

Letter from William Stewart to Y^e Regent

5 August 1569

ALL the facts known to me about this letter (which appears in a condensed form in Mr. Bain's *Calendar of Scottish Papers*, 1563-69, No. 1114) are given in my *Mystery of Mary Stuart*, pp. 374-379 (London, 1901). Sir William Stewart, Lyon Herald, author of the letter, was sent to Denmark in February, 1568, to ask for Bothwell's extradition. He was in Scotland by June, 1568. On July 20, 1568, Drury, from Berwick, informs Cecil of the plot against Regent Moray, to which this letter refers: and also speaks of pranks of conjurers and treasure-hunters near Edinburgh, including 'Wile Stwart, Kyng off heraulde.'

Brit. Mus., Add. MS. 33, tr. 31, f. 81.

'BEING suspected Moste Mercyful Regent to have bene a Partaker or at Least concealer off a pretendit conspiracy I have thocht it convenient asweil for the manifestation off the trewth as for my awn po'gation to declair so far as my knowlege Reacheth the whole discourse off the (?) mater. And first Most virtuous Regent as touching my owne innocence I beleive that nether yo' gr. nor none other wil accuse me to haue had ain part in the deuying & concludwing off the said conspiracy and thogh sum wold yit shal the trewth overcome thair vniust accusation for thogh lacketh so mekle that I shwld be gilty in any portion off the same that at this howr I know no when nor where It was concludwit or deuyisit. nether dar I swear yf ever any sik thing was concludwit or not. Bot It may be Replyed that I am pwnishment worthy because I concealed the pretendit conspiracye. Albeit Moste mercyful Regent that the concealing off treason disserueth punishment, yit for al that have I disserued none at al for the principal deuyaris & autho's off the alledgit conspiracy are not convinced off treason and vntil sik tyme as the mater be tryed treason I can not be accused to have concealed treason. And albeit this one answer be one Inuincible defence against al that can be laid to my charge in this mater yit wil I to geve a further tryal off my innocency proceed further. Admitting then that It war treason & that they had conspyred yo' gr. mo'tho' quik wil never be provin, yit have I cofmited none offence vnless yowr gr. wil cal it an offence to conceal a thing vniuersally published before jt com to my eares. for jt js moste certaine Moste mercyful Regent that besides the secret advertishment that yowr gr. gat off the mater quik was lang before jt cam to my

knowledge the brwt off this conspiracy was tossed vp & down al Edinburgh the self same day that the persown tald jt vnto me qtk was wednesday the xxj day off July, & word com that sameday how the comptrollar after he had po'git him off the conspiracy was gone owt off stirueling. Moreover thogh jt had not bene disclosed yit do not I know giff I dwrst haue Reuealit the mater or not vnto your gra. One Reason in a maner is this because that I never thocht nether can any man perswade me to this howr that the persowns nominat by the persown off Kynnoir wald jnterprysyt sik a vyle & execrable mo'ther, and I am assured that yo' gr. self wil not believe jt, bot y' gr. knowing thair names wil not only prais & allow my by past taciturnitye bot also cofmand y' po'pose to be bwryed with sylence in tyme to come.

The second js that I was moste asswred that thogh thay & al Scotland had conspyred yo' gr. death that jt had bene in vaine for I know weil yo' gr. shal jncour no mortal dawnger (mortal I say) bot by domestical treason like as at al tymes every man might haue conceaut by my speaking & wrythngs. And giff your gra. thinks this my opinion vane yit do not I esteame it so, for he that told me the same hath foreshowed me so many trew thingis that I can not bot in this cace belieue him. for this man foreshew me the slawghter off the quenis hwsband in the Rwyn & forfaling off the Earie bothwel, & not only my last voyage bot also where & for what cawse I shuld mak jt, the death off lyon herald, my promotion & drection, the quenis deliuerance & yo' g. victory at the Lang syd. and besides al these many other trew thinges & since the event & experience have declared him trew in al these predictionis, why shuld I then distrust him in this one? Wherin also (giff any conspiracy was) the event hath approved his trewth. Bot to Retowrne to my former Reasons. I can not be accusit to have concealed treason al the mater be tryed treason. And thogh jt war treason yit haue not I offendit, for the mater was manifestly spokin before it come to my eares, and the Jnterpryse past al execution, for the comptrollar was gone owt off stirueling before the po'pose was Reuealed vnto me. And giff neid be I am able to prove that I knew the po'pose disclosed vnto yo' gr. lang before that the persown reuealed the same vnto me & thairfore prayd him ernstlye to haue no meddling in the matter, & willed him no ways to go to stirueling. Now how I knew jt your gra. shal hier. A certaine familiar co'tiour come to my awn howse abowt the middest off July in the last year at xj a clock or y'by before none & told me those wordes. Trewly (sais he), ye wil not trow a certan conspiracy js Reuealed to my lord Regent & amangs others that hes deusyt his g. slawghter thair is sum off his owne frendis. Is no this a strawnge case that they wil not suffer that gwdeman to live amangst ws? Trewly said I, I know nothing off the mater, & as to his frendis, I know none that favoreth the quenis ma^{te} saving Arthure only, & I dowbt greatly giff he haiff the cwrage to jnterpryse so great a mater.

Forsiuth (sayeth he) I know not whome to suspect, thair js off al the quenis faction bot one man whome I fear that Is my lord boyd for he js a man off a good wit & of great jnterpryses. Weil said I al their jnterpryses wil tak no effect for my lord Regent shal inco' no dawnger bot by domestical treason. These ar the very wordis sa neir as I can Remembre that both he & I spak at that tyme, & do po'posely recite the same to cal the po'pose to his Remembrance. for jt may be that because the mater towcheth him not, he haue foryet the same. Behold Moste m'cyful Regent how jnnocent I am off the alledgit offence & how vniustly I haue bene hetherto accused off treason & mo'ther quhillis ar in earth the thingis qtk I haue moste abhorred, yea in so farre haue I abhorred Rebellion yat I haue always thocht & yit thinks jt vnlauchful to Resist the very

tyrants or vsurpars how wikked so ever thay be fallowing heirin the holy wryttingis off daniel & jeremye prophetes off pawl peter & otheris, yea & in maters off Religion haue thoght jt & yit dois think yt vnlawchful to Resist the magistrat. How greatly thinketh yo^r gr. then wold jt be against my conscience treasonably to conspyre consent or conceal the mo^{tho} off a magistrat professing the trew doctrine of cryst Jesus. Wherefore I moste humbly beseik yo^r gr. that as my good fame & estimation hath heirin bene moste vniustlye sclawnderit, that jt wil pleass yo^r gr. off yo^r great humanitye & goodnes that my Jnnocency towching this vile sclawnder be manifested to the end that not only sik as know me in this contrey bot also al otheris in foraine nationis to whome this detestable brwte hath bene Raported may chawnge opinion & haue me lyke as my Jnnocency disserueth in thair wonted good favo^r & estimation. This moste victorious Regent is the trew discourss off the mater, & giff the persown hes for fear off his lyff deposed otherways off me then I haue heir confessit I wil asswre yo^r gr. he hes done far besides the trewth as by confrontation giff yo^r gr. pleaseth shal appear. As to the authoris & sik as shwld haue bene executouris off the alledgit treasonable fact [can I not for great Reasons wryt, nether wil I coffunicat thame bot vnto yo^r gr. ðlye,]¹ and when & where jt shwld haff bene done, & jn hope off what Reward, can I not for great Reasons wryt, nether wil I vncompelled coffunicate thame bot vnto yo^r gr. ðlye. And so maist humbly craving yo^r gr. pardon for al other offences & praying yo gr. to Remember the coffendable word that Hadrian the Empriour said to his deadlye Jnnemy And to cal to mynd that yo^r gr. Js now no priuat man and thairfore can not wth great coffendation pwnish or Revenge any priuat jniury coffits yo^r gr. to the protection off God. Off the castel off edinburgh the v off august 1569.

yo^r graces

Maist humble seruito^r

W^M STEWART.[?]

In the *Diurnal of Occurrents*, Aug. 14, 1568, we are told that the 'Parson of Kynnoir,' Patrick Hepburn, revealed the plot against Moray, and the names of the conspirators, Patrick being Bothwell's cousin. Stewart had already fled to Dumbarton Castle, as suspect of a part in the conspiracy (August 2, Birrell's *Diary*, p. 17). From the shelter of Dumbarton Stewart wrote a cocky letter to a lord unnamed (Aug. 19, Chalmers, *Mary Stuart*, I. 441, 442). He professed his innocence, but said that some of the Privy Council were guilty, and called Moray 'a bloody usurper.' He was captured, how we do not know, and lodged in Edinburgh Castle, where he wrote to Moray the letter here published. On August 15, 1569, he was burned at St. Andrews as a warlock.

A. LANG.

¹Crossed through in the Original.

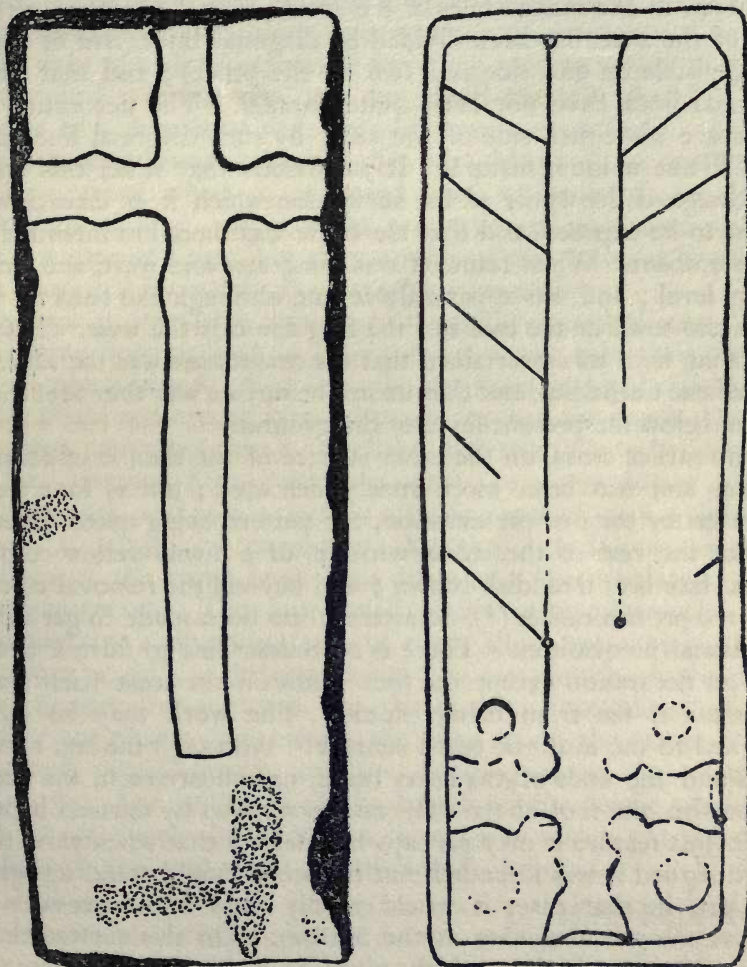
A Cross-Slab at St. Andrews

EVER since the ruins of the Culdean church at the Kirk-Heugh were laid bare in 1860, St. Andrews has been the proud possessor of an extensive and invaluable collection of local specimens of early Christian monuments. This collection increased very slowly until 1891, when several specimens, previously unknown, were uncovered in the base of the east gable of the Cathedral; and since that time no fewer than eighteen have been dug up in the immediate neighbourhood, fourteen being within the adjoining burying-ground, two within the Priory grounds, and two within the grounds of the Girls' School. On recalling the fact that the fourteen stones referred to (four of which are complete) have been unearthed by the present care-taker of the burying-ground during his thirteen years' tenure of office, one almost shudders to think of the number that may have been ruthlessly broken up and thrown over the cliff by his less careful predecessors. With three exceptions the whole collection has been described by Mr. Romilly Allen in his recently issued *Early Christian Monuments of Scotland*.

