and one of their large carracks, which, compared with the smaller craft of the English and Scottish merchants, is distinguished by the contemporary chronicler as an "enormous vessel," *navis immanissima*, was wrecked by a sudden storm which arose on the change of the moon. It was accompanied by a high spring-tide, against which the

¹ Fordun a Goodal, vol. ii. pp. 487, 509.

² Rotuli Scotiæ, vol. ii. p. 257. Ibid. 1st Sept. 9 Henry IV. p. 187. 2d Dec. 11 Henry IV. p. 193.

mariners of Italy, accustomed to the Mediterranean navigation, had taken no precautions, so that the ship was driven from her anchors and cast ashore at Granton, about three miles above Leith.¹

The tax of twelve pennies upon every pound of rent, and other branches of income, which was directed to be levied in the first parliament held at Perth after the king's return, has been already particularly mentioned. The sum to be thus collected was destined for the payment of the arrears which the king had become bound to advance to England, as the amount of expense incurred by his maintenance during his captivity; and it appears by the account of Walter Bowar, the venerable continuator of Fordun, who was himself one of the commissioners for this taxation, that during the first year, it amounted to fourteen thousand marks; which would give nearly two hundred and eighty thousand marks, or about three millions of modern sterling money, as the annual income of the people of Scotland in 1424.

It must be recollected, however, that this does not include the lands and cattle employed by landholders in their own husbandry, which were particularly excepted in the collection. The tax itself was an innovation; and in the second year the zeal of the people so completely cooled, that they openly murmured against the universal impoverishment it occasioned, and the collection was infinitely less productive. In those

¹ Fordun a Goodal, vol. ii. p. 487.

primitive times, all taxes, except in customs, which became a part of the apparent price of the goods on which they were charged, were wholly unknown in Scotland. The people were accustomed to see the king support his dignity, and discharge his debts, by the revenues of the crown lands, which, previous to the late dilapidations, were amply sufficient for that purpose; and with equal prudence and generosity, although supported by a resolution of the three Estates, James declined to avail himself of this invidious mode of increasing his revenue, and gave orders that no further efforts should be made to levy the imposition.¹

Upon the 12th of March 1425, the king convoked his third parliament at Perth, and the institution of the Lords of the Articles appears to have been fully established. The various subjects upon which the decision of the great council was requested, are declared to be submitted by the sovereign to the determination of certain persons to be chosen by the three Estates from the prelates, earls, and barons then assembled, and the legislative enactments which are the result of their deliberations, convey to us a very animated and instructive picture of the condition of the country. After the usual declaration, that the holy Catholic church and its ministers should continue to enjoy their ancient privileges, and that no man hinder them from granting leases of their lands, or of their teinds,

¹ Fordun a Goodal, vol. ii. p. 482. M'Pherson's Annals of Commerce, vol. i. p. 640.

there follows a series of regulations and improvements, both as to the laws themselves and the manner of their administration, which are well worthy of attention.

It is first announced, that all the subjects of the realm are to be governed by the statutes passed in parliament, and not by any particular laws, or any spiritual privileges or customs of other countries; and a new court, known by the name of the Session, was instituted for the administration of justice to the people. It is declared, that the king, with the consent of his parliament, has ordained, that his chancellor, and along with him certain discreet persons of the three Estates, who are to be chosen and deputed by himself, should, from this day forth, sit three times in the year at whatever place the sovereign may appoint them, for the examination and decision of all complaints, causes, and quarrels, which may be determined before the king's council; and that these judges should have their expenses paid by the parties against whom the decision is given, out of the fines of court, or otherwise as the monarch may determine. The first session of this new court is appointed to be held the day after the feast of St Michael the Archangel, or on the 30th of September; the second on the Monday of the first week of Lent; and the third on the morning preceding the feast of St John the Baptist.¹

A Register is next appointed, in which a record is

¹ Acts of the Parliament of Scotland, vol. ii. p. 11.

