

## The Constitutional Necessity for the Union of 1707

ALL great movements that control the destinies of nations have their roots in constitutional phenomena. To this rule, the union of Scotland and England forms no exception. Towards the close of the seventeenth century there were forces at work which rendered a change in the relations of the two kingdoms inevitable, and which clearly indicated the direction such change must take, if a solution at once satisfactory and permanent was to be attained. The events of William's reign had made the continuance of the *status quo* impossible. The relations of the Scottish Parliament to a king of Scotland, who was also king of England and was fast becoming the bond-servant of the English Parliament, had proved fatal to the independence of the smaller nation. Scotland might still fondly cling to the tradition of her separate existence as a free and equal kingdom, but she found herself forced in practice to allow her national policy to be controlled in the interests of a foreign nation—a nation that had shown itself unsympathetic and contemptuous and had proved the most bitter and the most successful of trade-rivals. The key to the relations of the two kingdoms must thus be sought in the nature of the bonds uniting their two separate legislatures to a common executive head—a head so potent to thwart the weaker, so powerless to resist the stronger. Mutual sympathy and a feeling of interests and traditions in common might have minimized the evils resultant from defective constitutional machinery; but in 1707 the sentiment of nationality was not a bond of union but rather a knife that cut the island sharply into two hostile units. The political atmosphere was surcharged with feelings of jealousy, mutual repulsion, and illwill.

The causes of Scottish discontent thus lay deeper than any trivial or temporary misunderstanding, deeper than the memories

of Glencoe and Darien, bitter as these memories were. The discontent was the logical outcome of the constitutional necessities of a critical situation; and, before the close of the seventeenth century, the bond, in its existing form, had become intolerable to Scotsmen. The principles at stake, when properly understood, present themselves in a graphic and even dramatic form, well calculated to appeal to the imagination of loyal Scotsmen and to arrest the attention of their English fellow-citizens even after an interval of two centuries. It is the more remarkable that the bi-centenary of the Union of 1707, an event that created a powerful nation destined to play a leading part in the politics of the old world and in the colonization of the new, should have aroused only languid interest in Scotland, while meeting with almost cynical apathy in England. The tepid enthusiasm excited in Northern Britain in 1907 is the more conspicuous when contrasted with the warm and wide-spread rejoicings called forth in the previous year by so comparatively unimportant an occasion as the quater-centenary of George Buchanan's birth.

The contrast may be explained in part by the readiness of generous minds to respond to the personal appeal which the achievements of great men, dead or alive, always make to their affections, combined with the public's lack of interest in abstract questions. Other causes contributing to the neglect of the bi-centenary of the Union might perhaps be found, on one side of the Tweed, in the complacent parochialism of a section of English public opinion, and, on the other side, in a lingering feeling that the loss of nominal independence suffered in 1707 by the older and prouder monarchy calls for oblivion or sorrow rather than for noisy celebrations.

Yet all such considerations are inadequate to account fully for the strange and chilling apathy with which the mass of Britons, on both sides of the Border, have responded to the gallant attempts made by a few learned historians to arouse interest in the circumstances under which, exactly two hundred years ago, Great Britain took its birth. A partial explanation, it is here suggested, lies in the fact that the discussions of the subject have ignored the broad constitutional problems involved, dwelling instead on subordinate side issues or on comparatively trivial matters of detail. Much has been said about plots and intrigues, about the influence of individuals and the position of parties prior to 1707, about differences of opinion on questions



of religion, politics, and finance during the negotiations, and about the ultimate effects of the Union on Scottish trade, society, and literature ; but nothing, or next to nothing, has been said on the relations of the Scottish Parliament to the Scottish king and, through him, to the English ministers and the English Parliament. The instructive volume before us, so admirable in many ways, the outcome of the patriotic enterprise of the Editor of the *Glasgow Herald*, forms no real exception to the general rule. In its pages, every aspect of the Union is discussed, except the most essential.<sup>1</sup> Here, the history of the Scottish Parliament from 1307 is outlined by Mr. R. S. Rait in a few bright and lucid pages. 'The End of an Auld Sang'—an oft-told tale—is told once more by Mr. Andrew Lang, who in a second essay makes, upon slender and inconclusive evidence, a serious charge against the Covenanters of the western shires. The debates on the Act of Security are outlined by Dr. James Mackinnon. Some of the ecclesiastical and personal aspects of the Scottish Union, and a few points of comparison with the Irish Union, are discussed by Mr. Law Mathieson. The industrial aspects fall to Mr. W. R. Scott and the literary aspects to Mr. J. H. Millar. Some topics of special local interest for Glasgow and Edinburgh respectively are treated by Mr. Renwick and Dr. James Colville (who between them represent Glasgow historical scholarship in this enterprise due to Glasgow initiative). Two papers of unusual interest on 'The English Standpoint' are contributed by Professor Lodge ; while the text of the Articles of Union (to which the 'Act for securing the Protestant religion and Presbyterian Church government' ought to have been appended) concludes the volume. The result of the independent labours of so many experts, each writing to a prescribed theme on which he is well qualified to speak, thus lies before us in the form of a collection of disconnected essays, lacking unity because no attempt has been made to connect the various subordinate topics with the great central constitutional movement. Yet the frame-work of government forms the skeleton of the body politic ; and it is impossible for the political pathologist, without some knowledge of the anatomy of the figure, to understand what parts are diseased or out of joint.

<sup>1</sup> *The Union of 1707 : A Survey of Events*, by various writers, with an Introduction by P. Hume Brown, and the *Text of the Articles of Union* : Glasgow, George Outram & Co. Ltd. 1907. Pp. vii and 205.

Professor Hume Brown, searching in his introductory chapter for ground not already occupied by other contributors, might have found his opportunity in this omission; but he has endeavoured to show instead how the Union of the Parliaments has restored Scotland to the place of weight in European politics which she enjoyed previous to 1603, but lost at the Union of the Crowns. In what way, other than as an organic part of Great Britain, Scotland has, since 1707, exercised an influence over international affairs it is not easy to understand; but her impotence in the councils of Europe at the close of the seventeenth century may be accepted as an undoubted fact. If Professor Hume Brown had proceeded to lay bare the causes of this impotence—a task which perhaps no one in Scotland was better fitted by historical insight and equipment to accomplish—he would inevitably have been led to a discussion of those constitutional phenomena which lay at the root of the movement. He has not done so, however, and has explained neither the nature of the nexus between the English Parliament and the common monarch, nor the impossibility of Scotland, deprived as she was of a separate executive head, pursuing any foreign policy of her own. As these constitutional relations seem essential to a right understanding of the Union of the Parliaments, alike as to its antecedents and its far-reaching results, this article proposes to proceed to a short analysis of their leading features.

With the results of the Revolution of 1688, an event which secured to the English Whigs the final triumph of the principles of government they had long struggled for, Scotland was bitterly disappointed. Why? Briefly, because William might be compelled to serve one, but not two masters; and the more helpless he found himself to defy the wishes of the wealthier and stronger nation, the more completely was the weaker nation entangled in his chains and dragged with him at the heels of the English Parliament. The growth of parliamentary government in England crushed out all possibility of parliamentary government in Scotland. Such a result had not been dreamed of by the patriots of either country in the period between 1660 and 1688, when a consciousness of common aims and interests, as well as a sense of common dangers, had still united them in their struggles against a common enemy. If Charles II. had too often regulated his policy on lines that opposed the aspirations of patriotic Scotland, he had as frequently



offended his English subjects; if James II. had persecuted the Presbyterians of the north, he had also plotted to overthrow Episcopacy in the south. Both kingdoms had suffered from the same divine-right monarchy, and expected to benefit equally from its overthrow.

When the Bill of Rights became law the English constitutionalists, indeed, entered their promised land. Yet, with public opinion unsettled at home and an invasion of Ireland pending, their position was insecure so long as Scotland delayed to acquiesce in the settlement of the Crown upon William and Mary; and the Scots Estates might selfishly have dictated the price of their consent, demanding exemption from the operation of the Navigation Acts, or a closer union on terms of their own prescribing. The leaders at Edinburgh showed that they were not ignorant of the grave issues at stake when they passed, on 23rd April, 1689, an Act authorising the appointment of commissioners to treat of union. On the following day the Scottish Crown was offered to William and Mary on the conditions embodied in the Claim of Right. The letter which made this offer expressed a desire 'that as both kingdoms are united in one head and sovereign, so they may become one body politic, one nation, to be represented in one Parliament.'<sup>1</sup> The Parliament at Westminster, however, its immediate object now secured, took no steps to meet these advances—advances, it must be owned, of a somewhat half-hearted kind, since the course suggested by Scottish prudence was repugnant to Scottish pride. The golden opportunity had thus been lost; and the events of the next two decades made it clear that the Estates at Edinburgh, whether through pride, ignorance, or credulity, had committed a tactical blunder in accepting the new ruler of England's choice without first safeguarding Scottish interests. The patriots of the north who had shared the sufferings and the strivings of their political friends across the Border reaped no share of the spoils of victory. William of Orange, against his better judgment, was forced to trample underfoot the liberties and aspirations of the subjects of his northern kingdom; and the key to his conduct towards Scotland must be sought in English constitutional phenomena. William's reign is notable, in the eyes of students of political science, for the laying of the foundations of that modern cabinet system, which is the practical guarantee of

<sup>1</sup> Defoe, *History of the Union*, p. 311.

liberty in most of the free countries and self-governing colonies of the modern world. Politicians of the days of William and Anne, it is true, were far from understanding the essential features involved; and what they understood, displeased them. All the same, a distinct advance was being made throughout these years towards the evolution of the essentials of cabinet government, as we find them in the British constitution of to-day—towards the control, that is, of the royal prerogative by a small band of ministers united in adherence to a definite political creed, owning the authority of a common leader, each jointly responsible for the political acts of his fellows, and all brought by the operation of the potent principle of ministerial responsibility beneath the domination of the House of Commons.

Macaulay has recounted, once for all, the gradual steps by which Parliament enslaved the king; how the Commons adopted a niggardly policy of annual doles, enforced by a rigorous appropriation of supplies, and audit of accounts; how the leaders of the various parliamentary factions, disunited in all else, were yet united in their determination to curtail the prerogatives of the Crown; how William found it impossible to procure funds for his French campaigns without the support of the leading Whigs; how to please them he was forced to form his famous Junto Ministry, the earliest unambiguous anticipation of a modern cabinet; how gradually the financial drain of the long-continued war, combined with William's attempts at independent action in concluding the Partition Treaties, produced a Tory reaction that compelled him, in 1698, to dismiss Somers and other leading Whigs, and fill their places from the ranks of the party he disliked. With William's personal feelings and bitter humiliation this article has no immediate concern, except in their bearing on Scots affairs. It is evident, however, that if the king had at Parliament's dictation to choose his ministers from among men he distrusted and disliked; if he was powerless to carry out his most dearly-cherished schemes, or even at times to protect himself from indignities and insults; if he was compelled by insular prejudice to repay, with conspicuous ingratitude, the deep obligations that bound him to his faithful Dutch troops; in such circumstances, the wishes of his Scottish subjects could not long prevail against the prejudices of his English ministers.