It was impossible to include in that noble work the stone now to be described, as it was not found until the 15th of May, 1903. That morning when a grave was being opened twelve or fourteen feet to the north of the north-east corner of St. Rule's Chapel, the projecting corner of a flat stone was uncovered. Almost the whole of the stone lay further north, in the next grave, but with considerable trouble it was extricated and pulled up to the surface undamaged. It was then found to be a cross-slab, measuring from three and a quarter to four and a quarter inches in thickness; from twenty to twenty and a half inches in breadth; and five feet in length. It was also found that there was an incised cross on each of its two faces, and that these crosses were not only dissimilar in style, but pointed in opposite directions. There is manifestly a long period—probably two, perhaps even three centuries—between the respective dates of these two crosses.

The more recent may be described first, as it was on the upper

surface when found. The slab is of hard free-stone; but unfortunately there has been a thin layer of a shaly-looking substance under this upper surface, and as it has partly scaled off, the details



Celtic Cross-Slab. Scale one-twelfth.

of the pattern have been somewhat destroyed. Enough remains, however, to show that a panel has been formed by cutting an incised line near the outer edge of the slab; that the cross, at the head and foot, as well as at the ends of its arms, touches this incised border line; that there is a constriction on each of the

upper limbs of the cross ; that there has been a circle of about three and a half inches in diameter above each arm, and a circle of about two and a half inches in diameter below each arm ; that there are at least four small circles, each about half an inch in diameter, in the incised lines of the cross ; that the space on either side of the shaft has been divided by diagonal lines (five of these being visible on one side and two on the other) ; and that these diagonal lines have not been quite parallel. The decoration of the space on either side of the shaft by such diagonal lines is a rare, if not unique, feature. It is obvious that when this cross was designed the whole of the surface on which it is incised was meant to be exposed, and that the stone was therefore intended to be recumbent. When found it was lying east and west, and practically level ; and was apparently *in situ*, although the head of the cross was towards the east and the foot towards the west. Before removing it, it was ascertained that the orientation was the same as that of the Cathedral, and that its upper surface was four feet three inches below the present level of the ground.

The earlier cross, on the other surface of the slab, is of simpler design, and has been more rudely executed ; but is in a very much better state of preservation, the pattern being quite distinct. Unlike the rest of the stone, which is of a tawny-yellow colour, this surface is of a reddish-brown ; and beyond the removal of two or three protuberances (?), no attempt has been made to get rid of its natural inequalities. There is no border line to form a panel, and no decoration except the four bulbs on the cross itself ; and the shaft is far from being plumb. The work may be safely assigned to the ninth or tenth century. Although the top of the cross and the ends of the arms reach, or almost reach, the edges of the slab, the foot of the shaft does not do so by thirteen inches. From this feature it may perhaps be inferred that when this cross was designed it was intended that the stone should stand upright ; and yet, in that case, it would hardly have been necessary to remove the protuberances at the bottom. On this surface there is another peculiarity, which gives it a blotched appearance. Whatever caused this, it must have been done after the cross was incised, for it occurs in the incised lines as well as on the undressed stone. Various theories have been propounded. In some respects the marking is not unlike that caused by lichens ; but it does not seem possible that any trace of a lichen would remain on that surface of a stone which had been underground for seven or eight centuries. It bears a still closer resemblance to the alga. which

forms dull-red, skin-like coatings on rocks and stones in pools at the sea-shore ; and this resemblance is not lessened by the more distinctly marked circles, which look as if they had been exuded, and remind one of the traces of small limpets and barnacles on the rocks. The alga on a sea-stone, however, entirely disappeared when tested by hydrochloric acid, whereas the incrustation on this stone only partially disappeared from the spot to which that acid was applied. It has also been suggested that the marking may be due to a deposit of lime derived from a dead body. A very small quantity was subjected by Mr. Marshall to qualitative analysis, from which it appeared that it consisted mainly of carbonate of lime, with a slight proportion of phosphate of lime and sulphate of lime ; but the quantity of the material examined was too small for satisfactory or exhaustive analysis.

Several of the Celtic stones so plentifully scattered over Scotland have been utilised in later ages in a way that their makers never contemplated. For example, the stone in Crail church has had a shield and coat of arms cut upon it ; and the one in Dunino has been converted into a sun-dial. But few, if any besides this St. Andrews one, have been re-adapted, in a remote age after a long interval, and re-adorned by a Celtic cross of such a different type. It should be mentioned that the incised lines on both surfaces of the stone have been done by a sharp-pointed, pick-like implement. The four small circles have apparently been produced by a revolving tool of some kind, something of the nature of a drill or brace-and-bit. In my sketch of the older face, neither the blotches nor the natural inequalities of the surface are shown, but merely the cross itself, the traces of the supposed protuberances, and the chipping along the edges of the stone. In my sketch of the later face, the details which are distinct are shown by unbroken lines, those which are uncertain by dotted lines, and weather markings are ignored.

D. HAY FLEMING.

A Hindrance to Genealogy

WHEN the first volume of the House of Gordon—which the New Spalding Club have in hand—makes its appearance, it may surprise many readers that the Editor has started so vast a subject by dealing with three lesser cadets, and not with any of the main lines. This arrangement, however, has been chosen with the utmost deliberation, and the principle involved in it is applicable to the genealogical treatment of nearly all the great families.

Nothing strikes the genealogist of to-day so forcibly as the vast amount of wasted power which has been expended over the subject. This wastage has militated not only against the completion of the particular subject in hand, but against the practice of genealogy as a whole, and has brought that useful art at times into perilous disrepute. I believe that the curse which has affected much of our genealogical inquiry has been the desire for definitiveness. Investigator has followed investigator, travelling precisely the same road; but, unlike most travellers, he has too often failed to vouchsafe to posterity the results of his observations. Had he been content to print, or at any rate to leave in a form that could be manipulated by others, the result of his work, genealogy would to-day stand on a far better basis than it does. But each worker insists on starting on the main line himself, and working downwards through its cadets. The consequence has been that while we may have several books printed on the main line, the cadets are rarely dealt with.

The history of the house of Gordon is a striking case in point. The whole effort of the genealogist, in something like 150 years, has gone to elucidate the history of the ducal line, and, as the activities of that line were practically identical with much of the nation's history, the general result has been extremely disappointing. It has led, for example, to there being practically no book whatever dealing with the numerous branches of the

family who were content to remain on the Borders, while the more important cadets in the North have remained without a historian at all. I have come across great collections of material, painfully got together, which are practicably unworkable, except by the original collector. The same books have been ransacked, the same sasines copied; indeed the whole sources of information have been utilised by the different workers over and over again, with but small result.

The Antiquarian Clubs have been working assiduously for 80 years (the Bannatyne was founded in 1823); and the raw material has gone on multiplying persistently in every sort of form. Quarry after quarry has been opened up, and yet, so far as genealogy is concerned, little has been done to make use of the buried material. Even the genealogies which Sir William Fraser gave us were really quarries in themselves, illustrating in most cases the main lines of a family as told in its charter chest, with but little attempt to elucidate the history of the smaller branches.

Short of a scheme of organised co-operation, it is almost certain that the complete history of the great families will never be properly done unless tackled in a piecemeal way; that is to say, by the publication of accounts of cadets of whatever importance as the worker finishes them, without reference to a general scheme: so that the next inquirer may be saved the trouble of doing useless research. Organised co-operation is practically impossible, for scarcely any of the workers will agree upon the same method, and the risk of overlapping is almost inevitable.

Such a journal as the *Scottish Historical Review* can do much to help this piecemeal treatment of genealogy. That is why I venture to write in this strain. By way of a footnote I cannot help mentioning the enormous activity of American genealogists. Here is a people busy with the world of affairs in a way we scarcely understand: keen on money getting and eager for the day's work. And yet the merest amateurs there find time to investigate their history with relentless energy. The fact is a useful reminder to those who regard Antiquary and Antediluvian as interchangeable terms.

J. M. BULLOCH.

Hill Burton in Error

HILL BURTON'S *History of Scotland* has been so long before the public, and, in default of a better work on the same scale, has been so widely read that it would be mere waste of time to enlarge on its admitted defects—its lack of insight into character and events, its want of coherence, continuity, and proportion, and its loose, slovenly, undignified, though sometimes amusing, style. A Scotsman, content to learn the history of his country from Hill Burton's book, might be pardoned for thinking that Nature's journeymen had made some of its greatest men, and not made them well. A statesman so patriotic as Maitland and so acutely sensitive to the pressure of his age will be presented to him as 'the avowed scientific politician whose intellect was stuffed with foreign subtleties,' and whose qualities 'were rather rhetorical than practical';¹ from half-a-dozen pages headed 'Knox—His Death and Character' he will learn that the Reformer claimed to be a prophet, gave Sunday supper-parties, and was not personally vicious; and he will discover that Montrose was a vastly over-rated person who deserted the Covenanters because he had been superseded by Leslie and hated Argyll, and who was defeated on the first occasion on which he encountered a commander of repute. He will infer that the question whether Gowrie and his brother had or had not conspired to kidnap James VI. is of far more consequence than the origin of that 'ecclesiastical reaction' which resulted, forty years later, in the Puritan revolution, since 37 pages are devoted to the former point and only 2½ to the latter. He will be told that 'the royal mind' of Charles I., uttered obscurely to the people, 'was in confidence let out to the Commissioner';² and perhaps, without being a very rigid purist, he may object to such sentences as these: 'They held at him in this fashion to the very end on the scaffold';³ 'Implicit obedience is the key-note of the traces left on his personal conduct.'⁴

¹Second Edition, iii. 344; v. 132. ²vi. 200. ³v. 180. ⁴vii. 184.