to be kept of all charters and infeftments, as well as of all letters of protection, or confirmations of ancient rights or privileges, which, since the king's return, had been granted to any persons, whether men or women; and it is enacted, that within four months after the passing of this act, all such charters must be produced by the parties to whom they have been granted, and regularly marked in the book of record. Any person who is a judge or officer of justice within the realm, or any person who has prosecuted and summoned another to stand his trial, is forbidden, under a penalty of ten pounds, to sit upon his jury; and none were to be allowed to practise as attorneys in the justice-ayres, or courts held by the king's justiciars, or their deputies, who were not known to the justice and the barons as persons of sufficient learning and discretion. Six wise and able men, and such as are best acquainted with the laws, are directed to be chosen from each of the three Estates, to whom is to be committed the examination of the books of the law, that is to say, "*Regiam Majestatem*," and "*Quoniam Attachiamenta*;" and these persons are directed by the parliament, in the language which marks the simple legislation of the times, "to mend the lawis that nedis mendyng," to reconcile all contradictory, and explain all obscure enactments, so that henceforth, fraud and cunning may assist no man in obtaining an unjust judgment against his neighbour.¹

¹ Acts of the Parliament of Scotland, vol. ii. p. 11.

One of the greatest difficulties which at this early period stood in the way of all improvement arising from parliamentary regulations, was the slowness with which these regulations were communicated to the more distant districts of the country; and the extreme ignorance of the laws which subsisted, not only amongst the subjects of the realm and the inferior ministers of justice, but even amongst the nobles and barons, who, living in their own castles in remote situations, rude and illiterate in their habits, and bigoted in their attachment to those ancient institutions under which they had so long tyrannised over their vassals, were little anxious to become acquainted with any new laws, and frequently, when they did penetrate so far, willingly pretended ignorance, as a cover for their disobedience. To obviate as far as possible this evil, it was directed by the parliament, that all statutes and ordinances made prior to this, should be first transcribed in the king's register, and afterwards, that copies of them should be given to the different sheriffs in the country. The sheriffs were then strictly enjoined to publish and proclaim these statutes in the chief and most notable places in the sherrifdom, and to distribute copies of them to prelates, barons, and burghs of bailiery, the expense being paid by those who make the application. They were commanded, under the penalty of being deprived of their office, to cause the tenor of all acts of the legislature to be observed throughout their county, and to declare to the people, whether burghers or landholders, their duty to obey all the

acts made by their sovereign lord the king since his return from England, so that, in all time coming, no man have cause to pretend ignorance of the laws.¹

The defence of the country was another subject which came before this parliament. It was provided, that all merchants of the realm passing beyond seas should, along with their usual cargoes, bring home such a supply of harness and armour, as they are able to stow in the vessel, besides spears, spear shafts, bows, and bowstrings, and that they omit not this upon any of their voyages; particular injunctions were added with regard to the regulation of "weaponschawings," or the annual county musters for the inspection of arms, and the encouragement of warlike exercises. Every sheriff was directed to hold them four times in the year within his county, upon which occasion it was his duty to see that every gentleman having ten pounds value in land, should be sufficiently harnessed and armed with steel basnet, legharness, sword, spear, and dagger, and that all gentlemen of less property should be armed according to their estate. All yeomen of the realm, between the ages of sixteen and sixty, were directed to be sufficiently provided with bows and a sheaf of arrows. With regard to the burghs, it was appointed that the weaponschawing should be held within them also, four times during the year, that all their inhabitants should be well armed, and that the alder-

¹ Acts of the Parliament of Scotland, vol. ii. p. 11.

men and the bailies were to be held responsible for the due observance of this regulation, whilst certain penalties are enumerated to be inflicted on all gentlemen and yeomen who may be found transgressing these enactments.¹

The regulations relating to the commercial prosperity of the country, and its intercourse with other nations, manifest the same jealousy and ignorance of the true prosperity of the realm, which influenced the deliberations of the former parliaments. Taxes were repeated upon the exportation of money, compulsory regulations promulgated against foreign merchants, by which they were compelled to lay out the money which they received for their commodities, upon the purchase of Scottish merchandise, directions were given to the sheriffs, and other ministers of the law, upon the coasts opposite to Ireland, to prevent all ships and galleys from sailing to that country without special license of the king's deputed, to be appointed for this purpose in every seaport; and no merchant or shipman was to be allowed to give to any Irish subject a passage into Scotland, unless such stranger could show a letter or passport from the lord of the land from whence he came, declaring the business for which he desired to enter the realm; and all such persons, previous to their being allowed to land, were to be examined by the king's deputy of the seaport where the ship had weighed anchor, so that it might be discovered whether the business