It is true that a logical distinction might be drawn between



the separate prerogatives of the two Crowns; but in the field of politics logical subtleties give way to practical requirements; and it was the English House of Commons, not the Scots Estates, that regulated all matters *De Jure Regni apud Scotos*. It is further true that the northern country possessed separate ministers of her own. Even in its best days, however, the Scots Privy Council had never rivalled the powers of its English counterpart; while in the two decades that preceded the Union, no appreciable influence was exercised over the destiny of Scotland by the decisions of the Scots Privy Council as a whole, or of any inner circle of that body sitting at Edinburgh. Where William's ministers were indifferent, his attitude towards northern affairs was directed by Carstares or such other statesman as had gained the royal ear, while in all matters of international importance the king of Scotland was compelled to regulate Scots affairs according to the exigencies of English party politics. Thus, under William of Orange, the ancient kingdom whose independence had survived the attacks of Edward Plantagenet and Oliver Cromwell, while still nominally free and independent, was practically in a worse position than any British self-governing colony at the present day. The real centre of the political life of the Dominion of Canada lies at Ottawa, and that of the Commonwealth of Australia at Melbourne. The legislatures which meet at these colonial capitals are much more than mere law-making assemblies, for they exercise an active control over the colonial cabinets, the selection of which is dictated by the lower chamber, and the members of which are subject to the doctrine of ministerial responsibility. Scotland, on the contrary, prior to 1707, was in matters of importance governed from London, not from Edinburgh; while such powers as remained to the Scots Privy Council were by no means subject to the parliamentary control of the Estates. North, as well as south of the Tweed, ministerial responsibility meant the same thing—responsibility to the Parliament that sat at Westminster. Even in the Transvaal, politically dominated by the Boers, recently in rebellion against British suzerainty, the earlier constitution framed by Mr. Lyttleton, which conferred representative institutions without responsible government, has been condemned and superseded as not sufficiently liberal. Yet Scotland between 1660 and 1707, had to endure an executive government which admitted no responsibility to the national legislative assembly.

It would be absurd, of course, to criticise the institutions of the seventeenth century by the standards of the twentieth. Yet such comparisons are instructive ; and it was specially galling to Scotsmen that the seat of the executive authority should be gradually transferred to a foreign capital at the very time when the principles of self-government were taking firm root in England. In two respects at least, defective constitutional liberty was a greater hardship to pre-union Scotland than it would be to a modern British colony. While, at the present day, the policy of the mother country towards its colonies is always sympathetic, the English ministers of William and Anne were hostile and contemptuous of Scottish prejudices. The very proximity of the two kingdoms, on the other hand, in that intolerant age, made it seem the more impossible to statesmen south of the Tweed to allow independence of action to a neighbour steeped in hostile traditions and with leanings towards the exiled Stuart race. Seton of Pitmedden rightly said : 'Two kingdoms subject to one Sovereign, having different interests, the nearer these are one to another the greater jealousy and emulation will be betwixt them.'<sup>1</sup>

That the rage of Scotland was, to a great extent, blind and unreasoning rage affords no cause for wonder ; for many irritating symptoms diverted attention from the true seat of the disease. The Scottish lion, blind with fury, knowing it was wounded, but realizing neither the nature nor location of the wound, attacked such victims as chance flung in its path—Captain Green and his unfortunate messmates of the *Worcester* among the number. The root-causes of the discontent, if imperfectly diagnosed in 1707, seem clear enough to-day ; there may have been other subordinate causes rendering an ultimate union likely, but all other necessities flowed from the constitutional necessity. Scotland, it is true, after 1660, as a foreign land, was excluded from free trade with England and the plantations. The incidence of the Navigation Acts had been cruelly felt by the merchants of Leith and Aberdeen in the reign of Charles II. Yet, if Scotsmen had remained as completely aliens in England, as were the French or Dutch, they could not have reasonably complained. It was different when they found themselves constitutionally bound to their supercilious rivals, who were using the accumulated weight of the two crowns to prevent Scotland making treaties for war or commerce with other European powers. The friends of

<sup>1</sup> Defoe, p. 313.



the Darien scheme may have been selfish and unwise in the policy they expected William to adopt. Yet, whether they were reasonable or the reverse was not the point; but rather whether the national will or the king's will should prevail in Scots affairs. If, south of the Tweed, the Whigs had put in practice the doctrine that sovereigns exist to serve the community, why should Scotland be burdened with a king who (as in his dealings with the Hamburg merchants) thwarted her dearest aspirations? Scotland, like the American colonies before the war of independence, was treated in some respects as though it were a dependency not of the British Crown, but of the English Parliament.<sup>1</sup> The *status quo* had become intolerable, and the only question at the commencement of Queen Anne's reign was as to the form the inevitable change should take.

What new solutions were possible? Seton of Pitmedden in his famous speech of 2nd November, 1706,<sup>2</sup> clearly explained 'the three different ways proposed for retrieving the languishing condition of this nation; which are, That we continue under the same sovereign with England, with limitations on his prerogative as king of Scotland; that the two kingdoms be incorporated into one; or that they be entirely separated.' To these three he subsequently added a fourth solution: the words 'Federal Union,' he explained, had 'become very fashionable, and may be handsomely fitted to delude unthinking people.'<sup>3</sup> To a brief discussion of these various solutions we may now proceed.

(1) Complete separation, in these days of Jacobite activity and acute trade rivalries, would have resulted in constant or intermittent warfare between the kingdoms, if not in the conquest of the smaller by the larger—alternatives equally repugnant to Scottish patriotism;—while from England's point of view, it would have seemed intolerable to allow a hostile Scotland, probably in alliance, as of old, with France, to remain unconquered as a constant menace to her northern frontier. Surely, to bring back the old unhappy days of the Anglo-Scottish wars was an impossible solution.

(2) The scheme known as 'the Limitations,' pressed by

<sup>1</sup> The grievance in 1660-1707 was not, of course, that the Parliament of Westminster claimed to impose taxes on or to legislate for Scotland; but merely that that Parliament controlled the monarch in the exercise of executive authority, and in the use made of the right to refuse consent to Acts of the Scots Estates.

<sup>2</sup> Defoe, p. 312.

<sup>3</sup> *Ibid.* p. 315.

Fletcher of Saltoun, in season and out of season, upon the Estates, while conferring the empty title of King of Scotland on the new sovereigns called to the English throne by the Act of Settlement, sought to reduce their independent powers to zero in all vital questions. On its purely theoretic side, this arrangement had much to recommend it. No one of his contemporaries, indeed, has shown so clear an insight into the real nature of the evil as Fletcher did, when he declared, in one of his fiery outbursts: 'It is not the prerogatives of a king of Scotland I would diminish, but the prerogatives of English ministers over this nation.' His suggested remedy, however, was open to serious practical objections. So far as 'the Limitations' would have really secured an effective control by the Estates over the royal prerogative, this would have amounted to a transference of 'sovereignty' from the king to the Scottish Parliament, and would have destroyed to that extent the bond of unity with England. In so far, on the other hand, as the control of the Estates proved incomplete, Scotland would have remained exposed, as formerly, to the interference of foreigners in her affairs, with the added evils and confusions consequent upon a divided 'sovereignty.' The position of the monarch under such a scheme, upon either alternative, would have been so full of danger and humiliation that no self-respecting prince would have accepted it. Finally, England would never willingly have acquiesced in an arrangement which brought added responsibilities without adequate return.

(3) In explaining the disadvantages of a federal union, Seton of Pitmedden, in the speech already quoted, showed astounding penetration. After asking, among other searching questions, 'whether there can be any sure guarantee projected for the observance of the articles of a federal compact, stipulated betwixt two nations, whereof the one is much superior to the other in riches, numbers of people, and an extended commerce?' he proceeds to show from history how the weaker of the two kingdoms, united by such a compact, has invariably repudiated the connection with the stronger, 'unless prevented by open force, or secret influence on its government.'<sup>1</sup> To his two examples of Spain and Portugal, Sweden and Denmark, it is now possible to make several striking additions. Four important systems of government have been based, in modern times, upon a federal or quasi-federal principle—those of the United States of

<sup>1</sup>Defoe, p. 315.



America; Switzerland; Austria-Hungary; Norway and Sweden.<sup>1</sup> In the two first named, the federal tie is generally admitted to have proved successful; in the two latter it has failed conspicuously. Norway, rebelling against a burden that had grown intolerable, renounced in 1904 her allegiance to a monarch she respected, in order to free herself from the hated supremacy of Sweden. Hungarian patriots, while grinding beneath their heels Croatians, Serbs, Roumanians, and Slovaks, chafe unceasingly against Austrian supremacy, complaining that Hungarian interests and political ideals are systematically subordinated to those of their uncongenial political yoke-fellows.

To which of these groups would a federal Anglo-Scotia, in 1707, have corresponded the more closely? Would it have resembled a more or less numerous group of cantons or states like the Republics of Switzerland and North America—united under a federal legislature in which the interest of each of the original members is so small as to be easily neutralised by a combination of the others? Or would it rather have resembled the dual monarchies, where a common executive head in one case still compels, and in another has failed to compel, a smaller nation to submit to the continuance of a hated tie? Such historical parallels, conclusive as they are, are hardly needed to prove that in 1707, a federal union, would have kept alive all the evils of the previous régime, leaving Scotland powerless in the hands of English ministers. By a process of exhaustion, it has thus been shown that the only possible solution of the pressing constitutional problem, consistent both with national interests and national pride, lay in such a complete fusion of the two nations on terms of equality, as would secure for Scotsmen a fair share of influence in the organic life of the new nation; and make, at the same time, adequate provision for preserving—so far as human ingenuity could preserve them—her national church, administrative machinery, and separate legal system. It is possible to ask, however, whether in truth all these objects have been successfully and permanently obtained.

It must be admitted, at least, that the mere fact of Scottish birth has not prevented individuals from holding high office in every department under the British Constitution, the office of Prime Minister not excepted; while the most sanguine antici-

<sup>1</sup> It is not necessary for our present purpose to fix the criteria of a federal state, or the exact difference, so much discussed among Germans, Magyars and Czechs, between a federal union and a confederacy.

pations of commercial advantages to be gained by Scotland from freedom of trade with England have been surpassed. It may still be asked, however, to what extent the guarantees of the Scottish Church and of the peculiar legal system, so jealously regarded in the Union debates, have stood the test of time. If an affirmative answer is here impossible, it is no slight on the statesmanship of the framers of the Treaty of Union to say that they failed to achieve what was logically impossible. A federal union, if adopted, might (like 'the law of the Medes and Persians which altereth not') have permanently guaranteed existing institutions against attempts at legislative interference; but in the debates in the Cockpit and subsequently at Edinburgh, all idea of a union thus restricted was deliberately abandoned. The fundamental postulate on which the entire Treaty was built was that the Union should be absolute, complete, and irreducible, and that both existing Parliaments must surrender all their powers to a new Parliament, possessing legislative 'sovereignty' equally over the laws and institutions of both kingdoms. To attempt to combine with this postulate a legal (as opposed to a moral) guarantee that the Presbyterian Church or any of the peculiar laws and institutions of Scotland should remain perpetually unchanged, was like attempting to reconcile the contradiction in terms underlying the mathematical quibble which inquires what would happen if an irresistible force should meet an immovable mass? The new Parliament having been declared irresistible, it followed that nothing could be inviolable; while if any existing institution had been rendered legally unchangeable, it would have followed that as respects that institution at least, the Parliament was not supreme. There might be and there was a moral obligation upon the new legislature to respect the conditions of the Treaty, but such obligation could not have been made legally binding, without fundamentally altering the nature of the British Parliament as a sovereign legislative body. It is true that in the years following the Union, Scotland bitterly lamented the absence of legal guarantees, and had good reason to charge the overwhelming English majorities at Westminster with breach of faith in violating the spirit of the Treaty. It is true, further, that the Union would never have been effected, if the waverers at Edinburgh had suspected for one moment, when the crucial votes were taken, that the stipulated terms would not be scrupulously observed down to the minutest item.