It has, however, been maintained, and is perhaps generally believed, that these defects are balanced, if not outweighed, by conspicuous merits. The writer of the obituary notice in *Blackwood's Magazine* (Sept. 1881), whilst admitting Burton's discursiveness and want of imagination, credits him with a 'power of intense and patient observation'; and Dr. Garnett, in a very discriminating article in the *Dictionary of National Biography*, says that he possessed 'in perfection all the ordinary and indispensable qualities of the historian,' and excelled in 'closeness of investigation' and in 'critical research.' This reputation for accuracy Burton probably owes in great measure to the fact, obvious to every reader, that he is absolutely impartial. The ideal historian must be so; and yet the impartiality which proceeds, not from control over one's personal feelings, but from mere lack of sympathy and interest may be far more conducive to careless writing than the partisanship, which does indeed warp a man's judgment, but which may at the same time inspire him to take great pains with his work. M'Crie, for example, the biographer of Knox and Melville, was intensely prejudiced; but no writer of Scottish history is more reliable, more studiously accurate, in his statement of facts.

If Burton had a 'power of intense and patient observation,' or at all events if, having such a power, he habitually used it, one cannot but note with surprise that he makes glaring blunders, and that too in a second edition which, as he tells us in the preface, he had endeavoured 'to the extent of his capacity' to make accurate as well as complete. It is such a blunder to say that Hamilton commanded the English contingent at the battle of Leipzig,¹ where he was not present at all; that Rupert routed the forces opposed to him at Marston Moor;² that Charles in his 'Engagement' with the Scots accepted the terms which he had refused at Newcastle in 1646, undertaking to be a 'Covenanted monarch';³ that the term 'Resolutioner' originated in the resolution [not to set aside the Act of Classes, but] to acknowledge Charles II.;⁴ that Sharp, a leading Resolutioner, procured the Ordinance of 1654, which was issued two years before his

¹ Second Edition, vi. 411.

² vi. 361.

³ vi. 409.

⁴ vii. 249, note. There are other mistakes in this note. The Act of Classes was passed in 1649, not in 1650, and it could not have divided the Covenanters into 'Argyleites and Classites,' for Argyll himself introduced the Act. As to the term 'Resolutioner,' however, Burton elsewhere gives the true explanation.

first visit to London, and in favour of the Protesters;¹ that none of the old bishops survived at the Restoration;² and that the indulged ministers retained their cures till the Revolution.³ The author is mistaken when he says that six commissioners [not eight] represented Scotland at Queen Mary's marriage with the Dauphin;⁴ that Argyll was still in arms for Queen Mary at the time of the Massacre of St. Bartholomew;⁵ that Maitland 'was found dead after the surrender' of Edinburgh Castle⁶—he died at Leith, six weeks later; that all the fourteen Covenanters summoned by Charles I. to Berwick in 1639 [and not only eight] refused to attend;⁷ that Prince Rupert [not Prince Maurice] was Montrose's superior in the Scottish command;⁸ and that Langdale's English division was in advance [not in the rear] when Cromwell attacked the army of the Engagement at Preston.⁹

It may be noted also that he represents the army sent by Elizabeth to the assistance of the Lords of the Congregation as being conveyed by sea after the Treaty of Berwick,¹⁰ whereas the fleet was sent before the treaty, and the army, after, advanced by land; that he makes James VI.'s visit to Scotland of three months' duration in 1616 extend over a year;¹¹ that he calls a man so detested by the Covenanters as Sir John Hay 'a neutral figure in the confusions of the times';¹² that he places the surrender of Charles I. to the Scots in 1645, instead of in 1646;¹³ that he confounds the causes of the public fast instituted after the battle of Dunbar with Guthrie's famous pamphlet, *The Causes of the Lord's Wrath*;¹⁴ that he dates the skirmish at Drumclog, June 11, instead of June 1, 1679;¹⁵ and that he makes the expedition of Claverhouse into Galloway in 1682 contemporaneous with the execution of John Brown of Priestfield in 1685.¹⁶ In his account of the projects of union which followed the accession of James VI. to the English throne, he says that 'such invidious restraints' were removed 'as had in the earlier law anticipated the restrictive English navigation Acts of later times.'¹⁷

¹ Second Edition, vii. 65. ² vii. 147. ³ vii. 458. ⁴ iii. 289.

⁵ v. 114. See *History of King James Sext*, p. 85, and Calderwood, iii. 135.

⁶ v. 129. ⁷ vi. 269. ⁸ vi. 365. ⁹ vi. 414. ¹⁰ iii. 369. ¹¹ vi. 43.

¹² vi. 171. On p. 329 Burton himself tells us that this 'neutral figure' was excepted from the indemnity of 1641; but the index shows that he took the Sir John Hay so excepted to be a different person.

¹³ vi. 403. ¹⁴ vii. 35. ¹⁵ vii. 223. ¹⁶ vii. 251. ¹⁷ v. 411.

This, had it really been made, would have been a most important concession; but any one who refers to the English statutes (vol. iii., p. 64) will find that the law repealed was not the Navigation Act of 1381, but the immediately preceding and quite obsolete Act of the same year, which provided that no one should leave the realm without the King's permission. Of the Act Recissory, 1661, Burton says that it cancelled 'all legislation later than the year 1638, for the Parliament of 1639 passed no statutes.'¹ Why he should mention 1638 does not appear, since the last Parliament before 1639 had been held in 1633; but, apart from this, his account of Middleton's famous law cannot be accepted as correct. The Act Recissory annulled all Parliaments, except in so far as they had legislated in favour of private rights, from 1640 to 1648, inclusive; the Whiggamore Parliament of 1649 was annulled, not by this, but by a previous statute of the same session; but a Parliament under the personal authority of Charles II. had sat from 1650 to 1651, and this Parliament was not and could not have been annulled, seeing that almost the first act of Charles on his return to power had been to revive the Committee of Estates which it had appointed at its adjournment, and which the Cromwellian troops had captured, soon afterwards at Alyth. Nevertheless, as pointed out by a contemporary writer,² it may be a question for lawyers why the Parliament of 1661 should style itself the first Parliament of Charles II.

The only objection to the statements just cited is the somewhat serious one that they are at variance with the facts. Let us now look at a statement which is absurdly improbable as well as wholly untrue. Most readers of Scottish ecclesiastical history must be aware that James VI. sought to compound for his inroads on the Presbyterian organisation by a rigorous prosecution of Papists. The Linlithgow Assemblies of 1606 and 1608, at the instigation of the Crown, were particularly active in this matter, the Marquis of Huntly and three other Catholic noblemen being excommunicated; and in November, 1608, the Presbytery of Edinburgh drew up a letter to the King, thanking him for his severity against such 'as the Kirk here has at last been forced to cut off and excommunicate from her society.'³ It is almost incredible that a serious historian

¹ Second Edition, vii. 143. ² Brown of Wamphray in his *Apologetical Relation*.

³ *Original Letters to James VI.*, Bannatyne Club, i. 166.

should have supposed, as Burton does,¹ that this letter was inspired, not by the recent proceedings against the Catholics, which it expressly mentions, but by the condemnation for treason, two and a half years before, of the ultra-Presbyterians who had attempted to hold an assembly at Aberdeen. These extremists had outlived their popularity; but the Presbytery of Edinburgh must have gone mad before it could have thanked the King for trying and banishing them; and assuredly the Melville party had not been, nor was ever likely to be, excommunicated.

It is not given to many historians, and seldom even to Burton, to sin on such a scale as this; but his detailed statements are so loosely constructed, and show so little evidence of what the *Blackwood* writer calls 'his strong tenacious grasp of the past,' that to assume them accurate would be a far bolder assumption than to take for granted that they are incorrect. From a general survey of his work from the Reformation onwards, one would suppose that, having looked through rather than studied his authorities, and then put them away, he was content to reproduce whatever general impression had been left on his mind. He can hardly have worked with the authorities before him, noticing where this writer confirms, supplements, or conflicts with, that. For example, in dealing with the career of Montrose, he seems to have remembered that somebody, whom we know to have been John Stewart of Ladywell, was cited by Montrose as his authority for the statement that Argyll meant to depose the King, and that Montrose had employed a certain Colonel Alexander Stewart, whom Traquair always called Captain, to convey letters to Charles. The latter personage he does not mention; but the former, transformed apparently by an unspoken association in the writer's mind, appears as Captain James Stewart.² Captain one can understand, but why James?

A more striking example of the same confusion of ideas occurs in his account of the Darien scheme. He tells us that, after the Indian and African Company had learned for certain that the first colony had withdrawn from Darien, 'they fitted out an auxiliary expedition, with warlike instructions, and a tried old soldier, Campbell of Finab, at its head'; that this expedition had orders to re-occupy the settlement, if necessary, by force, not to allow its flag to be insulted by that of any

¹ *Original Letters to James VI.*, Bannatyne Club, v. 436.

² v. 334.

nation, and to regard no documents, though professedly in the King's name, which were not countersigned by a Secretary of State for Scotland.¹ Whoever has made a careful scrutiny of the *Darien Papers*, edited by Burton himself for the Bannatyne Club, will see at a glance what confusion we have here. Campbell of Finab, with credit for £1000, was ordered to take his passage in 'the galley belonging to Captain John Moses,' or in any other trading vessel, to the West Indies, and there to purchase provisions for the settlement—a mission which he successfully carried out; there was no 'auxiliary expedition'; and the orders as to the flag and Government documents had been given, about a month before, to the captain of a ship sent out to trade on the West African coast.² Four pages further on, we are told that 'two vessels containing further detachments' arrived after the colony had surrendered to the Spaniards, and narrowly escaped capture. This is most inaccurate. The two vessels in question conveyed supplies only, not detachments, and the first was allowed to enter by the terms of the capitulation.

Burton's capacity for compressing a great quantity of error into the smallest possible space may be seen to best advantage in the following passage, referring to the abortive Assembly held, or attempted to be held, by the ultra-Presbyterians in 1605: 'It was determined among his (Andrew Melville's) party to invade the enemy and hold a General Assembly at Aberdeen. It was prohibited by royal proclamation. The great body of the clergy stayed at home; but Melville and his immediate friends journeyed to Aberdeen, and met there, nine in number. This small body went through a good deal of work in protesting and remonstrating; and in a second meeting, also denounced by royal authority, they mustered nineteen.'³ This passage may be criticised thus: (1) The Assembly was held at Aberdeen because the last Assembly of 1602 had appointed it to meet there, not because the ultra-Presbyterians wished 'to invade the enemy'; (2) the Assembly was not prohibited by royal proclamation—it was merely postponed till after the Parliament, and the Melville party resolved to keep the day originally fixed; (3) Andrew Melville himself did not go to Aberdeen; (4) those who

¹ *Original Letters to James VI.*, Bannatyne Club, viii, 54.