¹ Acts of the Parliament of Scotland, vol. ii. pp. 9, 10.

they had in hand were to the profit or the prejudice of the king and his estate. These strict enactments were declared to proceed from no desire to break or interrupt the good understanding which had been long maintained between the King of Scotland “and his gud aulde frendis the Erschry of Irelande;” but because at that time the open rebels of the king had taken refuge in that country, and the welfare and safety of the realm might be endangered by all such unrestrained intercourse as should give them an opportunity of plotting with their friends, or afford facilities to the Irish of becoming acquainted with the private affairs of the government of Scotland.¹

A quaint and amusing provision is introduced in this parliament, which is entitled, “Anent hostillaris in villagis and burowyis.” It informs us that hostlers, or innkeepers, had made very grievous complaints to the king against a villainous practice of his lieges, who, in their travel from one part of the country to another, were in the practice of taking up their residence with their acquaintances and friends, instead of going to the regular inns and hostelries; whereupon the sovereign, with counsel and consent of the three Estates, prohibits all travellers on foot or horseback from rendezvousing at any station except the established hostelry of the burgh or village, and interdicts all burgesses or villagers from extending to them their hospitality, under the penalty of forty shillings. The higher ranks of the nobles and the

¹ Acts of the Parliament of Scotland, vol. ii. p. 11.

gentry would, however, have considered this as an infringement upon their liberty, and it is accordingly declared, that all persons whose estate permits them to travel with a large retinue in company, are permitted to quarter themselves upon their friends, under the condition that they send their attendants and horses to be lodged at the common hostelries.¹

The remaining enactments of this parliament related to the regulation of the weights and measures, and to the appointment of an established standard to be used throughout the realm; to the obligation of all barons or freeholders to attend the parliament in person; to the offering up of regular prayers and collects, by all priests religious and secular, throughout the kingdom, for the health and prosperity of the king, his royal consort, and their children; and, lastly, to the apprehension of all stout, idle vagabonds, who possess the ability, but not the inclination, to labour for their own living. These are directed to be apprehended by the sheriff, who is to compel them within forty days to bind themselves to some lawful craft, so that they no longer devour and trouble the country. The regulation of the exact and standard size of the boll, firlot, half firlot, peck, and gallon, which were to be used throughout the kingdom, was referred to the next parliament, whilst it was declared that the water measures then in use should continue the same; that with regard to weights, there should be made a standard stone, which was

¹ Acts of the Parliament of Scotland, vol. ii. p. 10.

to weigh exactly fifteen legal troy pounds, but to be divided into sixteen Scots pounds, and that, according to this standard, weights of half, quarter, and half quarter a stone, of a pound, half pound, and other lesser weights, should be made, and used by all buyers and sellers throughout the realm, from next Whitsunday in all time coming.

James had already increased the strength and prosperity of his kingdom by various foreign treaties of friendly alliance and commercial intercourse. He was at peace with England; the ancient ties between France and Scotland were about to be more firmly drawn together by the projected marriage between his daughter and the dauphin; he had re-established his amicable relations with Flanders; and the court of Rome, flattered by his zeal against heresy, and his devotedness to the church, was disposed to support him with all its influence. To complete these friendly relations with foreign powers, he now concluded by his ambassadors, William Lord Crichton, his chamberlain, and William Fowlis, provost of the collegiate church of Bothwell, his almoner, a treaty with Eric, King of Denmark, Norway, and Sweden, in which the ancient alliances entered into between Alexander the Third, Robert the First, and the princes who in their days occupied the northern throne, were ratified and confirmed, mutual freedom of trade agreed upon, saving the peculiar rights and customs of both kingdoms, and all damages, transgressions, and defaults, on either side, cancelled and forgiven. James also consented to continue the an-

nual payment of a hundred marks for the sovereignty of the little kingdom of Man and the Western Isles, which Alexander the Third had purchased in 1266 for the sum of four thousand marks.¹ Their allegiance, indeed, was of the most precarious nature, and for a long time previous to this the nominal possession of the Isles, instead of an acquisition of strength and revenue, had proved a thorn in the side of the country ; but the king, with that firmness and decision of character for which he was remarkable, had now determined, by an expedition conducted in person, to reduce the northern parts of his dominions within the control of legitimate authority, and confidently looked forward to the time when these islands would be esteemed an acquisition of no common importance.