It is necessary in this connection, however, to distinguish between those national institutions which the Act of Union deliberately left to the operation of the legislative supremacy of the British Parliament, and those others which it attempted, however illogically, to render permanent and inviolable. (1) Scotland stipulated to preserve her separate system of jurisprudence; but here there was no thought to stereotype the entire body of the existing laws. That would have been to turn a progressive Scotland into a second China. By the 18th Article all laws not inconsistent with the Treaty, were to remain in force 'but alterable by the Parliament of Great Britain.' Well meaning directions were added—possessing, of course, no legally binding authority—as to the way in which that Parliament ought to use these powers. Laws concerning 'public right, policy, and civil government' should be uniform throughout the realm, while those concerning 'private right' should be altered only for the utility of the subjects of Scotland. The continuance of a separate Privy Council for Scotland was left entirely to the discretion of Queen Anne and her successors in Parliament by the 19th Article, the terms of which rather suggest that its discontinuance would be the more natural course. It was, therefore, no hardship that an Act was passed in the very year of the Union, exercising these powers of abolition. Nor was it a breach of faith that the House of Lords should hear appeals from the Court of Session and the Court of Justiciary, since in the Union debates the Upper House was systematically described as 'the only sovereign judicature of Britain,' with equal authority over both kingdoms.<sup>1</sup> It *was* a grievance, however, although not a legal one, that this right of review was sometimes influenced by political bias as it undoubtedly was in Greenshield's case, the fate of which was really determined by the Tory triumph, consequent upon the trial of Dr. Sacheverell.

(2) In two important matters at least, when the Scots commissioners consented to the Union, they intended that Scottish institutions should remain inviolable for ever. The Presbyterian Church was to remain intact both under the original Articles of Union and also in terms of the special Act passed for its protection; while in Defoe's words, 'The Courts of Justice, and the general form of administration, such as session, justiciary, and all other Courts, were to remain in force for ever.'<sup>2</sup> The judicial system, thus secured by a law that was to be incapable

<sup>1</sup> Defoe, p. 159.

<sup>2</sup> Defoe, 151.

of repeal, included the various heritable jurisdictions, which chained Scotland to the feudal past. Defoe, with his usual prescience, regretted that the continued existence of these last had not been left for Parliament to determine.<sup>1</sup> That was not done, however; and it is therefore clear that the Act abolishing military tenures, which swept these anomalies away in 1747, was, however desirable, a deliberate breach of the terms of Union.

A more emphatic example of the incompatibility of parliamentary sovereignty with the stipulations of the Treaty of Union had been already afforded by three laws passed in 1712. The Toleration Act, the Act Restoring Patronage, and the Christmas Observance Act, whether wise or unwise in themselves, showed that the national sentiment of Scotland was subject to the over-ruling power of Westminster, and that this power might sometimes be exercised in a manner that was purely vexatious. It was bitterly realized that bigoted Episcopalian majorities in both Houses of Parliament had the legal power, if they chose to exercise it, of overturning the Presbyterian form of church government in Scotland in spite of express stipulations to the contrary in the Treaty itself, and in the Act specially passed for its protection.

Such incidents illustrate the inadequacy of the precautions taken in 1707 considered as legal guarantees of the permanency of existing institutions. They fall far short, however, of proving the Union a mistake. The incorporation of the two nations with each other, if accepted at all, had to be accepted by both sides, with all the faults inherent in the qualities of the measure. Scotland could not reasonably expect to retain all the advantages of separation while gaining in addition those attendant upon union. She surrendered her independence exactly as England did. In one respect, however, she found herself in worse case than England, since she accepted the domination of a legislative assembly in which her own representatives would have found themselves in a hopeless minority, if divisions had taken place on national as opposed to party lines. This was the risk she had to run—the price she paid for the Union. With the passage of two centuries these dangers and defects have disappeared from view, while the compensating advantages have become the more conspicuous. The recurrence of undue interference on the part of English majorities with exclusively Scottish affairs has been minimized, if not entirely obviated, with the growth

<sup>1</sup> Defoe, 152.



of a tolerant spirit in politics and religion; while a feeling of mutual participation in the new and wider nationality—not incompatible with a sincere Scottish or local English patriotism—has done much towards consolidating the Union.

Time, then, has justified the framers of the Treaty. Scottish national institutions were protected in so far as was possible or desirable, and the successful termination of the negotiations in 1707 must be viewed as a triumph of Scottish diplomacy. At a time when Englishmen looked upon Scotland and Scotsmen with hatred and contempt, or at least with a half-contemptuous indifference—at a time when the mass of Englishmen were apathetic or antagonistic to the question of a closer union—it was surely a triumph for Scotland first to awaken English statesmen to a due sense of the urgency of the problem by passing the Act of Security—‘that masterpiece of policy,’ as Defoe aptly terms it,<sup>1</sup> and then to extort terms of perfect equality on lines which were strictly fair, if not generous, and which entirely satisfied the quick pride of reasonable Scotsmen, by ensuring the construction of a stable basis on which national prosperity, to an extent undreamed of at the time, was afterwards to be built.

If Scotland, in 1707, renounced for ever her ancient constitution along with her continued existence as an independent state—an apparent blessing which pressure of circumstances had turned to an actual curse—she gained in return an honourable share in the life of Great Britain, and the right to exercise her fair measure of control in shaping the destinies of the British Empire—a right of which her sons have not been slow to take advantage.

WM. S. MCKECHNIE.

<sup>1</sup> *Union*, p. 96. Swift maintained in 1714 that England would never have consented to the Union, but for the danger of leaving ‘a poor, fierce, northern people at liberty to put themselves under a different king.’

## Scottish Students in Heidelberg, 1386-1662

**H**EIDELBERG, the most ancient University in Germany, was founded in 1386, and between 1386 and 1662 the names of thirty-one Scotsmen are to be found on its matriculation register. After the latter date there is a gap of about thirty years in the records, which suffered in the general devastation of Heidelberg wrought by the French invaders towards the close of the seventeenth century.

We shall take the names in the order of time. Where nothing has been discovered by the present writer in regard to any of them, they will simply be indicated as they occur in the Heidelberg register, with the date of their matriculation.

I. *Johannes Maluil de Scotia*, 20th Dec., 1423.

II. *Duncanus de Lythonn*, 5th May, 1434.

The appended description, 'cler. dyot.,' and the further note, 'primus diocesanus Abberdonensis,' are not clear to the writer. Some reference is manifestly involved to the bishopric of Aberdeen.

III. *Johannes Menteyt, Scotus*, 15th March, 1568.

IV. *Gulielmus Sibvius, Scotus*, Cal. Aprilis, 1570.

A Latinised form of 'William Wood.'

V. *Olivarius Colt, Scotus*, Cal. Apr., 1570.

This name was introduced into Scotland by a fugitive Huguenot called 'Blais-Coult,' who obtained a professorship in St. Andrews. He is the ancestor of the Colts of Auldhame in Haddingtonshire and Gartsherrie in Lanarkshire.<sup>1</sup>

VI. *Johannes Jonstonus, Scotus*, 13th April, 1587, gratis.

A further note contains the name of this John Johnston, viz. '18th Feb. 1589—6 people were sent forward for the degree of M.A. promotore M. Joannes Jonsthono, Scoto, regente Contubernij.' He was probably a member of the family of Johnston of Crimond, and thus a relative of the Arthur Johnston to be later referred to.

He was born about 1570 and educated at King's College, Aberdeen. He is said to have studied subsequently at various places on the Continent besides Heidelberg, viz. at Helmstadt, Geneva, and Rostock. About 1593 this John Johnston obtained the Chair of Divinity in St. Andrews, and remained professor there till his death in 1611.

<sup>1</sup>The above student may have been this professor's son, Oliver Colt, who was a lawyer in the time of Queen Mary.



He was eminent as a Latin poet and scholar. His chief works are: *Inscriptiones Historicae Regnum Scotorum*, which consists of epigrammatic addresses to Scottish kings from Fergus I. to James VI. This book was printed at Amsterdam in 1602-3; *Heroes ex omni Historia Scotica Lectisissimi*, Leyden, 1603. This is a series of epigrams similar to the above in honour of Scottish heroes of the same period. He also wrote epigrams on the principal towns of Scotland, which are inserted in *Camden's Britannia*.

This John Johnston being, as we see, a man of considerable scholarship, is much more likely to have been the student at Heidelberg than another John Johnston (the eldest brother of Arthur Johnston before mentioned), who was Sheriff of Aberdeen in 1630. Apart from his literary eminence, he was in Germany, as we know from other sources, at the time specified.

VII. *Jacobus Robertson, Edinburgensis, Scotus*, 17th April, 1589.

VIII. *Robert Uimierus, Scotus*, 22nd Feb., 1593.

Otherwise Vinieus, Vimeus, Mag. Artium, exul et pauper.

The annals of the University have a further note regarding this Robert Hume or Wemyss (either of which might have been his name in Scotch), stating that he had 'taken up in the year 1593 the position which had been assigned to him as regent in the Collegium Casimirianum—a prince Buloneo ad philosophiae professionem invitatus' [A. U. xvi. 130].

IX. *Thomas Moravius, Scotus*, 22nd Febr., 1593.

X. *M. Alexander Arbuthnot, Scotus*, 30th July, 1594.

A further note says: Arbudnot (al. Arbudnot) rec. ad Stipendium quoddam in Contubernio Sept., 1595. Still held the same in July, 1599. Attended 'lectiones historicas et politicas.'

In all probability this was the son of Alexander Arbuthnot, who became the first Protestant Principal of King's College, Aberdeen, in 1569, and who was described by Andrew Melville as 'patriae lux oculusque,' and by James Melville as 'one of the three learnedest men in Europe,' and 'a man of singular gifts of learning, wesdome, godliness, and sweitnes of nature.' Indeed he was of too gentle and refined a disposition for the stormy times in which he lived, and he died at the early age of forty-five, broken-hearted, as it appears, by the wayward opposition of a generation which fell so far short of his high ideals. He has recorded his feelings in a poem called 'The Miseries of a pure (poor) Scholar,' which is really autobiographical. The following is one of the verses:

'I think the world sa wrappit in mischief  
That gude is yll and yll is callit gude.  
All thing I see does bot augment my grief;  
I feel the wo and can nocht se relief.  
The Lordis plaig throuhout the warld is went  
Quhat marvel is thoch I murne and lament?'

XI. *M. Thomas Landelus, Glascoviensis, Scotus, 23rd Dec., 1596, gratis.*

The following note is appended :

‘Die 15 Decembris 1596 ex Senatus consulto M. Thomas Landelus, Glascoviensis, Scotus (iam quadragenarius et pauper) testimonium habens a senioribus et ministro ecclesiae zu Pfaltzburg et nominatim commendatus a quadam de lenitate in curandis aegrotis, receptus fuit per hyemem in domum Casimirianum, hac lege ne faciat medicinam (in urbe) sed theologia det operam (*i.e.* ut instituta studia theologia persecutur).’

This ‘Collegium Casimirianum’ suffered destruction by fire in the year 1693. Its site is now occupied by the University buildings, within which there is a tablet recording the former presence of the ‘Casimirianum.’

XII. *David Duramenus, Bacholdensis, Scotus, 27th January, 1597, gratis.*

The only place in Scotland, known to the writer, the name of which bears a resemblance to Bacholdensis, is Badcaul, in the parish of Eddrachillis, Sutherlandshire.