² *Darien Papers*, pp. 171, 176.

³ v. 433.

arrived on July 2 were 19, not 9; (5) those who arrived later were 9, not 19; (6) the first company had left Aberdeen before the second arrived; (7) there was no 'protesting and remonstrating'—the Assembly was merely continued to the first Tuesday of September. On the next page but one, we are told that five of the ministers who had convened at Aberdeen were brought to trial. In point of fact the number was six.¹

To be charitable, one must suppose that Burton did not compile his own index; but a little 'intense and patient observation' might surely have been employed in this quarter, if not before the work was published, at all events before it was re-issued. The long-lived Earl of Rothes, whose public career in the first edition extended over 113 years, has indeed been reduced to less unnatural limits; but the sixth Earl and his son the Duke are still treated as one and the same; so are three Earls of Argyll (with part of a fourth) and two Dukes of Hamilton; there are two lords Balmerinoch and two Sir John Hay's where there should be only one; Balcanquhall, the stout old Presbyterian divine, is said to have written Charles I.'s *Large Declaration*; and the eighth Earl of Angus, James Melville's intimate friend, is said to have been a party to the Catholic conspiracy of the 'Spanish Blanks.'

W. L. MATHIESON.

¹ See the contemporary accounts in Forbes's *Records*, in Calderwood, and in Botfield's *Original Letters*.

Old Oaths and Interjections

WHEN greatly moved, man has in all ages been accustomed to express his feelings in such words as seemed to him most readily to convey to others the perturbed state of his mind, the mere expression of itself affording relief. Vehement moods beget vehement words. In looking through our early vernacular literature one is struck with the variety of expletives of this kind. It shows for one thing that there was a demand for expressive words of an interjectional character,—winged words that would startle the hearer and make an impression on him. The demand created the supply, and oaths and imprecations of all kinds abound. The purpose of this note is to draw attention to, and give some examples of the use of a few of these that occur to one, not following any order, but confining the view to medieval times, and to words and phrases now obsolete.

As crowned heads have precedence, let us by all means give the first place to King Philip Augustus of France, who, when he heard that King Richard of England was going on Crusade—stealing away, as the King of France thought, without announcing his intention—gave utterance to his displeasure in very strong language. As the Chronicler puts it:

‘Loke how Kyng Philip said uncurteisly,
“Dathet haf his lip, and his nose therby!”’¹

In *The Lay of Havelok the Dane* this interjection occurs frequently. Earl Godrich of Cornwall uses it to give, as he thought, force to his determination to keep his ward Goldborough out of her rightful inheritance:

‘Datheit hwo it hire yeve
Evere-more hwil I live!’²

¹ Robert of Brunne's *Chronicle* [Hearne], p. 143.

² *Havelok* [Skeat], ll. 300-1.

In the metrical Romance of *Sir Tristrem* we have :

‘Therl seyde “dathet him ay
Of Tristrem gif this stounde !”’¹

This old imprecation is not Anglo-Saxon; it came over with the Conqueror, but early found an abiding place here. It is explained as coming from the Merovingian French, ‘Deu hat,’ meaning ‘God’s hate.’²

In the alliterative *Morte Arthure* we have, as might be expected, many oaths used by the knights in the midst of the hazards of their feats of valour. Sir Bedwere, who is no Puritan, has a good stock of vigorous expletives. For example :

‘Be Myghell, of syche a makk I hafe myche wondyre
That ever owre Soveraygne Lorde suffers hym in heven ;
And all seyntez be syche, that servez our Lord,
I sall never no seynt be, be my fadyre sawle !’³

It is a pity that he gets killed early in his career, and we thus lose his robust turns of expression. Sir Gawayne, as we might expect, uses on occasion several terse imprecations that give satisfaction even now to the natural man. Thus, when he is working himself up for his final and fatal encounter with the traitor Sir Mordred, he addresses him in fiery words :

‘Fals fosterd foode, the fende have thy bonys !
Fy one the, felone, and thy false werkys !
Thow sall be dede and undon for thy derfe dedys,
Or I sall dy this daye, gif destanye worthe !’⁴

In medieval literature generally, as in modern, we find many illustrations of the fact that a prayer for Divine counsel and guidance rises almost involuntarily to the lips at a crisis :

‘Soth is that men seyth and suereth :
Ther God wil helpen, nouht ne dereth.’⁵

The phrase ‘So God me rede’ is thus a common one :

‘Ne sholen thi wif no shame bede,
No more than min, so God me rede !’⁶

¹ *Sir Tristrem* [S.T.S.], ll. 1875-6.

² See ‘Dahet’ in *Oxford English Dictionary*.

³ *Morte Arthure*, ll. 1166-9.

⁴ *Morte Arthure*, ll. 3776-79.

⁵ *Havelok*, ll. 646-7.

⁶ *Ibid.* ll. 2084-5.

In fact it is used as an oath, having little of its literal significance left :

‘For litel shal I do the lede
To the galues, so God me rede!’¹

‘Thoght he war Sampson himself, sa me Criste reid!
I forsaik nocht to fecht, for al his grete feir.’²

A well-known asseveration in the north was Goddot = God wot!

‘Goddot!’ quath Leue, ‘y shal the fete
Bred and chese, butere and milk,
Pastees and flaunes . . .’³

Perhaps some of your readers may be able to supply many more examples of early strong language. The natural man will not keep under; even the stainless King Arthur cannot confine himself to ‘yea, yea,’ and ‘nay, nay,’ at a crisis :

‘Hevinly God!’ said the heynd, ‘how happynis this thing?’⁴

JOHN EDWARDS.

¹ *Havelok*, ll. 686-7.

² *Golagros and Gawane* [S.T.S.], ll. 809-10.

³ *Havelok*, ll. 641-3.

⁴ *Golagros and Gawane*, l. 265.

[Mr. Edwards’s last paragraph invites to a little historical profanity, a leading authority on which is Mr. Julian Sharman’s *Cursory History of Swearing*. There is an excellent article in Chambers’s *Encyclopaedia*, s.v. *swearing*. A fine passage occurs in the Sieur de Joinville’s *Histoire de St. Louis* (ed. Wailly, 1888, sec. 687), wherein, mentioning that no one ever heard that royal saint of the thirteenth century use the name of the devil, Joinville remarked that nearly everybody else as a matter of course said ‘Que dyables y ait part!’ ‘And,’ he added, ‘it is a great abuse of language thus to appropriate to the devil either man or woman, they having been given to God from the time they are baptized.’ Commendation to the devil has exercised many minds since the days of Joinville and Louis IX. Chaucer did not forget it in the *Frere’s Prologue*, and Luther (*Table Talk*, Dxc.) discussed the case of the man with a sad habit of saying ‘Devil take me.’ The theme was disposed of by a Scottish fifteenth century abbot (Bower’s *Scotichronicon*, ii. 285). Scottish legislation also kept it well in view, as witness the Act of 1551, c. 7, framed ‘in detestatioun of the grevous and abominabill aithis, sweiring, execratiounis and blasphematioun of the name of God, sweirand in vane be his precious blude, body, passioun and woundis; Devill stick, cummer, gor, roist or ryfe thame; and sic uthers ugsume aithis.’]

The Early Christian Monuments of Scotland.

THE Scottish Sculptured Stones attracted very little attention until well into the last century. Before then only a few travellers, like Martin and Pennant, had recorded their observations.

Boswell, we know from *The Tour to the Hebrides*, was bitterly disappointed with Icolmkill, and compared its tombs most unfavourably with the marble monuments of Westminster Abbey; and if Dr. Johnson did not fully share his disappointment it was because he had been warned by Sacheverel that 'there is not much to be seen here.'

All that is changed now. The stones have to a great extent been described or illustrated and a whole literature has grown up around them. The most important of the many books is Dr. John Stuart's *Sculptured Stones of Scotland*, published in 1856 and 1867. But much has happened since then. Many fresh stones have been unearthed or discovered; photography has transformed the process of illustrating them, and the earnest study of some fifty years has, as might be expected, brought together a mass of new material. The time had undoubtedly come for a new book, and in *The Early Christian Monuments of Scotland*¹ Mr. Romilly Allen has given us one of which the value would be impossible to exaggerate.

Its history in brief is this. The Society of Antiquaries of Scotland decided in 1890 to devote the income of certain funds to the preparation of a very full report on all the Scottish Monuments previous to 1100, and to illustrate them by photographs as far as possible.

The preparation of this formidable catalogue was intrusted to

¹ *The Early Christian Monuments of Scotland*; a classified illustrated descriptive list of the monuments with an analysis of their symbolism and ornamentation By J. Romilly Allen, F.S.A., Hon. F.S.A.Scot. And an Introduction, being the Rhind Lectures for 1892, by Joseph Anderson, LL.D., H.R.S.A., Hon. M.R.I.A. Edinburgh. Quarto. Pp. cxxii., part ii., 1-419; part iii., 1-522. Printed for the Society of Antiquaries of Scotland.



Front.



Back.

Upright Slab sculptured in relief at Dunfallandy.



Cross with sculpture in relief
at Keills in Knapdale.

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Mr. J. Romilly Allen, F.S.A., who began his work in 1893. In the following year he published a report, which fills many pages of the Society's *Transactions*, giving a list of all the stones then known about and stating where they had already been drawn, in the works of Dr. Stuart or of James Drummond; but a very large number had to be entered as 'undescribed,' a term which can never be used again.

It is hardly necessary at this time to do more than refer in passing to what Dr. Joseph Anderson has done in the field of Scottish archaeology, where *Scotland in Early Christian Times* (his Rhind Lectures for 1881) stands alone.

No work on the subject is more widely known, without it we should oftentimes be still groping for the solution of many difficult questions, and it is to Dr. Anderson that the publication of the book before us is due.

He was again appointed Rhind Lecturer for 1892, and his lectures were designed to bear upon the forthcoming book, whereof in an abbreviated shape they form the introductory section.

There could be no better epitome of Dr. Anderson's writings on the sculptured stones than this Introduction, and the association of the two writers is most felicitous.

The second section of the book is the work of Mr. Allen and deals with the monuments themselves, analysing and describing their characteristics and indicating their geographical positions.

They are divided into three classes. Class I. (the earliest) consists of pillar stones and slabs, rudely shaped, bearing symbols traced with incised lines. In Class II. are placed all the rest of the symbol-bearing monuments, and these are invariably upright Cross slabs. The Cross usually appears on the front, the symbols on the back. These stones are sculptured in relief and with predominating Celtic patterns. Class III. contains all other stones bearing Celtic ornament, and these are of great variety, including upright free-standing Crosses, Cross-bearing slabs (both upright and recumbent), stone coffins and architectural details.