Meanwhile he prepared to carry his schemes into execution. Having summoned his parliament to meet him at Inverness, he proceeded, surrounded by his principal nobles and barons, and at the head of a force which rendered all resistance unavailing, to establish his residence for a season in the heart of his northern dominions.² It was their gloomy castles, and almost inaccessible fastnesses, which had given refuge to those fierce and independent chiefs, who neither desired his friendship, nor deprecated his resentment, and who were now destined at last to experience the same unrelenting severity, which had

¹ Fordun a Hearne, vol. iv. pp. 1355, 1358.

² Fordun a Goodal, vol. ii. p. 488.

fallen with exterminating force upon the house of Albany. At this period the condition of the Highlands, so far as it is discoverable from the few authentic documents which have reached our times, appears to have been in the highest degree rude and uncivilized. There existed a singular combination of Celtic and of feudal manners. Powerful chiefs of Norman name and Norman blood had penetrated into the remotest districts, and ruled over multitudes of vassals and serfs, whose strange and uncouth appellatives proclaim their difference of race in the most convincing manner.¹ The tenure of lands by charter and seisin, the feudal services due by the vassal to his lord, the bands of friendship or of manrent which indissolubly united certain chiefs and nobles to each other, the baronial courts, and the complicated official pomp of feudal life, were all to be found in full strength and operation in the northern counties; but the dependence of the barons, who had taken up their residence in these wild districts, upon the king, and their allegiance and subordination to the laws, were less intimate and influential, than in the lowland divisions of the country; and as they experienced less protection, we have already seen, that in great public emergencies, when the captivity of the sovereign, or the payment of his ransom, called for the imposition of a tax upon property throughout the kingdom, these great northern chiefs thought themselves at

¹ MS. Adv. Lib. Coll. Diplom. a Macfarlane, vol. i. p. 245. MS. Cart. Moray, p. 263. Appendix, G.

liberty to resist its collection within their mountainous principalities.¹

Besides such Scoto-Norman barons, however, there were to be found in the Highlands and the Isles, those fierce aboriginal chiefs, who hated the Saxon and the Norman race, and offered a mortal opposition to the settlement of all intruders within a country which they considered their own. They exercised the same authority over the various clans or septs of which they were the chosen heads or leaders, which the baron possessed over his vassals and their military followers; and the dreadful disputes and collisions which perpetually occurred between these distinct ranks of potentates, were accompanied by spoliations, ravages, imprisonments, and murders, which had at last become so frequent and so far extended, that the whole country beyond the Grampian range was likely to be cut off, by these abuses, from all regular communication with the more pacific parts of the kingdom.

This state of things called loudly for redress, and the measures of the king, on reaching Inverness, were of a prompt and determined character. He summoned the most powerful chiefs to attend his parliament; and this command, however extraordinary it may appear, these ferocious leaders did not think proper to disobey. It may be that he employed stratagem, and held out the prospect of pardon and reconciliation; or perhaps a dreadful example of immediate

¹ History, vol. ii. pp. 182, 184.