‘David Durham’ is most likely the basis of the Latin surname. The name ‘Durie’ was generally rendered in Latin by ‘Duraeus.’ During his sojourn in Heidelberg a pestilence raged, which, from a contemporary surgeon’s account referring to ‘ulcera bubones et anthraces,’ appears to have been of an Eastern type. A prorector had, shabbily enough, been appointed as an interim ‘during the continuance of the plague,’ while many of his colleagues had fled from the town, and in a letter he complains of the action of those who desert their posts in time of danger, and entrust them to men such as he, sixty years old, ‘in qua aetate constitos ut ad rempublicam gerendam ineptos de ponte deiicere solebant veteres Romani!’

XIII. *M. Gwalterus Donaldsonus, Aberdonensis, Scotus, 11th Sept., 1599.*

This Walter Donaldson belonged, as stated, to Aberdeen. He was a member of the retinue of Bishop Cunningham of Aberdeen, and Peter Junius, Grand Almoner of Scotland, when on an embassy from James VI. to the Court of Denmark and the Princes of Germany. He subsequently returned to the Continent, and, probably when a student in Heidelberg, delivered at the latter place a series of lectures on moral philosophy, which were later published, from student’s notes, both in Germany and Britain, under the title of *Synopsis Moralis Philosophiae*. He afterwards became Professor of Physics, Ethics and Greek at the University of Sedan, and acted at the same time as Principal. He remained there for sixteen years. He also published *Ethica Oeconomica* and *Loci Communes* from *Diogenes Laertius*.

XIV. *M. Arturus Jonstonus, Abredonensis, Scotus, 11th Sept., 1599.*

A further note states that M. Arturus Jonstonus, Scotus, matriculated as a student of theology under ‘Doctor Tossanus,’ ‘in meo decanatu’ (4th Oct.).



We have here almost certainly the eminent Latin poet and physician, Arthur Johnston, who flourished in the first half of the seventeenth century. He was born in 1587(?) at Caskieben, Aberdeenshire, the seat of his ancestors for many generations, and was the fifth son of George Johnston of Caskieben and Christian, daughter of William, Lord Forbes. After travelling through Germany, Denmark, Holland and England he settled in France, and his rapid development is marked by the fact that he was 'crowned' at Paris as 'poet laureate' in the twentieth year of his age. He remained twenty years in France.

His fame as a Latin poet chiefly rests on his Latin version of the Psalms, which has been held by many to rival that of Buchanan. Three editions of his Psalms were published at the expense of the Englishman Benson (one of the most ardent supporters of Johnston's superiority to Buchanan), with an elegant life of the translator. One of these was published in 1741, with a fine portrait of Johnston by Vertue after Jamesone.

Johnston had received the M.D. of Padua in 1610. He returned to Scotland in 1632. In 1637 he became Principal of King's College, Aberdeen, and received the appointment of Physician-in-Ordinary to Charles I. He died in Oxford in 1641, while on a visit to a daughter who was married to a clergyman of the Church of England; hence the lament:

'Scotia moesta dole tanti viduata sepulcro  
Vatis: is Angligenis contigit altus honos.'

His chief works are: *Psalmorum Davidis paraphrasis poetica*, Aberdeen and London, 1637, and Middelburg, 1642, also at Amsterdam (by David Hoogstratanus) in 1706; *Canticum Salomonis paraphrasi elegiaca*, London, 1633, and along with the Psalms at Amsterdam, 1706; *Libri Jobi paraphrasis poetica*; *Parerga et Epigrammata*.

He also edited at Amsterdam in 1637 *Delitiae poetarum Scotorum hujus aevi illustrium*, in which many pieces of his own appear.

It must be admitted that the date of this Arthur Johnston's birth, as given, would necessitate his being at Heidelberg when under thirteen years of age. Allowing this date to be correct, however, the remarkable precocity of the youth, already referred to, would relieve the difficulty somewhat, while it is to be remembered that in those days students were often little more than boys.

XV. *Gulielmus Jonstonus, Scotus*, Magister artium, gratis, 26th Feb., 1603.

In all probability a younger brother of the foregoing, and also a gifted Latin scholar.

He was educated at Marischal College, Aberdeen, and thereafter proceeded to the University of Sedan, where he lectured on philosophy. In 1626 he was appointed the first Professor of Mathematics in Marischal College. He died in 1640. He is spoken of as 'weall seen both in the mathematics and the medicine.'

XVI. *M. Andreas Aidius, Abredianus, Scotus*, 4th May, 1603.

This Andrew Aidié was later Professor of Philosophy at Danzig. He published, probably while at the latter place, *Disputationes Logicas Morales*, and in this work incurred (at least on the Continent) the suspicion of plagiarism.

He also wrote in 1614 *Clavem Philosophiæ Moralis*. In 1615 he was made Principal of Marischal College. This position, however, he resigned in the year 1619, as a result of difficulties in which he became involved with Bishop Alexander Forbes of Aberdeen, who, as we shall see presently, was a fellow-student of Aidié's in Heidelberg.

XVII. *Alexander Forbosius, Scotus*, iniuratus, 11th June, 1603.

We are doubtless correct in identifying this Alexander Forbes with the Bishop Alexander Forbes just mentioned. The latter was of the house of Ardmurdo, and was appointed to the Bishopric of Aberdeen in the year 1616. He died, however, not long afterwards, in the year 1618, being succeeded in his office by Bishop Patrick Forbes, the eminent prelate (born 1564).

XVIII. *Patricius Lyndesius, Scotus*, 21st January, 1603.

Very probably to be identified with Patrick Lindsay, Archbishop of Glasgow. He was born in 1566, and educated at St. Andrews. Associating himself with the Episcopal schemes of James I., he became Bishop of Ross in 1613. In the year 1615 he was appointed Privy-Councillor of Scotland, and in 1633 obtained the Archbishopric of Glasgow. He was deposed by the General Assembly of 1638, and died in 1644.

XIX. *Alexander Andersonus, Scotus, Abreptonensis*, 20th April, 1605.

There was an Alexander Anderson who was Principal of King's College from 1553 to 1569. The Alexander Anderson we have here is most likely to have been the son of this Principal Anderson. He went to Paris early in life as a teacher or professor of mathematics, in which subject he attained great fame. He published the valuable MSS. of Vieta, Master of Requests at Paris, who died in 1603.

XX. *Patritius Kymerina, Germanensis, Scotus*, 12th June, 1605, gratis.

This Patrick Cameron, which name, as we may best suppose, is represented in the Latin version, had evidently, either by naturalisation or otherwise, some close connection with Germany.

XXI. *Alexander Ramsæus, Scotus, Baronis de Bamff filius tertio-genitus*, 8th Nov., 1606.

This Alexander Ramsay was clearly the son of George Ramsay of Bamff, the latter, in turn, being a descendant of Adam de Ramsay of Bamff who, among other Scottish Barons, swore fealty to Edward I. in 1296. He was Physician to James I. and Charles I. Sir James Ramsay, the present representative of the family, informs me that he has a portrait of this Alexander Ramsay at Bamff, which is dated about 1666.



XXII. *Patricius Dunaeus, Scotus*, 9th May, 1607.

To be identified, in all likelihood, with Dr. Patrick Dun, who was 'mediciner' at King's College, and, for the period 1621-1649, Principal of Marischal College, Aberdeen. In this connection we may note that medicine was only officially added to the curriculum in 1700, while not until 1823 were any lectures delivered on the subject.

He was the author of a treatise on medicine, and as a physician he had a widespread reputation. When he accepted office it was accordingly agreed that 'quhen he salbe burdenit be nobill men in the cuntrie in tyme of their seiknes to repair towards thame as phisicians, he may lesumlie do the same without imputatioun of offence or bruck of dewtie on his pairt.'

This same Patrick Dun refounded the Grammar School of New Aberdeen.

XXIII. *Joannes Camero, Scotus*, 2nd Dec., 1607.

A further note states that he was 'Praceptor of the three co-matriculated, Alexander, Abel and Franciscus a Caligno, Gratianopolitani nobiles Galli, fratres,' and among the matriculated students of theology in 1608 he appears as 'Johannes Camero, Scotus, a Burdegalensi ecclesia vocatus, cui nunc in ministerio servit.'

This John Cameron, a representative of the Reformed religion, was a native of Glasgow, and was born, as we are told, 'of respectable parents.' He taught Greek in the University there for a year, and thereafter went to the Continent. After being engaged for some time teaching Latin and Greek at Bergerac he was appointed by the Duc de Bouillon Professor of Philosophy at Sedan. Remaining there for two years he proceeded to Heidelberg in charge of three sons of Calignon, Chancellor of Navarre. Heidelberg claimed him for a year. On the 4th of April, 1608, he maintained there a series of theses, *De triplici Dei cum homine foedere*, which is printed among his works. Thereafter he took up ministerial work at Bordeaux, and, following this, was Professor of Theology at Saumur. Leaving France as a result of the religious war raging at this time, he lectured privately on theology in London, and later, in 1622, was Professor of Theology and Principal in Glasgow University. Being disliked there on account of his attachment to Episcopacy, he remained only a year, and we find him again lecturing privately in Saumur, and subsequently Professor of Theology in Montauban. While holding this latter position he was attacked by some ill-disposed person—probably a Catholic zealot—and died, as a result of his wounds, in the year 1625, at the age of forty-six. He was famed as a fluent Greek scholar.

His chief theological writings are: *Praelectiones in selectiora quaedam loca Novi Testamenti una cum Tractatu de ecclesia et nonnullis miscellaniis opusculis*, Saumur, 1626-28; *Myrothecium Evangelicum in quo aliquot loca N.T. explicantur, etc.*, Geneva, 1632; *Of the Sovereign Judge of Controversies in matters of Religion*, Oxford, 1628.

He also wrote a treatise, *De Gratia et libero Arbitrio*, in regard to which subject he had a controversy with Tileno. This treatise, along with other of his writings, was published in 1642 at Frankfort, and in 1659 at Geneva.

XXIV. *David Nerneus, Andraepolitanus, Scotus*, 31st July, 1609.

This student was enrolled at St. Andrews in 1596, signing himself 'David Nairn.'

XXV. *Thomas Sincerf, Scotus*, 10th July, 1609.

The surname appears in Scottish biography as Sydserff, and is, of course, derived from 'St. Serf.'

This Thomas Sydserff was born in 1581, and took the degree of M.A. at Edinburgh in 1602. He played an important part in the introduction of the English Prayer-Book in 1633, and, having at one time been Bishop of Brechin, he was appointed Bishop of Galloway by Laud in the year 1635. While holding office at the latter place he suffered violence at the hands of the mob, and was deposed by the authority of the General Assembly of 1638, and, at the same time, excommunicated. At the Restoration he was reinstated as Bishop of Orkney, being the only surviving bishop of the Scottish Episcopal Church at that time. He died three years later.

XXVI. *Johannes Hogesius, Scotus, gratis*, 8th Oct., 1611.

'John Hodge' or 'John Hogg.'

XXVII. *Joannes Forbesius, Scoto. Bryttanus, Nobilis*, 24th May, 1613.

John Forbes was the second son of Bishop Patrick Forbes of Aberdeen (who succeeded to the see in 1617), and was born on the 2nd of May, 1593. After studying philosophy and divinity at King's College in his native city, he proceeded to Heidelberg, where he attended the lectures of the famous Paraeus. While on the Continent he maintained in the year 1618 a public disputation against the Archbishop and the Lutherans at Upsala in Sweden. He was known in Germany as 'Fabricius à Corse,' the latter being the name of the family estate to which he succeeded on the death of his brother. After visiting several of the other Universities in Germany he returned to Scotland, and was appointed in 1620, at the age of twenty-six, to the Chair of Divinity and Church History in King's College, Aberdeen, which his father had been instrumental in founding.