A list is given of the distribution of these three classes, showing how stones of the first class predominate in the northern and north-eastern counties, hardly appearing in the south. Those of the second class are mostly found in the east central district, while the latter or third class of non-symbol-bearing

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monuments exists all over the country from Shetland to Dumfries. Mr. Allen points out that the symbol-bearing stones are never found in barren mountain districts, but on the fertile coast lands and great river valleys, and he shows by a table, in which the counties are arranged according to their number of specimens, that stones of the first class are more frequent in the district north of the Grampians, formerly inhabited by the northern Picts, while stones of the second class predominate in the country of the southern Picts, which lay to the south of the hills; in Aberdeenshire and Forfarshire he thinks may have been the centres, whence in Pictish times these styles issued.

This triple classification is rigidly adhered to throughout the whole work with great results of simplification.

The symbols receive very full treatment and are carefully depicted: spectacle ornaments, crescents, mirrors and combs, centaurs, bulls, birds, fish, and the mysterious beast with long jaws—the so-called elephant. Then follow pages showing the various combinations of these symbols on the stones.

It is impossible to do more than touch on some of the features of this great book, but one of the most interesting and important sections is headed 'Interlaced Work.'

The writer first shows how the foundation of all Celtic interlacing is a regularly plaited groundwork and how, by making 'breaks' in this groundwork, the bands may be diverted into the most intricate knotted patterns, without losing the regularity of alternate under-and-over crossing which is so well marked a feature of Celtic work. Over six hundred diagrams are used to illustrate this phase of pattern alone. The Key pattern is treated next, and in the same way, and lastly the designs formed by combinations of spirals, old as the discoveries at Mycenae, but, in the Irish manuscripts and on the Scottish sculptured stones, developed into almost inconceivable complexity. This part of Mr. Allen's book forms both a grammar and a dictionary of Celtic ornamentation, and he has brought it into practical use in the descriptive list of the monuments which occupies the greater part of the volume. Thus, in illustrating and describing the Dunfallandy¹ Cross-slab (page 287), instead of describing each

¹ Standing Cross-slab at Dunfallandy, Perthshire. This has been illustrated here as an example of Class II., where the Cross appears on one side, the symbols on the other, for the creatures in the panels surrounding the Cross are not to be mistaken for symbols. The group in the top right-hand panel probably represents the lion breathing life into its cub, as told in the bestiaries; Jonah and the



Upright Cross-slab sculptured in relief at St. Vigeans.

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of the many decorated panels, reference is made to the diagrams already given. 'In the centre . . . a Cross of shape No. 104a, on the horizontal arms three bosses on a background of square key-pattern No. 914, on the shaft next the top, interlaced work No. 644,' and so on. It is easy to believe what a help this is: the diagram always showing clearly what the condition of the monument may render indistinct.

Probably no finer or more exhaustive catalogue has ever been compiled, and in spite of its great length it contains not an unnecessary word. This is a book of reference to which we may always turn without fear of disappointment. The illustrations are excellent and show the same care as the letterpress. The Ogham-bearing slab at Dunrobin (Fig. 48) is photographed from various points to show the inscription, and of this a diagram is also given. In cases where perhaps the photograph failed to satisfy Mr. Allen, he adds a masterly design, as in the case of the Farr Cross-slab (Fig. 51).

The book is so completely up to date as to include slabs found at St. Andrews as late as 1902, and a recently found Cross-slab at Fortingal, while since its inception the collection of sculptured stones at St. Blane's Chapel in Bute has been brought to light and is here fully described. Scotland may indeed be grateful to Mr. Romilly Allen for his magnificent contribution to her archaeological knowledge.

R. C. GRAHAM.

whale seem to be indicated in the bottom left-hand panel, and the winged figures may stand for angels. The reverse is divided into two panels; in the upper one two figures sit facing one another, above them are the following symbols: the elephant, crescent with V-shaped rod, and the double disc. Between the seated figures is a small cross, one of the few exceptions to the rule that symbols and crosses are not found together. In the lower panel the elephant and the crescent are repeated, and below the horseman there are a hammer, an anvil, and a pair of pincers.

Standing Cross at Kiells, Knapdale; an example of Class III. At the top is an angel treading on a serpent, in the centre a raised boss, round this boss are animals, and below it a saint or ecclesiastic. The shaft contains panels of key-pattern and spiral work.

A Cross-slab from St. Vigeans, Forfarshire; another example of Class III., from which the symbols have disappeared. To the right of the richly-decorated Celtic Cross are seen ecclesiastics tonsured and wearing cowls, embroidered vestments, and slippers. On the right are two seated figures. Mr. Allen suggests St. Paul and St. Anthony breaking bread in the desert (as on the Cross at Ruthwell). Below this a cow (the body ornamented with spirals) and a man kneeling in front of it.

An English Letter of Gospatric

AMONG the private muniments of a nobleman in Westmorland, a letter or charter¹ of unique interest was recently recognised which throws a new light on the political and territorial history of Cumberland, and adds much to our knowledge of the district before it was conquered by William Rufus in 1092. Though the document is in English, or, to be more exact, in the Northumbrian dialect as spelt and understood by an early copyist,² it bears so many internal evidences of genuineness, both philological and topographical, that it may be regarded as of unquestionable authority. It must take a front rank among the few English charters³ which relate to the history of northern England, and owing to the impenetrable obscurity which has hitherto rested on the pre-Norman state of ancient Cumbria, it will be welcomed as a discovery of considerable importance. By its means we can compel the darkness in some measure to yield up its secret, and we are enabled to set back the domain of ascertained knowledge,

¹The document can scarcely be called a charter according to our modern usage of that word. It appears to be a relic of the Anglo-Saxon writ, which was intended to be read before the county court in order to secure the grantee in the enjoyment of the estate or privilege by making it known to the suitors and all concerned. Mr. W. H. Stevenson has found traces of the existence of these writs in English up to the beginning of the reign of Henry II., but from the time of the Conquest they were usually put into Latin, and the Latin versions are much the more numerous.

²The deed at Lowther Castle is not, of course, the original, but an early copy on a strip of parchment wonderfully well preserved. From the character of the script, notably from the formation of the capitals which seem to have been an invention of the copyist, the copy may be ascribed to the thirteenth century. In the opinion of the best judges, the fact that the charter is in English is a presumption against its being spurious, for after the Norman Conquest one would expect a forger to draw up his texts in Latin.

³Mr. William Brown informs me that the English charters in the *Liber Albus* at York have not been printed; he believes that they are interesting chiefly as specimens of language.

imperfect though it be, for a period of at least half a century. As the grantor was no less a personage than the famous Gospatric son of Maldred son of Crinan, who was so closely allied to the royal line of Scotland, and as this is the only charter of his known to be extant, the document, though exclusively connected with what is now an English county, cannot fail to be interesting to students of Scottish history.

Until the discovery of Gospatric's writ we could not get behind the statement in the Anglo-Saxon Chronicle that Dolfin was ruler of Carlisle at the date of the Norman conquest in 1092, and we possessed no trustworthy evidence about the tenure or tenants of the district, except what might be gathered from the great Inquest of Fees in 1212, a feudal transaction which we were compelled to accept, in the absence of the Domesday Survey, as the foundation of the territorial history of Cumberland. What was stated by me a short time ago¹ cannot now be upheld, that 'at the present moment not a single genuine charter, relating to the county of Cumberland, is known of a date anterior to Henry I.' The date of this charter may be assigned to some period before the conquest of 1092, but perhaps after 1067 when Gospatric purchased the earldom of Northumberland from William the Conqueror, or more probably after 1072, when King Malcolm of Scotland gave him Dunbar and the adjacent lands in Lothian.

It may be inferred from the general tenor of the document that Gospatric held a high position in the district beyond that of a great landowner, for it is most improbable that he should have used such a style of address to the men of Cumbria had he been only the lord of Allerdale. Subsequent events, such as the position of his son Dolfin at Carlisle in 1092, and the succession of Waldeve to the paternal estates in Allerdale, appear to warrant the belief that Gospatric ruled the district of Cumbria south of the Solway as the deputy of King Malcolm. On the other hand, as no allusion is made to Scottish sovereignty, and as Gospatric appeals to the palmy days of Eadread and to the laws of Earl Siward, the exact position of the grantor is thrown into the arena of debate. In many respects these references suggest startling difficulties in their relation to the political status of south Cumbria at this period. It would be rash, within the limits of a short note, to make positive statements on the identity of Eadread or the jurisdic-

¹ *Victoria History of Cumberland*, i. 302.

tion of Earl Siward of Northumberland over the north-western province. But there can be no question that our old notions, founded on the cession of Cumbria to Malcolm I. by King Eadmund in 945 as a fief of the English Crown, have received a rude shock by the revelations of this charter, and that we shall be driven once again to review the evidences, on which we were accustomed to rely, in support of the favourite theory that the cession to the King of Scotland continued in effective operation till Dolfin, who by the way is nowhere stated to have been a Scottish vassal, was forced to retire before the invading host of the Red King.

The chief interest, however, of the charter to the student of the Norman settlement of Cumberland is the delightful commentary it affords in explanation of the Inquest of Service¹ of 1212. It will be seen that there is nothing in the charter inconsistent with the statements of the Inquest, but it has rendered necessary a fresh interpretation of that document. Hitherto we have accepted the verdict of the jurors that Henry I. was the original source of enfeoffment of most of the knights of Cumberland in their fees as stated therein. From the language of the Inquest no other inference was possible, chiefly for the reason that enfeoffments by the King were carefully differentiated from those by Ranulf Meschin, the Norman lord who ruled Cumberland before Henry took the district into his own hand about 1120. Gospatric's charter, in which he is described as the owner of Allerdale, makes it quite clear that the infeudation was not originated by Henry I., but that the jurors of 1212 ignored all previous possession by Gospatric the father, and looked upon the King's confirmation of Waldeve the son, in the fee of Allerdale, as the source of his title.² In another instance it is highly probable that we can prove a similar method. The jurors stated that it was Henry who gave the barony of Greystoke to Forne, the son of Siolf

¹ *Testa de Nevill*, pp. 379-80, Record Commission. The inquest has been printed in the *Victoria History of Cumberland*, i. 421-2, from the original return in the Public Record Office, officially described as *Knights' Fees*, $\frac{1}{2}$, m. 2.