execution, in the event of resistance, may have persuaded the ketheran chieftains, that obedience gave them a chance for their lives, whilst a refusal left them no hope of escape. But by whatever method their attendance was secured, the northern chiefs soon bitterly repented their facility; for the moment they entered the hall of parliament, they were arrested, ironed, and cast into separate prisons, where all communication with each other, or with their followers, was impossible. So overjoyed was James at the success of his plan, and the apparent readiness with which these fierce leaders seemed to rush into the toils which had been prepared for them, that Fordun describes him as turning triumphantly to his courtiers, whilst they tied the hands of the captives, and reciting some leonine, or monkish rhymes, applauding the skill exhibited in their arrest, and the deserved death which awaited them. Upon this occasion, forty greater and lesser chieftains were seized, but the names of the highest only have been preserved: Alexander of the Isles; Angus Dow, with his four sons, who could bring into the field four thousand men from Strathnarvern; Kenneth More, with his son-in-law, Angus of Moray and Makmathan, who could command a sept of two thousand strong; Alexander Makreiny of Garmoran, and John Macarthur, a potent chief, each of whom could muster a thousand men; along with John Ross, William Lesly, and James Campbell, are those enumerated by our contemporary historian; whilst the Countess of Ross, the mother of Alexander of the Isles, and the heiress of Sir Walter

Lesly, a very rich and potent baron, was apprehended at the same time, and compelled to share the captivity of her son.¹

Some of these, whose crimes had rendered them especially obnoxious, the king ordered to immediate execution. James Campbell was tried, convicted, and hanged, for his murder of John of the Isles, Alexander Makreiny and John Macarthur were beheaded, and their fellow-captives dispersed and confined in different prisons throughout the kingdom. Of these, not a few were afterwards condemned and executed; whilst the rest, against whom nothing very flagrant could be proved, were suffered to escape with their lives. By some, this clemency was speedily abused, and by none more than the most powerful and ambitious of them all, Alexander of the Isles.

This ocean lord, half prince and half pirate, had shown himself willing, upon all occasions, to embrace the friendship of England, and to shake himself loose of all dependence upon his lawful sovereign; whilst the immense body of vassals whom he could muster under his banner, and the powerful fleet with which he could sweep the northern seas, rendered his alliance or his enmity a matter of no inconsiderable consequence. After a short confinement, the king, moved perhaps by his descent from the noble family of Lesly, a house of high and hereditary loyalty, restored him to liberty, after a serious admonition to change the evil courses to which he had been addicted, and to evince

¹ Fordun a Hearne, vol. iv. pp. 1283, 1284.

his gratitude by a life of consistent attachment to the throne. Alexander, however, after having recovered his liberty, only waited to see the king returned to his lowland dominions, and then broke out into a paroxysm of fury and revenge. He collected the whole strength of Ross and of the Isles, and at the head of an army of ten thousand men, grievously wasted the country, directing his principal vengeance against the crown lands, and concluding his campaign by rasing to the ground the royal burgh of Inverness.¹

James, however, with an activity for which his enemy was little prepared, instantly collected a feudal force, and flew, rather than marched, to the Highlands, where, in Lochaber, he came up with the fierce, but confused and undisciplined army of the island chief. Although his army was probably far inferior in numbers, yet the sudden appearance of the royal banner, the boldness with which he confronted his enemy, and the terror of the king's name, gave him all the advantage of a surprise; and before the battle began, Alexander found himself deserted by the Clan-Chattan and the Clan-Cameron, who, to a man, went over to the royal army. It is deeply to be regretted that the account of this expedition should be so meagre, even in Fordun, who was a contemporary. All those particular details, which would have given interest to the story, and individuality to the character of the persons who acted in it, and which a little

¹ Fordun a Hearne, vol. iv. p. 1285.

pains would have then preserved, are now irrecoverably lost. All that we know is, that the Lord of the Isles, who, with his chieftains and ketherans, mustered an army ten thousand strong, was yet completely routed, and so hotly pursued by the king, that he sent an embassy to sue for peace. This presumption greatly incensed the monarch ; he derided the idea of an outlaw, who knew not where to rest the sole of his foot, and whom his soldiers were then hunting from one retreat to another, arrogating to himself the dignity of an independent prince, and attempting to open a correspondence by his ambassadors ; and sternly and scornfully refusing to enter into any negotiation, returned to his capital, after giving strict orders to his officers to exert every effort for his apprehension.