In the hopes of securing a bishopric he attached himself to the Episcopal schemes of James I. and Charles I., and with other 'Aberdeen Doctors' he opposed the Commissioners of the Covenant when they visited Aberdeen. As a result of his refusal to sign this document he was ejected from the Chair by a Committee of the General Assembly in 1640. Sentence was deferred for a year, the reason, as recorded by Baillie, the Covenanting writer, being: 'Dr. Forbes's ingenuitie pleased us so well that we have given him yet tyme for advysement.' On the 20th April, 1641, however, he was finally deposed, 'because he refusit to subscribe and swear our Covenant.' Thereafter he sought



refuge from the ecclesiastical unrest by spending two years in Holland, where he worked at his *Institutiones Historico-Theologicae*, an unfinished treatise which has received high praise. In 1646 he returned to his estate of Corse, where he died on the 29th of April, 1648.

He had attempted to reconcile the religious sects in a treatise entitled *Irenicum Amatoribus veritatus ac pacis in ecclesia Scoticana*.

Among his other works are: *Vitae Interioris Idea*; *Diss. de Visione Beatifica*; *Theologiae Moralis Libri X.*; *Liber de Cura et Residentia Pastoralis*. They were published in two volumes by Nic. Gürtlern in Amsterdam in 1703, with a sketch of the author's life by Dr. George Garden.

XXVIII. *Thomas Knoxius, Ramberlaeus, Scotus*, 23rd Sept., 1613.

A further note states that 'Thomas Knoxius Ramfelreus, Scotus, matriculated as a student of theology on 24th Sept., 1613.'

In 1606 Andrew Knox, a younger son of John Knox of Ranfurly, Renfrewshire, was Bishop of the Isles, and in 1622 he was translated to the see of Raphoe in Ireland. He was succeeded in the office of Bishop of the Isles by his son *Thomas Knox*, in whom we doubtless have the above-mentioned student at Heidelberg. The male line of this family failed in the person of Andrew Knox's grandnephew, viz. Uchter Knox of Ranfurly, who had one daughter. The latter sold the estate to the first Earl of Dundonald.

With regard to John Knox's connection with this family, two sources are in favour of it. One of these is David Buchanan's *Memoirs of Knox* prefixed to the edition of the *Historie* in 1644, where it is stated that his 'father was brother's son of the house of Ranferlie.' The second source is a genealogical account of John Knox's family, which was in the possession of the late James Knox, Minister of Scone, where occurs the record that his (John Knox's) 'father was a brother of the family of Ranfurlie, and proprietor of the estate of Gifford in Haddingtonshire.' Dr. M'Crie argues, on the other hand, that the family appear to have been in East Lothian in the time of Knox's greatgrandfather, adducing the conversation of Knox with Bothwell to be found in the *Historie of the Reformation*, ed. 1732, p. 306: 'My lord, my greatgrandfather, gudeshir, and father have served your lordship's predecessors, and some of them have dyed under their standards.' If the Bothwell estates included lands in Renfrewshire, the latter argument would, of course, be invalidated.

XXIX. *Thomas Meluinus, Disartius, Scoto. Brittanus*, 25th Nov., 1613.

Some Thomas Melvin, apparently, from Dysart.

XXX. *Thomas Cumingius, Belga. Scotus, i.e. Belga parentibus Scotus*, 28th May, 1614.

A further note states that 'Thomas Cuminius, Belga, matriculated as a student of theology.'

'Belga parentibus Scotus' evidently means that he was of Scotch parents, resident, however, in Belgium.

XXXI. *Rodericus Maclennan, Scoto. Britannus*, 30th April, 1660.

With this Roderick Maclennan our list closes.

As indicated in the description of his nationality, we may surmise that (with, as we have seen, one or two others of these Scottish students in Heidelberg) he gloried at once in the name of 'Scotchman' and 'Briton.' The Maclennans are associated with the district of Kintail in Ross-shire.

When we consider the fact illustrated that so many Scotsmen attained to positions of academic importance on the Continent, both as lecturers and debaters, the question would arise as to how the difficulties of variety in language were got over, did we not remember that, in mediaeval times, Latin was a medium as widespread as literary culture, and formed the Academic language of Europe.

As will be noticed, a considerable number of the Scotsmen treated of were Episcopalians, a fact which may not be without significance, the literary interests of Scotland in those days having been largely represented by this body.

In his investigations the writer has made accuracy his aim. As will be readily supposed, however, the materials gathered and sources consulted have been more or less limited, and the writer should prefer that the notes be regarded by those interested in any of the names, more as points of departure for further inquiry than as final statements.

Foremost among those to whom thanks are due is Professor Adolf Deissmann of Heidelberg University, who first suggested the inquiry to the writer, and gave him the benefit, indeed, of the list of names and a few notes regarding them which he had himself gathered with a view to publication in some Scottish periodical. Professor Deissmann is not a stranger to Scotland, having received in September, 1906, the honorary degree of D.D. from Aberdeen University, in recognition of his well-known scholarship in the sphere of New Testament and kindred Greek.

The writer would like also to record his indebtedness to Mr. Maitland Anderson, Librarian of St. Andrews University, for his courtesy in reading over the article previous to publication, and making several suggestions and emendations.

Among the books which he has used as sources he would specially mention: *History of the University of Aberdeen*, by John Malcolm Bulloch, London, 1895, and *The Universities of Aberdeen: a history*, by Robert Sangster Rait, Aberdeen, 1895.

W. CAIRD TAYLOR.



## The Bishops of Glasgow

From the Restoration of the See by Earl David to the Reformation : Notes chiefly Chronological

AS was observed by the writer of the present article, when dealing with the Bishops of Dunkeld prior to the Reformation (*Scottish Historical Review*, Jan. 1904), the large amount of historical material that has become available since the publication of Bishop Keith's meritorious work, the *Catalogue of Scottish Bishops* (1755), makes it imperative to review again in the light of such new information the lists of the bishops of the several Scottish sees. An attempt is here made to readjust the chronology of the bishops of the important see of Glasgow, a see second only to St. Andrews in wealth and influence.

For the earlier bishops dealt with in the present number Eubel's recently published work, *Hierarchia Catholica Medii Aevi* (tom. i., 1898; tom. ii., 1901) is not available. Down to the year 1318 Eubel relies on Gams. In subsequent numbers his dates from the Papal Archives will be recorded. The value of Theiner's *Monumenta* has long been recognized. As will be seen, his labours have been carefully utilised in the present enquiry. And it need scarcely be said that the *Calendar of Papal Registers*, published under direction of the Master of the Rolls, has been employed down to the issue of the latest volume.

In an enquiry at once so extensive in range and so minute in detail it is scarcely possible that errors have been wholly avoided; and the writer will be grateful to historical students who may be so good as to inform him of any mistakes which they have detected.

In citing authorities the following abbreviations are used: A.P. = *The Acts of the Parliaments of Scotland* (Record edit.); B.C. = *Calendar of Documents relating to Scotland, preserved in the Public Record Office*, edited by Joseph Bain; C.P.R. = *Calendar of Papal Registers* (Master of

the Rolls series); E.=Eubel's work referred to above; Extr.=*Extracta e variis Cronicis Scocie* (Edinburgh, 1842); K.=*Historical Catalogue of the Scottish Bishops*, by the Right Rev. Robert Keith (Russel's edit. Edinburgh, 1824); M.=*Chronica de Mailros* (Bannatyne Club edit. 1835); Mas Latrie=*Trésor de Chronologie d'histoire*, etc., par M. le C<sup>te</sup> De Mas Latrie, folio, Paris, 1889; R.M.=*Registrum Episcopatus Moraviensis* (Bannatyne Club edit. 1837); R.G.=*Registrum Episcopatus Glasguensis* (Bannatyne Club edit. 1843); R.P.S.A.=*Registrum Prioratus S. Andree* (Bannatyne Club edit. 1841); Sc.=*Scotichronicon Joannis de Fordun cum supplementis et continuatione Walteri Boweri* (Goodall's edit. Edinburgh, 1759); T.=*Vetera Monumenta Hibernorum et Scotorum historiam illustrantia*: A. Theiner (Romae, 1864). The Chartularies of religious houses are cited by their English names, thus 'Kelso' for *Liber S. Marie de Calchou*, and 'Holyrood' for *Liber Cartarum Sancte Crucis de Edwinesburg*, etc.

The names of bishops elect, but not consecrated, are printed in italic capitals.

**MICHAEL.** Although the bishop first named in this list is unknown in Scottish record, it would be improper to pass him over in silence. Ralph, archbishop of Canterbury, writing in 1119 to P. Calixtus II., states that Thomas (who was archbishop of York from 1109, June 27, to 1114, Feb. 24) "quemdam Britonem Glasguensi ecclesiae ordinavit episcopum" (see Twysden, *Decem Script.* coll. 1743, 1746). Now this bishop cannot be identified (as by Keith, and by Grub, *Eccl. Hist.* i. 220) with John (see next entry), because not only their names differed, but also because the consecrator of each was different. The York historian, Thomas Stubs, in the second half of the fourteenth century, states that Thomas, archbishop of York, at the request of Earl David, ordained a holy man, Michael by name, for the see of Glasgow, who gave a profession of canonical obedience to York in writing (*Acta Pontif. Ebor.*; Twysden, *Decem Script.* col. 1713). According to the same authority, Michael, by command of the archbishop of York, dedicated churches in the diocese of York, and conferred orders (*ordines fecit*) in the church of Morlonnd [in Westmoreland], in which church he was afterwards buried. How much of T. Stubs' statement is to be believed? Such competent judges as Haddan and W. Stubbs apparently think it may all be believed (*Councils*, II. i. 14). Michael's conduct is like that of the nominal York-Orkney bishops; he acted as an assistant-bishop of York. His not appearing in Scottish record may perhaps be accounted for either because his death (as may be supposed) followed soon after his consecration, or Earl David may have resented Michael's having professed canonical obedience to York. There can be little doubt, I think, of the existence of this bishop bearing the title 'of Glasgow,' even if we regard him as only titular, and no doubt, if he existed, that he was a different person from John.

**I. JOHN.** A monk (*vir religiosus*, R.G. i. 4), formerly tutor to Earl David (*ib.*). He was consecrated, though reluctant, by P. Paschal II. (who was elected in August, 1099, and died 21 Jan. 1118) (*ib.*), and among other



authorities for Paschal being the consecrator of John, see the letter of P. Innocent II. to John, printed in Dugdale's *Monasticon*, vi. 1187.

The earliest charter evidence which I have found is his witnessing the foundation charter of the abbey of Selkirk by Earl David, that is, at latest, before 23 April, 1124, when Earl David succeeded to the throne (Kelso, No. 1).

For the attempts of successive popes to induce John to render obedience to the see of York, see Lawrie's *Early Scottish Charters*, pp. 40, 41, 81.

John, bishop of Glasgow, was consulted by Eadmer in his difficulties at St. Andrews in the year 1120 or 1121 (see Eadmer, *Historia Novorum*).

The writer, evidently not contemporary, who has penned the notes on Earl David's *Inquisitio* represents John as having been elected by Earl David *consilio clericorum* (R.G. i. 4). In a letter of Calixtus II. to John, 15 Jan. [1122], the Pope says that John had been elected *in capitulo* of the church of York, as a suffragan of that church, and had been consecrated by Pope Paschal *postulatione ecclesie Eboracensis* (*Reg. Alb. Ebor.*: see Lawrie's *Early Scottish Charters*, No. xlv.). On 26 Aug. [1122] Calixtus wrote again to John requiring him to render obedience to the archbishop of York within 30 days (*ib.* No. xlv.). I do not think there is sufficient ground for seriously doubting the genuineness of these two papal letters. It is evident from the material before us that we cannot be very precise as to the date of John's consecration.