² It is very odd that Dolfin should have been banished from Carlisle when his brother Waldeve was able to retain possession of Allerdale. Political reasons, it would seem, were the cause of the different treatment of Gospatric's sons. It is said that Ranulf Meschin gained Waldeve 'as an ally on account of the war between the Scots and England, as he was a Scotsman, and gave him for his service the whole barony of Allerdale, from the place called Wahtelpole as far as Derwent, saving to himself all his venison' (Bain, *Calendar of Documents*, ii. 64).

or Sigulf. From the mention of the name of Sigulf as one of the magnates of Cumbria 'in Eadread's days,' it may not be too hazardous to suggest that he was the owner of Greystoke before he was succeeded by his son Forne, to whom Henry I. in after years confirmed the barony. In these circumstances it would appear that the literal interpretation of the feudal inquest cannot be defended, and that the old theory of a wholesale displacement of the English settlers to make way for the Norman immigration has been completely overthrown.

As the charter is bristling with points of unusual interest, it has been thought advisable to print it in full together with a rough translation. Students of early English will welcome the copy of the text for the pleasure it will afford them in tracing the difficulties the copyist experienced in spelling and pronouncing the Northumbrian dialect. Though I am alone responsible for the translation, as well as the text, it should be mentioned that I have been largely guided in many places by the suggestions of Canon Greenwell, Professor Skeat, Mr. W. H. Stevenson, and other distinguished scholars. Upon my shoulders only must fall the penalties for faults of rendering or errors of interpretation.

JAMES WILSON.

TEXT OF CHARTER

Gospatrik groot¹ ealle mine wassenas² & hyllkun mann, freo & ðreng,³ þeo woontan on eallun þam landann þeo weoron Cōmbres⁴ & eallun mine kynling⁵ freondlycc; & ic cyðe eoy⁶ þ myne mynna is & full leof⁷ þ Thorfynn Mac Thore beo swa freo on eallan ðynges þeo beo myne on Alnerdall swa ænyg mann beo, oðer ic oðer ænyg myne wassenas, on weald,

¹ The rapid transition from the third person to the first in Gospatric's mode of address is common and idiomatic. Compare the letter of Ælfthryth to Ælfric, archbishop of Canterbury, and that of Wulfstan, archbishop of York, to King Cnut, for the identical phraseology of our charter (Thorpe, *Diplomatarium*, pp. 295, 313).

² This is a rare word and is used thrice in the writ. It cannot be Norman for vassals, for 'vassal' was not adopted into English at this date. It is apparently British, a form of the Welsh 'gwassan,' a dependant or retainer, but it is from the same Celtic root as the Frankish 'vassallus.' Professor Liebermann of Berlin ingeniously suggests that 'wassenas' is a scribal error for 'thegnas,' the copyist having been misled by 'vassalli.'

³ Tenure by drengage was well known in Cumberland and Westmorland in the twelfth century. For instances of enfranchisement of the dreng in these counties, see *Victoria History of Cumberland*, i. 332-3. Mr. W. H. Stevenson remarks on the contrast between the 'freeman' and the 'dreng,' for the latter could scarcely be described as unfree. Upon this point the explanation of Canon Greenwell in *Boldon Buke* (Surtees Society) and the article of Professor Maitland in the *English Historical Review*, vol. v., should be consulted.

⁴ My translation of this word is apt to provoke contradiction. The best authorities seem to be agreed that it is the genitive case of a personal name, such as Cumbra, Combor, or Combre, the same, for instance, from which Cummersdale, a vill on the Caldew between Dalston and Carlisle, is supposed to derive its name. Canon Greenwell is not out of sympathy with my suggestion that the word refers to a people and not to an individual. Ethelwerd, in his account of the Danish invasion in 875, seems to have been the first among the chroniclers to apply the designation of 'Cumbri' to the inhabitants of this region. The same people are described as Strathclyde Britons by the Anglo-Saxon Chronicle, Asser, and Florence of Worcester (*Mon. Hist. Brit.* i. 355, 478, 515, 558). Geoffrey Gaimar uses 'Combreis,' almost the very designation in the charter, for the 'Cumbri' of Ethelwerd (*Ibid.* i. 764, 808, 814). It is evident that 'Cumbri' or 'Combreis' was not fully established in general usage as the name of the people in Gospatric's time. This may in a measure account for the strange phrase about 'the lands that were Comंबर's.' For many reasons it is concluded that the 'Cōmbres' of the charter refers to the people of Cumbria or Cumberland.

⁵ For the use of this word, which is of very rare occurrence, the reader may be referred to the alleged charter of Edward the Confessor printed by Kemble (*Codex Diplomaticus*, vol. iv. 236).

⁶ Miswritten for *eow*.

⁷ Parenthetical.

TRANSLATION

☞ Gospatric greets all my dependants and each man, free and dreng, that dwell in all the lands of the Cumbrians, and all my kindred friendly; and I make known to you that my mind and full leave is that Thorfynn¹ Mac² Thore be as free in all things that are mine in Alnerdall³ as any man is, whether I or any of my dependants, in wood, in heath, in enclosures, and as to all things that are existing on the earth and under it, at Shauk and at Wafyr and at Pollwathoen⁴ and at bek Troyte⁵ and the wood at Caldebek⁶; and I desire that the men abiding with Thorfynn at Cartheu and Combetheyfoch⁷ be as free with him as Melmor⁸ and Thore⁹ and Sygulf were in

¹ A personal name not uncommon in Cumberland in the twelfth century. In the Chartulary of St. Bees, 'Thorfinsacre' is named as a plot of land. The parish of Torpenhow is written 'Thorphinhow' in some early deeds. The hill overlooking the village of Thursby is still known as 'Torkin' probably from this person.

² This word for 'son' is extremely rare in local evidences. We have Gospatric Mappennoc, that is, 'Mac Bennoc,' in the Pipe Roll of Cumberland for 1158: his name appears in the Roll of 1163 as 'Gospatric fil. Beloc.'

³ The great district of Allerdale situated on the western seaboard between the Wampool and the Derwent, so called perhaps because it was traversed by the river Alne or Ellen. Near its mouth is the vill of Alneburg or Ellenborough. The etymology is sometimes taken as if it were 'Alder'-dale, through the French *alne* or *aune*.

⁴ Shauk, Waver and Wampool, three streams well known as boundaries of Allerdale on the north and north-east. The Wampool is usually found in early evidences as Wathunpol which is much the same form as that in this charter.

⁵ Troutbeck is a common name for a small stream in northern England. The particular stream here indicated has not been identified with certainty. It is very doubtful whether Allerdale ever touched the Troutbeck which lies between Keswick and Penrith. More probably it was a tributary of the Caldew.

⁶ Caldbeck, a parish forming the eastern limit of Allerdale.

⁷ Cardew and Cumdivock, two vills in the parish of Dalston, separated from Allerdale by the water of Shauk and lying over against Thursby.

⁸ Probably the owner from whom the parish of Melmerby in the east of Cumberland took its name.

⁹ Apparently the same person as the father of Thorfynn above mentioned, who gave his name to Thursby or Thoresby as the parish was called in the twelfth century. There is a legend that the place took its name from a temple which is said to have existed there in the time of paganism and to have been dedicated to the heathen god Thor. The origin of this story has been ascribed to Everard, the first abbot of Holmcultram (*Thoresby's Correspondence*, i. 318-9).

TEXT OF CHARTER—*continued*

on freyð,¹ on heyninga² & æt ællun ðyngan, þeo b̄y eorðe bænand³ & ðeoronðer, to Shauk, to Wafyr, to poll Waðæn, to bek Troyte & þeo weald æt Caldebek; & ic wille þ̄ þeo mann bydann⁴ mið Thorfynn æt Carðeu & Combeðeyfoch beo swa freals myð hem swa Melmor & Thore & Sygoolf⁵ weoron on Eadread dagan, & ne beo neann mann swa ðeorif,⁶ þehat⁷ mið þ̄ ic heobbe gegyfen to hem, ne ghar brech⁸ seo gyrth ðyylc Eorl Syward & ic hebbe getyðet hem cefrelycc swa ænyg mann leofand þeo Welkynn ðeoronðer; & loc hyylkun b̄y þar byðann geyldfreo beo swa ic b̄y, & swa willann Wallðeof & Wygande & Wyberth & Gamell & Kūyth & eallun mine kynling & wassenas; & ic wille þ̄ Thorfynn heobbe soc & sac, toll & theam, ofer eallun þam landan on Carðeu & on Combeðeyfoch þ̄ weoron gyfene Thore on Moryn dagan freols myd bode & wytnesmann on þyylk stow.

¹ Frith, a coppice, plantation (*New Eng. Dict.*).

² Hinning, not rare as a place name in the county: heyning, heining, from the Scandinavian hegna, to enclose (*Eng. Dial. Dict.*).

³ Dr. Skeat has detected three errors in this word: *eorðe* for *eorð*; *æ=oo=u* (here long): and *n* for *u=w*. It should be *eorð-būand*, the Northumbrian present participle, and means 'things on the earth and things under the earth,' *i.e.* minerals.

⁴ Error for *bydand*, present participle. It thus makes sense.

⁵ In writing this name the Norman scribe has revealed himself. It is really *oo*, two *o*'s made close together, denoting the A.S. short *ū*, as in 'full.' The same symbol occurs in *woonnan=wunan* in A.S. Another Norman symbol for the same sound was *\X/=uu*. Thus does Dr. Skeat interpret the scribe's method.

⁶ The *i* in this word is nothing but the trill or burr of the rolled *r*, for *ðeorf*, *i.e.* *ðearf*, bold, a Northumbrian word.

⁷ Dr. Skeat points out an error here for *þat*. As written the word would mean 'who commands' or 'who promises' which wont fit in.

⁸ Mr. Stevenson thinks that the text here is hopelessly corrupt, and suggests that the copyist must have omitted a line or a clause. The meaning of the passage is very obscure.

TRANSLATION—*continued*

Eadread's days, and that (there) be no man so bold that he—with what I have given to him—cause to break the peace such as Earl Syward and I have granted to them for ever as any man living under the sky; and whosoever is there abiding, let him be geld free as I am and in like manner as Walltheof¹ and Wygande² and Wyberth³ and Gamell⁴ and Kunyth⁵ and all my kindred and dependants; and I will that Thorfynn have soc and sac, toll and theam over all the lands of Cartheu and Combetheyfoch that were given to Thore in Moryn's⁶ days free, with bode and witnessman⁷ in the same place.

¹ Perhaps Waldeve son of Gospatric, subsequently the owner of Allerdale.

² Probably the owner of Wiggonby, a vill to the north-west of Thursby in the parish of Aikton near the Wampool.

³ Not identified unless he was the owner of Waberthwaite, formerly Wyberthwaite, a small parish in the lordship of Millom, which was within the portion of ancient Cumbria surveyed under Yorkshire in Domesday as part of the possessions of Earl Tostig.