Driven to despair, and finding it every day more difficult to elude the vigilance which was exerted, Alexander resolved at last to throw himself upon the royal mercy. Having privately travelled to Edinburgh, this proud chief, who had claimed an equality with kings, condescended to an unheard-of humiliation. Upon a solemn festival, when the monarch and his queen, attended by their suite, and surrounded by the nobles of the court, stood in front of the high altar in the church of Holyrood, the Lord of the Isles, clothed only in his shirt and drawers, holding his naked swrd in his hand, and with a countenance and manner in which destitution and misery were strongly exhibited, suddenly presented himself before them. He then fell upon his knees, and delivering up

his sword to the king, implored his clemency. The king granted him his life, but instantly imprisoned him in Tantallan Castle, under the charge of William Earl of Angus, his nephew. His mother, the Countess of Ross, was committed to close confinement in the ancient monastery of Inchcolm, situated in an island in the Frith of Forth.¹ She was released, however, after little more than a year's imprisonment; and the Lord of the Isles himself soon after experienced the royal favour, and was again restored to his lands and possessions.

This unbending severity, which in some instances approached the very borders of cruelty, was an ingredient absolutely necessary in the character of a monarch, who, when he ascended the throne, found his kingdom, to use the expressive language of an ancient chronicle,² little else than a wide den of robbers. Two anecdotes of this period have been preserved by Fordun, the faithful contemporary historian of the times, which illustrate, in a very striking manner, both the character of the king and the condition of the country. In the Highland districts, one of those ferocious ketheran chieftains, against whom the king had directed an act of parliament already quoted, had broken in upon a poor cottager, and carried off two of her cows. Such was the unlicensed state of the country, that the robber walked abroad, and was loudly accused by the aggrieved party, who swore

¹ Fordun a Hearne, vol. iv. p. 1286.

² MS. Chronicon ab anno 1390 ad annum 1402. Cartulary of Moray, p. 220.

that she would never wear shoes again till she had carried her complaint to the king in person. "It is false," cried he; "I'll have you shod myself before you reach the court;" and with a brutality scarcely credible, the monster carried his threat into execution, by fixing with nails driven into the flesh two horse shoes of iron upon her naked feet, after which he thrust her wounded and bleeding on the highway. Some humane persons took pity on her; and when cured, she retained her original purpose, sought out the king, told her story, and showed her feet, still seamed and scarred by the inhuman treatment she had received. James heard her with that mixture of pity, kindness, and incontrollable indignation, which marked his character, and having instantly directed his writs to the sheriff of the county where the robber chief resided, had him seized within a very short time, and sent to Perth, where the court was then held. He was instantly tried and condemned; a linen shirt was thrown over him, upon which was painted a rude representation of his crime, and after being paraded in this ignominious dress through the streets of the town, he was dragged at a horse's tail, and hanged on a gallows.¹ Such examples, there can be little doubt, had an excellent effect upon the ferocious classes against whom they were inflicted, and caused them to associate a degree of terror with the name of the king, which accounts, in some measure, for the promptitude of their obedience, when he arrived among them in person.

¹ Fordun a Goodal, vol. ii. p. 510.

The other story to which I have alluded is almost equally characteristic. A noble of high rank, and nearly related to the king, having quarrelled with another baron in presence of the monarch and his court, so far forgot himself, that he struck his adversary on the face. James instantly had him seized, and ordered him to stretch out his hand upon the council table; he then unsheathed the short cutlass, or hunting knife, which he carried at his girdle, gave it to the baron who received the blow, and commanded him to strike off the hand which had insulted his honour, and was forfeited to the laws, threatening him with death if he refused. There is little doubt, from what we know of the character of this prince, that he was in earnest; but a thrill of horror ran through the court, his prelates and council reminded him of the duty of forgiveness, and the queen, who was present, fell at his feet, implored pardon for the guilty, and at last obtained a remission of the sentence. The offender, however, was instantly banished from court.¹

One of the most remarkable features in the government of this prince, was the frequent recurrence of his parliaments. From the period of his return from England till his death, his reign embraced only thirteen years; and, in that time, the great council of the nation was fourteen times assembled. His object was evidently to render the higher nobles more dependent upon the crown, to break down that dangerous spirit of pride and individual consequence which

¹ Fordun a Hearne, vol. iv. pp. 1334, 1335.

confined them to their separate principalities, and taught them, for year after year, to tyrannise over their unhappy vassals, without the dread of a superior, or the restraint even of an equal, to accustom them to the spectacle of the laws, proceeding not from their individual caprice or authority, but from the collective wisdom of the three Estates, sanctioned by the consent, and carried into execution by the power, of the crown acting through its ministers.