In 1122 John set out to visit Rome and Jerusalem, and was compelled in the following year to return to his see (M.). He went to Rome in 1125 to endeavour to obtain the pall for St. Andrews. We find him at Roxburgh, 17 July, 1127 (*Nat. MSS. of Scotland*, i. No. 27); but he seems to have been again absent from his diocese, to which he was recalled by Alberic, the Legate in 1138 (Richard of Hexham, *s.a.* 1138). We find him witnessing at Edinburgh, 1 Nov. 1140 (Newbottle, 4), and in 1144 granting Lesmahago to Kelso (Kelso, 149). On 3 May, 1147, he was with King David at Coldingham (Raine's *North Durham*, Appendix, No. 41). He must have died very soon after (see next entry).

He died in 1147 (M.). John of Hexham gives the year of his death as 1148. But Cosmo Innes remarks that the chronology of John of Hexham is a year too late after 1140, which year he divides into two. He was buried in the monastery of Jedwod (Jedburgh);—Sc. viii. 3, which authority makes John die in the 28th year of his episcopate. John was for a time chancellor (Dunfermline, No. 12). I have not traced the authority for John's death being on 29 May, 1147 (K); but it is a not improbable date. The statement in Sc. that John died in the 28th year of his episcopate is not consistent with his being consecrated by Paschal.

**II. HERBERT (Hubert).** Third abbot of Selkirk and first of Kelso, on the transfer of the monks of Selkirk to Kelso. We find him elect of Glasgow (Cambuskenneth, 72; A.P. i. 359), but the date cannot be very closely determined, at least from the witnesses. We have the authority of M. (and of John of Hexham as to the place) for his being consecrated on St. Bartholomew's day [24 Aug.], 1147, by P. Eugenius III., at Auxerre.

We know from other sources that Eugenius, having to fly from Rome, was in France in that year. Indeed Eugenius seems to have been at Auxerre from the middle of July to 25 August (Mas Latrie). He was at Auxerre on 29 Aug. (Camb. No. 23). Herbert made the church of Govan a prebend of his Cathedral (R.G. 11). He gave benediction to John, abbot of Kelso, in 1160 (Sc. vi. 35). The date of his consecration, compared with the date of his predecessor's death, enables us to fix within narrow limits the undated charter of King David to the church of St. Mary of Stirling, witnessed by Herbert, elect of Glasgow (Cambusk. No. 51). Herbert died in 1164 (M. and Hoveden, i. 224); and for the time of the year we can gather something from the date of his successor's election.

**III. INGELRAM** (Engelram, Ingeram, Ingeran, Engeram). Arch-deacon of Glasgow: only in deacon's orders: had been chancellor of K. Malcolm (Sc. viii. 15). There was an Engelram who was archdeacon of Teviotdale when Arnold was bishop of St. Andrews (original charter in the charter chest of Fletcher of Salton; MS. note in Joseph Robertson's copy of Keith in the Advocates' Library). We can, by a comparison of the statements of M. and Sc., fix the date of his election. It was on Sunday, 20 Sept. 1164. He was ordained priest on the following Saturday, 26 Sept., and consecrated on the 40th day (correctly the 39th) after his election (Sc. viii. 15) on Oct. 28, the feast of SS. Simon and Jude (M.), which in that year fell on Wednesday. He was consecrated by P. Alexander III. at Sens (apud Senonensem civitatem, M.); not at Sienna, as C. Innes. (R.G. i. 22.) Alexander, after laying the foundation-stone of Notre-Dame at Paris, retired to Sens, 30 Sept. 1163, and remained there for a year and a half. Alexander, in his letter, dated Sens, 1 Nov., to the dean and chapter of Glasgow, states that Engelram, then elect, now their bishop, had come to him with letters of commendation from King Malcolm; that he had also received expostulations from the envoys of the archbishop of York. He, Alexander, however, desiring to defer to the wishes of the king, had consecrated Engelram, and with his own hands (R.G. i. 18).

On 22 May, 1171, Ingelram, together with four abbots, opened the tomb of Waldeve, second abbot of Melrose, and found the body entire and the vestments intact (M.).

Ingelram died on the feast of the Purification of the B.V.M. (2 Feb.), 1174 (M.).

He witnessed the foundation charter of Paisley, and confirmed all the gifts to that monastery made by Walter Fitz-Alan (Paisl. 6, 115). There is no use in citing other charter evidence.

Ingelram had been chancellor under Malcolm (Sc. viii. 15; R.P.S.A. 202).<sup>1</sup>

**IV. JOSCELIN** (Goscelin). Fourth abbot of Melrose, who had been advanced from prior to abbot, 22 April, 1170 (M.). He was elected to

<sup>1</sup> I have to call the attention of the learned to a serious difficulty presented by a charter of King William (Cambusk. 132). William came to the throne 9 Dec. 1165 (Dunbar's *Scottish Kings*, 77). Among the witnesses is 'Engelramo electo de Glasgu.' I shall not attempt a solution.



Glasgow, 'unanimiter,' 'concorditer' (R.G. i. 33, 34) by the clergy, 'the people requesting, and the king assenting,' at Perth on 23 May, 1174 (M.). The place of the election is well worth noting. Like the election of Roger to St. Andrews (1189) at Perth; of Reinald to Ross (1195) at Dunfermline; and of Malvoisine to St. Andrews (1202) at Scone; it seems to point to the desire to exercise the influence of the king on the election. Compare the requirement which for a time prevailed in England that the election of bishops should take place in the chapel royal. P. Alexander III. confirmed the election 16 Dec. [1174], and commanded that consecration should be given him, if it was extremely difficult (*intolerabile*) for him to appear in the Pope's presence (R.G. i. 35).

Jocelin was consecrated at Clairvaux by Eskil, Archbishop of Lund, Primate of Denmark, and Papal Legate, in 1175 (M., Sc. viii. 24). On 1 June, according to K., who does not give his authority.

The *Chronicle of Melrose* gives the date of Jocelin consecrating his new cathedral as July 6, 1197, 'anno episcopatus sui xxiiij.' This is an error unless we count from the date of election.

Attention may here be called to a bull of Alexander III., printed in *Regist. Episcop. Glasg.* (i. 30-32), and dated 'ij. Kal. Maii, Indictione vj. anno mclxxiiij. Incarnationis dominicæ,' addressed to Jocelin and his successors. It is obvious that the year must be wrong. I would offer the conjecture that the original reading was 'ij. Kal. Mart.,' which would make the year of the pontificate, viz. 'anno xvi.,' correct, and the year of our Lord, 1175. But the indiction, viz. 'vj.,' would still be wrong. The error, one may suspect, was due to the transcriber. No dates are more frequently in error than the number of the indiction.

Jocelin was one of the six Scottish bishops present at the Council of Northampton in 1176 (Wilkins, *Concilia*, i. 483).

In 1182 Jocelin returned from a visit to Rome, bringing to K. William a golden rose from Lucius III. (M.).

In 1197 the cathedral, a new building begun by Bp. Herbert, was consecrated by Jocelin, two other bishops assisting (R.G. 611). The date as given by Wyntoun (Book vii. line 2140) was 'the ferd day off July.'

Charter evidence is abundant for Jocelin's episcopate.

Jocelin died at Melrose, 17 March, 1199 (M.), and was buried in the monks' choir in the north of Melrose Abbey Church. Hoveden (iv. 85), more particularly, says he died on a Wednesday, being St. Patrick's Day. This notice of the day of the week is not unimportant, because it shows that the year was 1198-99. We find him alive after 24 August, 1198, in the year of the nativity of Alexander II. (*Arbroath Vet. Reg.* 103). He had a brother, Helias by name, who gave the church of Dunsyer to Kelso (Kelso, 285).

**V. HUGH DE ROXBURGH.** Chancellor of Scotland. He succeeded Jocelin as bishop (Sc. viii. 60); but as he died 10 July, 1199, less than four months after the death of Jocelin, it is not probable that he was consecrated. And as much is implied by Hoveden (iv. 97), who writes 'eodem anno [1199] obiit Hugo Glascuensis ecclesiae electus sexto idus Julii.' From the same authority we learn that he was buried at

Geddewrde (Jedburgh) in the north part of the monks' choir. The *Chronicle of Melrose* takes no notice of his election, but merely states 'Obiit Hugo cancellarius vj. idus Julii' (s.a. 1199).

**VI. WILLIAM MALVOISINE** (Malevicinus): Chancellor of the king, in deacon's orders, archdeacon of St. Andrews.

He had been one of the *clerici regis*, and archdeacon of St. Andrews, and was made chancellor of Scotland 8 Sept. 1199 (M.).



SEAL OF JOCELINE, A.D. 1175-99.



SEAL OF FLORENCE, A.D. 1202-7.



COUNTER SEAL OF JOCELINE.



COUNTER SEAL OF FLORENCE.

Elected in Oct. 1199 (Hoveden, iv. 97).

Consecrated at Lyons by the archbishop of Lyons [Reginald de Forez] at the command of Innocent III., Sunday, Sept. 24, 1200; having been ordained priest on the day preceding, being Saturday in Ember Week (Hoveden, iv. 139). Postulated and translated to St. Andrews 20 Sept. 1202.<sup>1</sup>

<sup>1</sup> If we accept the above statements we can assign the year to a charter of King William (R.M. 13) which gives only the day of the month (26 Dec.). It is



**VII. FLORENCE** (Florentius). Nephew of K. William, being son of his sister Ada and Florence III., Count of Holland, to whom she was married in 1161.<sup>1</sup>

Elect apparently in 1202. There is a blank space at the end of the year 1202 in the original MS. of M., and in the margin is written in red ink, 'Florentius electus Glasguensis.' He was elect and chancellor of the king in 1203 (Holyrood, 36). Charters in which he appears as elect and chancellor will be found in R.G. (i. 85) and Arbr. (i. 50); and as elect in Melrose (i. 37, 117) and Paisl. (109, 113).

Under the year 1207 we find in M., 'Florence, elect of Glasgow, by leave of our lord, the Pope, resigned his cure.' See also Sc. viii. 66. That he was never consecrated and that he resigned, before Dec. 1207 (see next entry), is certain; and a confirmation of his never having been consecrated is found in a bull of P. Innocent III., in which he refers to 'Florentio quondam Glasguensi electo.' This bull is dated 15 May, in the tenth year of the pontificate, that is, 15 May, 1208.

We are ignorant why Florence remained unconsecrated for five years, and why he resigned.

**VIII. WALTER.** Chaplain of the king. Elected 9 Dec. 1207 (M.). Consecrated at Glasgow by leave of the Pope on the day of the commemoration of faithful souls (2 Nov.) 1208 (M. and Sc. viii. 68). Note that All Souls' Day fell in 1208 on a Sunday. He went to Rome in 1215 to the fourth Lateran Council and returned 'in the third year' (M.). P. Honorius III. sent a mandate (6 June, 1218) to the chapter of Glasgow and clergy to recognise as their bishop and pastor the bishop of Glasgow, who in the time of the wars between England and Scotland had so acted as to be excommunicated, he having now been absolved by the Pope (C.P.R. i. 55). Serious charges against the bishop were made by Master William, apparently one of the canons (de gremio Glasguensis ecclesiae); and Honorius III., on 7 Dec. 1219, wrote to the legate Pandulf, elect of Norwich, to investigate them. It was alleged that when the bishop was chaplain to the king he gave Philip de Valone, chamberlain of the king, 100 merks, and promised a larger sum to the queen, that they might induce the king to give him the bishopric of Glasgow; and that accordingly he was promoted without canonical election. Various other charges against him of corruption, and nepotism, and of his allowing his household to live immoral lives were added; and Pandulf was directed to commission discreet men in Scotland to investigate the charges and to report to the Pope (T. No. 29). Presumably the charges were found to be unproved, for we hear no more of them.