⁴ Perhaps the owner of Gamelsby, a vill on the Wampool in the parish of Aikton. It is almost certain that another Gamel, the son of Bern, who lived somewhat later, bequeathed his name to Gamelsby in Leath Ward. It is very striking that we should have the names of Thore, Wygande, and Gamell embodied in a group of places close to the Wampool.

⁵ The reading of the script here is somewhat doubtful owing to the condition of the ink. The name may be intended for some form of the uncertain Celtic or Pictish name Kenneth, which appears in Symeon of Durham under 774 as 'Cynoht.'

⁶ The owner of the district of Dalston, of which Cardew and Cumdivock are parcels. Dalston was afterwards forfeited by Hervey son of Morin: was an escheat in the hand of Henry II.: and was granted to the See of Carlisle by Henry III. The evidence of this charter goes a long way to prove that the land of the 'Combreis' was not split up into parishes 'in Moryn's days.'

⁷ The services of 'bode and wytnesmann' were well known institutions in the early history of Cumberland. In 1292 John de Hodelston excused the monks of Furness of suit at his court of Millom, of pannage and puture, and of 'bode and wyttensman' for ever, which services were formerly claimed from them in respect of their land of Brotherulkill in Coupland (*Duchy of Lancaster Charter*, Box B, No. 155). Opinions differ on the exact nature of these institutions.

On the Influence of John Lyly

THE first collected edition of the works of John Lyly¹ is so good that one wishes it were better. Good, we must pronounce it to be, after all possible fault finding. Mr. Bond has devoted to it more than four years of continuous and exclusive study, much of that time having been spent, as he tells us, 'half voluntarily'—'in mere collation, in search too often resultless, in the finding, noting, and numbering of a host of cross references.' The surprising thing is to find him characterising by the borrowed epithet 'stupid industry' an all-important part of his task, as if it were merely of secondary importance. Such appreciation of his own performance seems greatly at fault, for most readers, I believe, will consider the painstaking collation of the early editions of *Euphues* and the equally careful revision of the text of the Court comedies as far and away the most praiseworthy achievement of the editor, the one thing indeed, if the excellent bibliographies be reckoned as corollary, that may confidently be spoken of as possessing real permanent value. In saying that, I am far from wishing to depreciate the chapters of purely literary criticism written with such evident enthusiasm for the subject. They contain, however, a good deal that one would like to see modified, and for that reason are not entitled to unreserved commendation.

A principal aim of the editor has been to show the extent of Lyly's influence on his contemporaries, particularly Shakespeare. He presents Lyly to us as an author 'of immense importance to English literature'; as 'Shakespeare's chief master and exemplar'; as 'the herald of an epoch, the master of the king'; as the writer 'who first taught Bacon and Shakespeare to assimilate the fine material' of the

¹ *The Complete Works of John Lyly*, now for the first time collected and edited from the earliest Quartos, with Life, Bibliography, Essays, Notes, and Index: by R. Warwick Bond, M.A. 3 vols. Demy 8vo. Vol. i. pp. xvi, 543; ii. pp. iv, 574; iii. pp. iv, 620, with 3 full page plates. Oxford. Clarendon Press, 1902.

Greek and Latin classics. The thesis is exceedingly readable, but that is the most that can be said : it is quite unconvincing, and often greatly irritating owing to its high-pitched estimates and blind partisanship. Few, I imagine, will be prepared to allow that the ancient classic inspiration was brought into English literature by the Euphuist. A Shakespearean flash—‘All Penelope’s spinning did but fill Ithaca full of moths’—has in it more of the ‘digestive imitation’ desiderated by Sidney than is to be found in the entire works of John Lyly. It is preposterous to assert, as Mr. Bond does, that Lyly was ‘almost the first Englishman into whose mind the philosophy of the ancients had sunk with fructifying power for English letters’; or that a dull passionless play like *Campaspe* ‘set Shakespeare the example of drawing on North’s *Plutarch* for historical matter and Ben Jonson the example of making verbal transcripts from the classics.’ After carefully reading the essay *Lyly as a Playwright* along with the plays, I confess my inability to see the slightest warrant for the statement that ‘far more dramatic credit is due and far more influence on Shakespeare attributable to Lyly than to Marlowe or any other of those with whom he has been customarily classed.’ Equally groundless is the assertion—‘There is no play before Lyly. He made eight; and immediately thereafter England produced some hundreds.’ What about the 52 plays, now unfortunately lost, produced between 1568-80, recorded in the Accounts of the Revels at Court? Nearly a score of these, as the titles show, were borrowed from ancient history, the bulk of them written when Lyly was a child. For the history of the English drama, the eight plays are admittedly important as documents, but certainly not of ‘immense importance’ as Mr. Bond would have us believe. Lyly’s fame, such as it is, rests not on any dramatic writings but on *Euphues*, almost the most insipid book in the language—its tedious moralisings one long painful labour ‘to be delivered of the great burden of nothing.’

It may not be easy to track euphuism to its source; origins generally are obscure; but certain it is that the seed, out of which it grew, was in the ground long before 1578. We see it in the blade in More’s *History of Edward V.*; and in the ear, if not yet the full ear, in a letter, of date 1552, of the Princess Elizabeth to her brother Edward VI., accompanying her portrait: ‘My picture I mean: in which if the inward good mind toward your Grace might as well be declared as the outward face and

countenance shall be seen, I would not have tarried the commandment, but prevented it, nor have been the last to grant but the first to offer it. . . . Of this also yet the proof could not be great, because the occasions have been so small: notwithstanding, as a dog hath a day, so may I perchance have time to declare it in deeds, which now I do write them but in words.' What more natural than that maids-of-honour and courtiers of Cynthia should catch from her the epidemical infection? The 'new English' of the Court fascinated George Pettie, an obscure writer, whose *Pallace of Pleasure*, published in 1576, was, only two years later, chosen by Lyly as his chief exemplar—'a complete model of style which he followed with hardly any, if any, addition,' occasionally even appropriating whole sentences from it 'with scarce any change of substance.' No doubt he went slightly beyond Pettie in elaborating the tricks of the style—the 'duplicating, triplicating or multiplying habit,' arising, as Mr. Bond well observes, 'from an unusual activity and alertness in the composing brain which continually thrusts upon the writer parallel or opposed instances and parallel forms of expression. . . . To a sentence, a clause, an epithet, an adjectival or adverbial phrase, just written, he constantly adds a second, a third, and sometimes many more, of an almost or exactly parallel structure, indulging the multiplying habit according as his fancy or memory happens to be fertile or restricted in its momentary direction. . . . His elaborate sentences simply grew under the guidance of the *general* habit indicated, working fitfully, as the preference and mental upthrow of the moment dictated, and were polished afterwards into a regularity always limited by the freedom of their first appearance.' Mr. Bond's note on *Sentence Structure in Euphues* is excellent, but Shakespeare, it seems to me, has anticipated it in a speech of Holofernes, where that droll—facile in alliteration and antithesis—describes his 'gift' as 'a foolish extravagant spirit, full of forms, figures, shapes, objects, ideas, apprehensions, motions, revolutions: these are begot in the ventricle of memory, nourished in the womb of *pia mater*, and delivered upon the mellowing of occasion. But the gift is good in those in whom it is acute, and I am thankful for it.' As the high priest of the cult Lyly soon became the target of the Areopagites and their immediate followers, so obtaining notoriety—fame of a kind. He was ridiculed by Sidney in *Astrophel and Stella*, by Shakespeare in *Love's Labour's Lost*.

Holofernes¹ and Fastidious Brisk are contemporary portraits of 'the Vice Master of Poules, the Foolemaster of the Theater,' as Gabriel Harvey, Spenser's friend, sarcastically designated Lyly. Adulatory lines in Meres and other minor writers count for little against weighty condemnation by scholars like Sidney, Shakespeare, Jonson, and Drayton, count indeed as nothing. As the Martin Tupper of his time, Lyly enjoyed for a brief space a popularity, but his influence, direct or indirect, was inconsiderable; certainly not what Mr. Bond alleges—'as setting an example of consistent attention to form and aim at force and precision, probably greater than that of any other writer our literature has known.' Before the seventeenth century had dawned, as Blount, Lyly's panegyrist, tells us, the plays 'lay like dead laurels in a churchyard'; the present-day protagonist as frankly admits that direct influence of *Euphues* cannot be traced 'beyond the beginning' of that century. But even if we grant, which we must up to a point, that euphuism did something for the improvement of English prose, it surely is a mistake to give all the glory to John Lyly.

It is regrettable that Pettie's *Pallace of Pleasure* was not printed by Mr. Bond, as an appendix, instead of the *Entertainments* and *Doubtful Poems* which together make up nearly one of the three volumes. Professor Littledale has elsewhere demonstrated that many of the poems are by other pens; and for ought that one can see, Lyly's claim, as well to the *Entertainments* as the *Poems*, is slender in the extreme; far too slender to justify their inclusion in a critical edition of his collected works.

But greatly as Mr. Bond's partiality detracts from his literary judgments, it is but fair to acknowledge the exceeding value of much of his editorial work. Everywhere he displays intimate acquaintance with the literature of his subject and conspicuous fairness in the marshalling of facts, as well as in the presentment of the side other than the one he himself espouses, qualities which cannot be too highly praised. For pre-Shakespearean study the book is almost indispensable.

J. T. T. BROWN.

¹ It used sometimes to be said that John Florio was the original of Holofernes, but that is no longer believed by Shakespearean critics: *vide* Saintsbury's *Introduction to Montaigne* (Tudor Translations) and Sidney Lee's *Life of Shakespeare*. Probably we should see in Rombus, the Schoolmaster, in *Her Most Excellent Majestie Walking in Wansteed Garden*, Sidney's portrait of Lyly. I agree with Mr. Bond in thinking that Harvey's words indicate that Lyly was a schoolmaster.

Treasure Trove

IN connection with the case of the Prehistoric Gold Ornaments recently discovered in Ireland, the subject of Treasure Trove has come so prominently before the public that a brief statement of the facts and circumstances of the case, and of the Law and Practice in England, Ireland, and Scotland respectively, may not be without interest.