In a parliament, of which the principal provisions have been already noticed, it was made incumbent upon all earls, barons, and freeholders, to attend the meeting of the Estates in person, and the practice of sending procurators or attorneys in their place, which, there seems reason to believe, had become not infrequent, was strictly forbidden, unless due cause of absence be proved. In two subsequent meetings of the great council of the nation, the first of which appears to have been held at Perth on the 30th September, 1426, and the second on the 1st of July, 1427, some important enactments occur, which evince the unwearied attention of the king to the manufactures, the commerce, the agriculture of his dominions, and to the speedy and impartial administration of justice, both in civil and criminal cases, to all classes of his subjects.¹ It is evident, from the tenor of a series of regulations concerning the deacons of the trades, or crafts, that the government of James, probably from its extreme firmness and severity, had already

¹ Acts of the Parliament of Scotland, vol. ii. pp. 13, 14.

become unpopular. It is first commanded, that the deacons of the crafts confine themselves strictly and simply to their duties, of ascertaining, by an inspection every fifteen days, whether the workmen be sufficiently expert in their business, but they shall have no authority to alter the laws of the craft, or to punish those who have offended against them; and in the parliament of 1427, it is declared, that the provisions regarding the appointment of deacons of the crafts within the royal burghs had been found productive of grievous injury to the realm, for which reason they were henceforth annulled; that no deacon be permitted after this to be elected, whilst those already chosen to fill this office are to be prohibited from exercising their functions, or holding their usual meetings, which are found to lead to conspiracies.¹ It is possible, however, that these conspiracies may have been combinations amongst the various workmen, on subjects connected with their trade, rather than any serious plots against government.

To the aldermen and council of the different towns is committed the charge of fixing the prices of the various kinds of work, which they are to regulate by an examination of the value of the raw material, and an estimate of the labour of the workman; whilst the same judges are to appoint the wages to be given to wrights, masons, and such other handicraftsmen, who contribute their skill and labour, but do not furnish the materials. Every farmer and husbandman who

¹ Acts of the Parliament of Scotland, vol. ii. p. 14.

possesses a plough and eight oxen, was commanded to sow, annually, a firloft of wheat, half a firloft of pease, and forty beans, under a penalty of ten shillings, to be paid to the baron of the land for each infringement of the law; whilst the baron himself, if he either neglect to sow the same quantity within his own demesnes, or omit to exact the penalty from an offending tenant, was made liable in a fine of forty shillings for every offence, to be paid to the king. The small quantity of beans here mentioned, renders it probable that it is the era of their earliest introduction into Scotland.¹

It would appear, that although the castles of the Lowland barons, during the regencies of the two Albanys, had been maintained by their proprietors in sufficient strength; the houses of defence, and the various fortalices of the country, beyond that lofty range of hills, known anciently by the name of the Mounth, had gradually been allowed to fall into decay, a state of things proceeding, without doubt, from the lawless state of these districts, divided amongst a few petty tyrants, and the extreme insecurity of life and property to any inferior barons who dared to settle within them. To remedy this evil, it was determined by the parliament, that every lord who had lands beyond the Mounth, upon which, in "auld tymes," there were castles, fortalices, or manor places, shall be compelled to rebuild or repair them, and either himself to reside therein, or to procure a friend

¹ Acts of the Parliament of Scotland, vol. ii. p. 13.

to take his place. The object of the statute is described to be the gracious government of the lands by good polity, and the happy effects which must result from the produce of the soil being consumed upon the lands themselves where it was grown; an error, perhaps, in civil policy, but which evinces, even in its aberration, an anxiety to discover the causes of national prosperity, which is remarkable for so remote a period.¹

The extreme jealousy with which the transportation of money, or bullion, out of the realm, had always been regarded, is carried to an extraordinary height in the parliament of the 1st July, 1427; for we find an enactment, entitled, "Anent the finance of clerks, by which all such learned persons proposing to go beyond seas are strictly enjoined either to make change of their money, which they have allotted for the expenses of their travel, with the money changers within the realm, or at least with the merchants of the country." The same act is made imperative upon all lay travellers, and both clerks and laymen are commanded not to leave the country before they have duly informed the king's chancellor of the exchange which they have transacted, and of the object of their journey.