He died in 1232 (M.). His death must have been after 19 May, 1232, for on that day he granted a charter (Kelso, 229, 333) and a confirmation

witnessed by 'Willelmo electo Glasguensi, cancellario meo.' The year must be 1199, and not 1200 as given by Cosmo Innes in the *Tabula*, p. iv (R.M.).

<sup>1</sup> Florence III., in 1189, followed the Emperor Frederick in the Crusade. He exhibited great gallantry at the siege of Damietta. He died at Antioch, 1 Aug. 1190.

(Dryburgh, 40). The feast of St. Potenciana and the feast of St. Dunstan both fell on the same day, the 19 May, so that though the style of the drafting is different, the date of the two charters is the same.

The bishop had a brother Simon (R.G. i. 73).

Charter evidence is abundant for Walter.



SEAL OF WALTER, A.D. 1208-32.



COUNTER SEAL OF WALTER.

**IX. WILLIAM DE BONDINGTON.** (By an error of transcription, 'Hondyngton' in the MS. of Fordun, in the Library of the University of Edinburgh. Sc. vol. ii. p. 59.) Chancellor of the king, to which office he had been appointed in 1231 (Sc. ix. 48). He had formerly been clerk of Thomas the Chancellor (*ib.*). He had been rector of Eddleston, prebendary of Glasgow, and archdeacon of Lothian (K.).

He was elected to Glasgow in 1232 (M.) and after 19 May (see last entry). He is still elect in Jan. and June, 1233 (Kelso, 309), and in July, 1233 (Arbr. 75), and in August, 1233 (Melrose, 204).

He was consecrated in the cathedral of Glasgow on Sunday, 11 Sept. 1233, by the bp. of Moray, Andrew de Moravia (M.). Hence the Sunday after the feast of the Exaltation of the Cross (14 Sept.), 1245, is in the 13th year of his episcopate, not, as stated in Kelso (231), the 12th.

In 1240 William and David, bishop of St. Andrews, were summoned by P. Gregory IX. to attend a Council at Rome in the following year. They set out in December; but, together with many prelates of England and France, they were compelled to return home (1241) by the Emperor Frederick II. (M. Sc. ix. 56).



In 1244, June 7, he witnessed a charter of Alexander II., and is styled 'camerarius noster' (Blackfriars, Perth, 4). Is this an error for 'cancelarius'?

On 20 Sept. 1255 he was removed from the king's council (A.P. i. 419).

William granted a charter dated, Ancrum, the morrow of St. Laurence (*i.e.* 11 Aug.), 1258 (R.G. i. 166), and on St. Leonard's Day, 6 Nov. 1258; also at Ancrum, he, with consent of the chapter, granted the privileges and customs of Sarum to the cathedral of Glasgow (R.G.). Four days later he was dead. He died on the vigil of St. Martin (*i.e.* 10 Nov.), 1258, and was buried at Melrose on St. Brice's Day (13 Nov.) near the great altar (M.). Sc. (x. 11) concurs as to the year, but is silent as to the day.



SEAL OF WILLIAM DE BONDINGTON,  
A.D. 1233-58.



COUNTER SEAL OF  
WILLIAM DE BONDINGTON.

He appears frequently in charters. He is described as *vir dapsilis et liberalis in omnibus* (Sc. x. 11). His buildings at his cathedral are said to be *miro artificio lapideo* (*ib.*). He was a liberal benefactor of his cathedral.

A few other particulars from the Vatican records may be added.

1235, May 25. P. Gregory IX. grants the bishop of Glasgow and his successors an indult that neither they nor their clerks should, against their will, be summoned out of Scotland by apostolic letters, unless such letters make mention of this indult (T. No. 79).

1238, July 21. The same Pope grants an indult to the bishop of Glasgow that he shall not be summoned by papal letters beyond the realm of Scotland to appear before judges, a previous indult to this effect being evaded by his adversaries (C.P.R. i. 175).

1255, May 15. P. Alexander IV. commissions the prior of the Preaching Friars of Glasgow to dispense the bishop of Glasgow of a vow he had made not to eat flesh in his own house. On account of old age and weakness the vow is to be commuted into alms and other works of mercy (T. No. 175).

Bondington and the bishop of St. Andrews, summoned by Gregory IX. (9 Aug. 1240) to attend a General Council (C.P.R. i. 195) and, as we have seen, forced to return home, sent proctors to the Pope to explain the situation (Sc. ix. 56).

**X. NICHOLAS DE MOFFAT** (Muffet): Archdeacon of Teviotdale, to which office he had been appointed in 1245 (*Lanercost*, 53).

He must have been elected, or perhaps, to speak more strictly, 'postulated,' (see B.C. i. No. 2158) soon after the death of his predecessor, for after, that is, soon after, 2 Feb. 1258-59, he set out to the Apostolic See for confirmation. This he failed to secure, as well because he was unwilling to pay the money demanded of him by the Pope and cardinals, as because those of the canons who had gone with him to support his claim turned against him, more particularly R[obert] elect of Dunblane, who thought that if the election of Nicholas was quashed, he could easily obtain the bishopric of Glasgow. Nicholas returned to Scotland in 1259 (M.; Sc. x. 11).

As regards the temporality, the see of Glasgow was void at Martinmas, 1259, and at Whitsunday, 1260 (*Exch. Rolls*, i. 6). But before the latter date Cheyam had been appointed by the Pope.

**XI. JOHN DE CHEYAM** (Chiham, Chyum, Cheam): Archdeacon of Bath (B.C. i. No. 2158) and papal chaplain (T. No. 225). 'Vir de australi Anglia oriundus, sed Angliae nimis infestus' (*Lanercost*, 65). 'Vir exemie scientie' (*Extr.* 109).

Appointed by the Pope at least as early as 13 June, 1259 (B.C. i. No. 1259). There was no election by the chapter after the Pope's quashing Moffat's election. He was consecrated apparently at the Roman court (M.; see also *Lanercost*, 65, *Extr.* 103, and B.C. i. 2180).

The appointment was disagreeable to the king, and rendered more disagreeable in consequence of the letters for the execution of Cheyam's provision having been addressed to the bishops of Lincoln and Bath. The king represented his wishes to the Pope, probably early in 1260, for Pope Alexander IV. writes to the king (21 May, 1260) refusing to consent to the petition of the king that he would revoke the provision of 'John de Cheam, bishop of Glasgow.' The Pope adds that he did not desire to do anything contrary to the custom of the kingdom in regard to the temporality, and asks for a safe-conduct for Cheam that he may take the oath of fealty to the king, and obtain the temporality (T. No. 225). Among the documents found in the castle of Edinburgh in 1282 was a bull of the Pope directing John de Chiham to render fealty to the king before receiving the temporality (A.P. i. 108).

*Lanercost*, which is written by a friend of Moffat, tells a story, the point of which is that John, bishop of Glasgow, always preached piety, but never practised it (p. 53).



Cheyam came to Scotland by leave of the king, and is enthroned, 1260 (M.).

On 26 Oct. 1262, the Pope commands Master Albert de Parma, papal writer, to induce the bishop of Glasgow to pay 200 marks, due by the bishop to the College of Cardinals, and apparently to cause him to be excommunicated if payment was not made (C.P.R. i. 380). These 200 marks made the balance of 800 marks, of which 600 had been paid by the bishop to the Pope before 9 Feb. 1262, when the threat of excommunication had been held over him (*id.* 384).

John was employed by King Alexander to reconcile his mother Marie de Coucy with her second husband, Jean de Brienne, called 'd'Acre,' son of John, 'king of Jerusalem,' from whom she had fled to Scotland (Sc. x. 25).

John is at Ancrum in Oct. 1264 (Kelso, 275). He witnessed the treaty made at Perth, 2 July, 1266, between Alexander III. and Magnus, king of Norway (A.P. i. 421).

Cheyam not being in happy relations with the canons of his cathedral, who resented his intrusion, retired abroad in 1267 (Sc. x. 24). He died at Meaux, and there was buried in 1268 (M.). His death was after St. Barnabas' Day (June 11), on which day, 1268, he granted at Tournay a charter conveying land for the support of three chaplains in the cathedral at Glasgow (R.G. i. 178-9).<sup>1</sup>

**XII. NICHOLAS DE MOFFAT.** See above. On the death of John he is elected for the second time, in the year 1268 (Sc. x. 25). He died unconsecrated in 1270 (*ib.* 27). He is represented as bearing himself 'nimis proterve' towards the monks and other ecclesiastical persons (Sc.). But a somewhat more favourable account is given by the writer of this part of the *Chronicle of Lanercost*, who says that as archdeacon he was one 'qui semper rixaretur et nunquam irasceretur.' The writer says that he officiated at his funeral, which took place in the archdeacon's church of Tiningham (*sic.*) (*Lanercost*, 53).

**XIII. WILLIAM WISCHARD** (Wiscard, Wiseheart, Wisheart and other variants): Archdeacon of St. Andrews, and Chancellor of the king, and holder of 22 benefices (Sc. x. 27). Elected, 'ad instanciam regis,' on the death of Moffat. He was still 'elect of Glasgow' when on 2 June, 1271, he was elected to St. Andrews (M.). Consecrated 15 Oct. 1273.

**XIV. ROBERT WISCHARD.** Nephew (*nepos*) of William Wischard (M.). Cousin (*consanguineus*) of William Wischard (Sc. x. 29): Archdeacon of Lothian, 'juvenis aetate sed moribus senior' (*ib.*). Elected, apparently, in 1271; but not consecrated till Sunday before the feast of the Purification, 1273, that is, on Sunday, Jan. 29. The consecration was at Aberdeen by the bishops of Dunblane, Aberdeen, and Moray (Sc. x. 30). We have a precept of 'R. by divine mercy humble servant of the church of Glasgow,' dated 28 Nov. 1273 (R.G. i. 186).

<sup>1</sup> There are some notices of the early story of John de Cheam (presumably our bishop) in his early days in England in C.P.R. (i. 274, 279). Master John de Cheam, rector of Raikell (or Rukeull) in the diocese of Lincoln, value 20 marks, is allowed by Pope Innocent IV. (21 Aug. 1251) to hold an additional benefice. He is a papal chaplain on 29 Aug. 1252.

The important and stirring part played by this prelate in public affairs after the death of Alexander III., and more particularly in the contest with Edward I. of England, gives him a prominent place in the history of his time. On 11 April, 1286, he was chosen, at Scone, as one of the six guardians of the realm (Sc. xi. 1, 3). He was one of the three guardians who served in settling the treaty with the plenipotentiaries of Eric, king of Norway, at Melrose, 3 Oct. 1289 (Rymer, ii. 431). He was a leading figure at Brigham (a village on the north bank of the Tweed between



(No. 1.)



(No. 2.)

SEALS OF ROBERT WISHART, A.D. 1272-1316.

Kelso and Coldstream) on the occasion of the framing of the treaty with England, 17 March, 1289-90, and 18 July, 1290 (A.P. i. 85; Rymer ii. 482 sq.). After the death of the Maid of Norway he appears, like so many others, in the position of one frequently making oaths of fealty to Edward I., and frequently breaking his oaths (see Palgrave's *Documents and Records Illustrating the History of Scotland*; Stevenson's *Historical Documents Illustrative of the History of Scotland, 1286-1306*, and Rymer's *Fœdera*). He joined the armed rising of William Wallace in 1297; yet on 9 July, 1297, he became surety for the loyalty and good behaviour of Bruce (Rymer, ii. 774, 775; Palgrave, 199). He surrendered himself at Roxburgh, a prisoner to Edward, in the same year (Hemingford, i. 125).