In 1896 a ploughman subsoiling a piece of ground on the townland of Broughter, near Limavady, in the county of Londonderry, Ireland, turned up a number of gold ornaments. He disposed of them to a second party, who sold them to a jeweller in Belfast, from whom they were purchased by Mr. Robert Day, a well-known collector of antiquities resident in Cork. Mr. Day communicated the information that he was in possession of the 'find' to Mr. Read, the keeper of the Department of British and Medieval Antiquities in the British Museum, who is also Secretary of the Society of Antiquaries of London. Through Mr. Read's agency, the ornaments were exhibited to a meeting of the Society on 14th January, 1897; and a report of the meeting, with a succinct account of the objects exhibited, was published in the *Athenaeum*. Mr. Day having consented to dispose of the whole of the gold ornaments to the British Museum for the sum of £600, they were purchased by the Trustees, on Mr. Read's recommendation, at that price. The 'find,' which Mr. Read regarded as probably the most important that has ever been made of objects of the Late-Celtic period, consisted of the following articles:

A collar $7\frac{1}{2}$ inches in diameter, formed of a hollow cylinder, elaborately ornamented in the distinctive style of the period; a model of a boat $7\frac{1}{4}$ inches in length, with nine thwarts, and models of its appurtenances—15 oars, a steering oar or rudder, a yard for the mast, a grapnel, a boat-hook, and three forked spars; a bowl $3\frac{1}{2}$ inches in diameter, with four side-rings at the rim for suspension; a

chain $14\frac{1}{4}$ inches in length, formed of three strands of interlocked quadruple links of fine wire, with a solid pin-lock fastening at the ends; another chain $16\frac{1}{2}$ inches in length, formed of a complicated plait-work of eight wires, with a fastening at the ends on the same principle as the other chain; a torc or necklet 5 inches in diameter, formed of thick twisted wires, with a strand of thin wire twisted and wound spirally round with the others. A portion of a second torc of similar character was also present.

The total weight exceeded 12 oz., and Dr. Atkinson, in his evidence before the Commission, stated that from £70 to £80 would have been about the bullion value.

Mr. A. J. Evans, who wrote the description of the objects published by the Society of Antiquaries of London in the 55th volume of *Archaeologia*, concludes that 'the treasure (as the recorded circumstances of the find indicate) was deposited at the same place and time, probably in the first century of our era,' and that, 'there can be little doubt that it was a thank-offering dedicated, by some ancient Irish sea-king who had escaped the perils of the waves, to a marine divinity.' On the other hand, Mr. Cochrane, writing in the *Journal* of the Royal Society of Antiquaries of Ireland, has advanced the suggestion that Broughter was probably the landing place of St. Columba and Aedan, King of the Dalriad Scots, after a perilous passage on their way to attend the famous Convention of Drumceat, and that these objects may have been a thank-offering by them to the neighbouring church. But these conjectures are of little consequence in comparison with the facts, which are sufficient to invest the objects with an archaeological interest of the highest order in connection with the investigation of the early civilization and art of Ireland.

This being so, it was natural that the Royal Irish Academy, to which the Government has committed the acquisition of objects of Treasure Trove in Ireland on behalf of the National Collection of Antiquities in the Dublin Museum, should disapprove of the transference of this unique treasure from Ireland to London, and resolve to vindicate their rights with regard to objects of Treasure Trove in Ireland. If these could be trafficked in for private profit, and sold out of the country, to the detriment of the National Collection of Antiquities, the function of the Academy with respect to the Treasure Trove of the country would be absolutely defeated. In his evidence before

the Committee of Inquiry appointed by the Lords Commissioners of H.M. Treasury, Dr. Atkinson, the Secretary of the Academy, stated that in his opinion the articles were *prima facie* Treasure Trove, and therefore they had been trafficked in illegally. When Mr. W. Redmond raised the question in the House of Commons on the vote for the British Museum, the Prime Minister stated that he was aware that there was a strong feeling in Ireland among all classes with regard to the subject; that the Law-officers both of England and Ireland had come to the conclusion that these Irish gold ornaments were Treasure Trove belonging to the Crown; that the person who found [or possessed] them had no right to sell them to the British Museum, and that the British Museum was not now the legal owner of the ornaments. He believed that the Trustees of the British Museum were not prepared to accept the verdict of the Law-officers of England and Ireland, and if there was no other way of settling the matter it would have to go before a Court of Law.

Ultimately, the Attorney General brought a claim against the Trustees of the British Museum for delivery of the ornaments in their possession, which were alleged to be Treasure Trove, belonging to the King in virtue of his prerogative and right of the Crown. The case was tried before Mr. Justice Farwell in the Chancery Division of the High Court in June last.¹ The question submitted for decision of the Court was whether these articles were to be considered Treasure Trove. The legal definition of Treasure Trove, according to Coke, is: 'Gold or silver in coin, plate, or bullion, which hath been of ancient time hidden, wheresoever it be found, whereof no person can prove any property.' The case for the Crown was that the circumstances in which these ornaments were found, buried all together within a space of 9 inches, and about 16 inches under the surface of the ground, indicated that they had been hidden, and were consequently Treasure Trove. The defence for the British Museum was that this was not a case of treasure concealed with a view to its possession being resumed, but that it was a votive offering to a sea-god, the articles having been thrown into the water at a time when the raised beach in the subsoil of which they were found was still the sea-bottom, and that therefore they

¹ Attorney-General *v.* Trustees of British Museum, June, 1903. A report of the trial appears in *The Times Law Reports*, XIX., p. 555.

were not Treasure Trove. There was also an alternative plea for the defence, that if they were Treasure Trove, the Treasure Trove of this part of Ireland had passed from the Crown by a Charter of James I., and now belonged to the Fishmongers' Company, who had passed their rights to the Trustees of the British Museum. No proof was led on this alternative plea, however, the Attorney General maintaining that the right of Treasure Trove belonging to the class of *jura regalia* could not pass from the Crown as suggested. Evidence of the facts and circumstances of the finding of the treasure was followed by a hearing of nearly two days' duration of expert evidence for and against the theory of the defence, in the course of which Justice Farwell more than once indicated his desire to hear some evidence as to the existence in this district of Ireland of a water-deity to whom it was customary to make offerings in this manner. The testimony to the custom of votive offerings in general, or in other parts of the world, did not help very much; and Dr. Munro, Mr. Coffey, and Mr. Cochrane were agreed in their testimony to the entire absence of evidence as to votive offerings in Ireland. Notwithstanding the ingenuity of the defence, the Judge found that it was not upheld by the evidence, and decided that the articles were Treasure Trove belonging to His Majesty the King by virtue of the prerogative Royal. They were accordingly ordered to be delivered to the Crown Authorities by the Trustees of the British Museum, and have since been presented to the Irish National Museum by His Majesty the King.

It has been stated that the total cost of the legal proceedings was £3114, and that the Treasury paid the taxed costs of the British Museum Trustees as defendants, amounting to £1486 12s. As previously stated, the British Museum had paid £600 as the purchase price of the articles to Mr. Day.

The last analogous case of a find of gold ornaments in England was a more unfortunate one for the parties concerned. In 1863 a ploughman at Mountfield, near Hastings, turned up a hoard of gold ornaments, including a number of penannular armlets with trumpet-shaped ends, and a gold torc about a yard in length. He kept them in his master's stable for some days, neither he nor his master having any idea of their value. After several unsuccessful attempts to dispose

of them, he sold them as old brass for 6d. a pound, the metal weighing eleven pounds. The two parties who were partners in the purchase, having some suspicion of its value, offered one of the pieces to a jeweller in Hastings, and received for it the unexpected sum of £18. They then took the rest to London and sold it to a gold-refiner for £529. Meanwhile the rumour of the discovery had got abroad, and the Lord of the Manor laid claim to the find. An inquest was held, at which his claim was negatived and that of the Crown substantiated, but unhappily the treasure had gone to the melting-pot. In these circumstances the authorities resolved to prosecute the two parties who had bought it from the ploughman and sold it to the gold-melter. They were tried at the next assizes, and found guilty of the crime of concealing Treasure Trove, and dealing with it to their own advantage. The case was appealed, but the conviction was affirmed, and the culprits condemned to pay each a fine of £265, and to be imprisoned until the same was paid.¹

From these and other cases which might be cited, it is clear that Treasure Trove cannot be legally bought, sold, or possessed by any private individual, or any public institution, or even by a National Museum, unless it has first been surrendered for disposal at the will of the Crown.

In England and Ireland the law is the same, although there are differences as regards the details of the administration. In Scotland, under Scots Law, the prerogative of the Crown takes a much wider scope, resting, as it does, on the common law maxim, *Quod nullius est, fit Domini Regis*. Thus there is no limitation to the precious metals, or to 'treasure that hath been of ancient time hidden,' as in English law. Hence the practice in Scotland has been to claim for the Crown many varieties of ancient objects which in England or Ireland would not come under the operation of the law of Treasure Trove.

In practice, however, the Crown does not seek to apply the law irrespective of the general interest of the public in the preservation and beneficial use of such objects of antiquity as may fall within the Royal prerogative. Nor does it seek to vindicate its right to their possession without regard to the interests of the finders. Indeed, the finder is the only person recognised as having an *ex gratia* claim to be considered in the matter, as will

¹ Regina v. Silas Thomas and Stephen Willett, 1863. For report of the trial, see Leigh and Cavendish's *Crown Cases Reserved* (1866), p. 313.

be seen from the following circular issued by the late Queen's Remembrancer, and still in force :

'The Lords Commissioners of Her Majesty's Treasury having been pleased to authorise the payment to finders of ancient coins, gold or silver ornaments, or other relics of antiquity in Scotland, of the actual value of the articles on the same being delivered up for behoof of the Crown, I now give notice to all persons who shall hereafter make discoveries of any such articles, that on their delivering them up on behalf of the Crown to the Sheriffs of the respective counties in which the discoveries may take place, they will receive, through this department, rewards equal in amount to the full intrinsic value of the articles.'

Dr. John Stuart, a former Secretary of the Society of Antiquaries of Scotland, reported favourably of the arrangements for the administration of the law in Scotland. The Crown being represented in each county by the Sheriff, and the Procurator Fiscal and the whole of the rural constabulary having instructions how to act, in any case where the rumour emerges the constable inquires into the circumstances, obtains the relics, and lodges them with the Procurator Fiscal, who transmits them to the office of the Exchequer in Edinburgh. The Society of Antiquaries is then communicated with as to the valuation of the objects, and practically fixes the remuneration to the finder, stating at the same time whether the objects are required for the National Museum. If they are so required, the valuation is made at the full value, and the objects are retained and paid for by the Exchequer, to be surcharged upon the grant for purchases to the Museum. If they are not required they are returned to the finder to be disposed of as he chooses. In this way the National Museum has received many relics in the precious metals, as well as other antiquities of various kinds and of great archaeological importance, many of which otherwise would have been in all probability lost to science. In a more recent report to the Council of the Society of Antiquaries of Scotland, the Secretaries have discussed the operation of the law in greater detail, pointing out that one of the principal obstacles to the effective working of the system of administration is the insuperable dislike of the finders to the employment of the police for the recovery of the articles found. The finders are usually ignorant of the law, and ignorant also of the liberal manner in which they would be dealt with by the authorities on the voluntary surrender of their finds.

This ignorance, coupled with the prejudice against the interference of the police, not only prompts them to concealment, but induces them often to part with the objects found for very much less than their actual value, which they would receive from the Crown authorities.

JOSEPH ANDERSON.