Some of the most important regulations in this parliament of July 1427, regarded the administration of civil and criminal justice, a subject upon which the king appears to have laboured with an enthusiasm

¹ Acts of the Parliament of Scotland, vol. ii. p. 13.

and assiduity which evinces how deeply he felt the disorders of this part of the government. It was first declared, that all persons who should be elected judges, in this or any succeeding parliament, for the determination of causes or disputes, should be obliged to take an oath that they will decide the questions brought before them to the best of their knowledge, and without fraud or favour. In the settlement of disputes by arbitration, it is enacted, that for the future, where the arbiters consist of clerks, a churchman, having the casting vote, is to be chosen by the bishop of the diocese, with advice of his chapter; where the case to be determined has arisen without burgh, between the vassals of a baron or others, the oversman having the casting vote is to be chosen by the sheriff, with advice of the lord of the barony; and if the plea takes place between citizens within burgh, the provost and his council are to select the oversman, it being specially provided, that for the future all arbitrations are to be determined, not by an even but an uneven number of arbiters.¹ With regard to the case of Scottish merchants dying abroad in Zealand, Flanders, or other parts of the continent, if it be certain that they were not resident in these parts, but had merely visited them for the purposes of trade, all causes or disputes regarding their succession, or their other transactions, are declared cognisable by the ordinary judge, within whose jurisdictions their testaments were confirmed; even although it is proved that part

¹ Acts of the Parliament of Scotland, vol. ii. p. 14.

of the property of the deceased trader is at that time in England, or in parts beyond seas.

In a general council held at Perth on the 1st of March, 1427, a change was introduced relative to the attendance of the smaller barons and free tenants in parliament, which, as introducing the principle of representation, is worthy of particular attention. It was determined by the king, with consent of his council general, that the small barons and free tenants need not come to parliaments nor general councils, provided that from each sheriffdom there be sent two or more wise men, to be chosen at the head court of each sheriffdom, in proportion to its size. An exception, however, was introduced with regard to the sheriffdoms of Clackmannan and Kinross, which were directed to return each a single representative. It was next declared, that by these commissaries in a body there should be elected an expert man, to be called the Common Speaker of the parliament, whose duty it should be to bring forward all cases of importance involving the rights or privileges of the commons; and that such commissaries should have full powers intrusted to them by the rest of the smaller barons and free tenants, to discuss and finally to determine what subjects or cases it may be proper to bring before the council or parliament. It was finally ordained, that the expenses of the Commissaries and of the Speaker should be paid by their electors who owe suit and presence in the parliament or council, but that this new regulation should have no interference with the bishops, abbots, priors, dukes, earls, lords of par-

liament, and bannerets, whom the king shall continue to summon by his special precept.¹ It is probable that in this famous law, James had in view the parliamentary regulations which were introduced into England as early as the reign of Henry the Third, relative to the elections of knights of the shire, and which he had an opportunity of observing in full force, under the fourth and fifth Henries, during his long residence in England.² As far as we can judge from the concise but clear expressions of the Act itself, it is evident that it contained the rude draught or first embryo of a Lower House, in the shape of a Committee or Assembly of the Commissaries of the Shires, who deliberated by themselves on the proper points to be brought before the higher court of Parliament by their Speaker.

An institution which was destined afterwards to become the most valuable and inalienable right of a free subject, that of appearing by his representatives in the great council of the nation, arose, in the first instance, from an attempt to avoid or to elude it. To come to parliament, was considered by the smaller barons who held of the crown in capite, an intolerable and expensive grievance; and the act of James was nothing else than a permission of absence to this numerous body, on condition of their electing a substitute, and each paying a proportion of his expenses.

In the same parliament, other acts were passed,

¹ Acts of the Parliament of Scotland, vol. ii. p. 16. cap. 2.

² Rapin's Acta Regia, vol. i. p. 41. Statutes of the Realm, vol. ii. pp. 156, 170, 235.