On 27 June, 1299, Boniface VIII. wrote to Edward, saying that he had heard that he had imprisoned and harshly treated Robert bishop of Glasgow, Mark bishop of Sodor, and other ecclesiastics, and urges their release (Sc. xi. 38). How long Robert continued a hostage is not very clear, but his release was before he took, in the most solemn manner, for the fourth time, the oath of allegiance to Edward, 7 Oct. 1300, at Holmcultram (Rymer, ii. 867; Palgrave, 344). Soon after he again joined Bruce and Wallace with an armed force. Pope Boniface VIII., now taking the side of Edward, wrote to Robert bishop of Glasgow rebuking him for his opposition to the king of England and bidding him repent, 13 Aug. 1302 (T. No. 372).

On the defeat of the Scots, Robert bishop of Glasgow came to Edward at Cambuskenneth and prayed for forgiveness, again took the oath of fealty, and received from Edward the temporality of Glasgow, which he had forfeited, 5 March, 1303-04 (Palgrave 345). At the following Easter he for the sixth time swore fealty to Edward at the high altar of St. Andrews Cathedral. It was Robert who, within eight days, absolved Bruce for the murder of Comyn (10 Feb. 1305-06). And he went heartily with the party of Bruce when he was crowned at Scone (27 March, 1306). He supplied from his own wardrobe the vesture in which Bruce was attired at his coronation. Soon after the battle of Methven (19 July, 1306) the castle of Cupar in Fife fell into the hands of Edward's troops, and among those captured was Robert bishop of Glasgow. He was sent in his coat of mail to Newcastle-on-Tyne, and thence to the Castle of Nottingham. Edward I. gave orders (7 Aug. 1306) that he should be kept in chains at Porchester Castle (Hampshire). He remained a captive in England till after the battle of Bannockburn, although Pope Clement V. petitioned the king for his release (9th April, 1308). Edward II. besought the Pope (1 Feb. 1311) to arrange that Robert should never return to Glasgow. On 20 Nov. 1313 Edward II. ordered that Robert should be imprisoned and kept at his own cost in the convent of Ely. After Bannockburn, Edward, at York, ordered Robert to be brought to him. Robert was exchanged for Humphrey de Bohun, Earl of Hertford, the king ordering Robert (2 Oct. 1314) to be conveyed to Carlisle. Barbour (285) says that the bishop was now blind.

Robert is at Glasgow 30 June, 1315 (Melrose, 393), and on the Friday after St. Mark's Day (25 April), 1316 (R.G. No. 263).

He died 26 Nov. 1316 (Spottiswood, i. 222). What early authority?

He was buried in his cathedral between the altars of St. Peter and St. Andrew (*ib.*).<sup>1</sup>

J. DOWDEN.

(*To be continued.*)

<sup>1</sup> On 11 May, 1306, Pope Clement V. sent a mandate to the archbishop of York to cite Robert bishop of Glasgow, suspended from spirituals and temporals, to set out for Rome within a month. On 13 May the Pope wrote to the archbishop to seize Robert and keep him in custody, obtaining for him, if he desire it, a safe-conduct from the king. The like letter was sent to Anthony bishop of Durham (C.P.R. ii. 6, 7).

## Notes on the 'Scottish Trial by Combat Charter of 1167.'

Contributed by the REV. DR. JAMES WILSON to the *Scottish Historical Review*, July 1907.

**I**T should be borne in mind that we are discussing a very poor copy of the charter ascribed to King William the Lion (*S.H.R.* iv. 481).

Errors incidental to transcription, perhaps repeated transcription, are abundant and may be ignored, as we are not dealing with the original writing. If the textual imperfections, all of them obvious, may be set down to the transmission of the copy, there does not seem to be a single point which can be regarded by itself as fatal, though a series of doubtful and unusual phrases is enough to cause hesitation. Had it been proved, for instance, that one of the witnesses, say David Olifard, was dead in 1167, the whole aspect of the matter would be changed. In my opinion the names mentioned in the charter are its strongest defence. The forger, so far as I can see, has not shown his hand in principals or witnesses. How he could have collected all these names to bolster up an imposture passes my comprehension: they are not all prominent men: in fact some of them are obscure. But is there a single historical blunder in the charter? The date, about which he might easily have slipped, has been skilfully chosen, if we remember the death of Gospatric of Dunbar in the previous year, its international consequences, and the policy of Henry II. to keep the young Lion of Scotland in a good humour.

Must a charter be spurious because its contents do not fit in with our notions about the formalities of the duel or the jurisdiction of the Marshal of England, as they are supposed to have existed in the middle of the twelfth century? In matters of institutional history at so early a date, the mountain does not always choose to come to Mahomet: in some instances Mahomet has been known to accommodate himself to the rigidity of the mountain. On points of law as affected by this charter, one would like to suspend judgment.

From a study of the text and its contents I hesitate to pronounce the writing fraudulent. My doubts are suggested entirely by its connexion with the Lambert pedigree. The history of this compilation and the character of the compiler would bring any document under grave suspicion. Of John Lambert, who flourished in the first half of the sixteenth



century, I will make a quotation from Whitaker, the Yorkshire historian, and leave it as a clue to those who desire to probe this matter to the bottom: 'This person, whose name occurs so frequently in the history of Kirkby Malghdale, was born to the inheritance of a small estate at Skipton and bred to the law. He was Vice-Chancellor of the Duchy of Lancaster, steward of the courts of the Prior of Bolton, and in favour with the commissioners for the dissolution of the religious houses . . . in short, he was the founder of the family' (*History of Craven*, p. 257, ed. Morant, 1878).

Of the man's character Whitaker continues on p. 260: 'With respect to the two charters on which some persons have grounded their opinion of the early consequence of this family, I have already given several reasons, not one of which has been refuted, to prove that they are forgeries. I think so still, and in place of a very long investigation (longer by far than the subject deserved) shall content myself with saying that one of them, to a critical eye, manifestly appears to be written on an erasure: and that from the Roll of Thomas Lord Clifford, 15th Henry VI. [1436-7], it may be proved that Winterwell Hall itself, the possession of which first brought the Lamberts to Skipton, was then, and not before, granted out to one Joan (the surname is worn out in the MS.). Since the first edition of this work was published, I have met with some charters drawn by John Lambert, who in his earlier days was a scrivener, in which he availed himself of his antiquarian knowledge to copy the formulæ of more ancient times. What he is known to have done in the course of business he was able to do out of vanity or whim: and it may be some consolation to his friends that whatever such a forgery detracts from his honesty is to be added to his skill.'

It cannot be said that the charter of King William is found in good company. But it is difficult to believe that a masterpiece like this could have been manufactured by the foolish and clumsy performer who concocted the amusing letters of Henry VIII. to this self-same John Lambert, which Trevelyan has printed from the Lambert pedigree in the *Archæologia Aeliana*. The pedigree of Lambert, as given by Whitaker, starts with Sir Thomas Lambert of Skipton, temp. Henry III.

JAMES WILSON.

This deed was communicated by Mr. Trevelyan of Wallington to the Yorkshire Archaeological Society in 1832, and was published in *Archæologia Aeliana*, ii. 103-104.

Mr. Trevelyan must have seen the original, because he states that part of 'the seal in white wax' remained, bearing 'a man armed on horseback,' and on the copy in the British Museum, it is added that a few letters of the legend were visible on the seal. It may still be in the charter room at Belsay.

The copy by Mr. Trevelyan, printed in the *Archæologia Aeliana*, and that given by him to the British Museum, printed by Mr. Wilson, are nearly identical. The former has 'Ecclie,' 'littre,' 'in presentiam

mea,' Thome de Maundeville,' 'de Colevill,' the latter has 'ecclesie,' 'litre,' 'in presentia mea,' 'Thoma de Maundeville,' 'de Colvill.'

It is said that this deed was part of a pedigree of the family of Lambart attested by Camden, W. Legar (Garter), R. St. George (Norroy), R. Tresswell (Somerset), who were in the Herald's College between 1603-1623. Their attestation of the pedigree is of little importance in the question whether the deed be a genuine document of the twelfth century. It shows that, if forged, it was forged before 1623.

It is admitted that, in the deed, there are abundant errors and many textual imperfections; it is fair to assume that Mr. Trevelyan made a correct copy; and must we not deal with this, not as a repeatedly transcribed copy, but as a correct version of the original?

The Latin seems to me to be of later date than the twelfth century: it is different from the old charter Latin, it is more like the composition of one translating later ideas and later English rather than of an official accustomed to the Latin of that age.

I had noted as an objection to the genuineness of the deed that the king styled himself W. Rex Scotie. In the majority of King William's charters he states that he is King 'Dei gratia'; Mr. Maitland Thomson, however, tells me that in the early years of the king's reign, when Nicholas was chancellor, the majority of the royal charters omit the 'Dei gratia,' that in 73 charters witnessed by Nicholas the chancellor, 12 insert 'Dei gratia,' 61 omit the words.

So the omission tends to credit, not to discredit the document.

*Universis in Christo ecclesie fidelibus.* Can 'In Christo' be right? The faithful in the church of Christ and not of the church in Christ. Such an address was used by ecclesiastics but not by a king who addressed his subjects, whether generally 'omnibus probis hominibus totius terrae suae,' or specially 'Episcopis, Abbatibus, Comitibus.'

*Ad quos litterae iste pervenerint.* 'Ad quos' is unusual. 'hae litterae,' not 'istae.'

*Anno 1167.* King William's charters are seldom dated, and this date 1167 seems to me to be a year in which the events could not have occurred. King William was still a young man of about 24, and though he had been in France with King Henry in 1166, he had left the king on not the best of terms. King Henry II. went to Normandy in 1166, and did not return to England for four years. In 1166 the Assize of Clarendon had limited the sphere of trial by battle in England.

*Venerabilium virorum.* If this were a genuine document would not the names of some at least have been given?

*Compositio.* The Latin suggests that the whole proceedings were arranged beforehand, that though the combatants came armed, they were prepared to yield to a prearranged entreaty by King William, that they should shake hands and be friends. Why should they be sent to Scotland to abandon accusations which they had arranged to withdraw? The Latin seems to exclude the reading that they were sent to fight, and that the king at the last moment intervened.



*Legatum ab Anglia* cannot mean that Lambart was an ambassador and legate. Does it mean 'sent,' 'missum'?

*Alexander de Olifard.* The Olifards were not *de Olifard*. They wrote David Olifard, Walter Olifard, but never David *de Olifard*, etc. I know of no record of any Alexander *de Olifard*.

*Fiendum* is suggested by Mr. Wilson. Would not 'faciendum' be better?

*Henricus Rex Anglie.* He was in France in 1167.

*In causa duelli ipsis concessi.* Mr. Wilson values the document because of the reference to the connection of the Marshal of England with trial by combat.

Dr. George Neilson can deal with that; he had discovered no such connection when he published his book. If the deed be genuine it is remarkable that it does not describe the Marshal by name nor title; in 1167 the Marshal of England was Richard, Earl of Pembroke (Strongbow); he was Marshal in 1154 at the coronation of King Henry II. It is likely that he was with King Henry in Normandy in 1167. He died in 1176.

The phrase *duellii ipsis concessi* seems clumsy. 'When battle was waged'; battle there must have been, unless by consent of the judge, to whom in such an event a heavy fine, called a concord, was payable (see Neilson's *Trial by Combat*). Nothing in this document is said about a fine to King William.

The witnesses do not discredit the deed, they support it, because Ingelram, Bishop of Glasgow, Nicholas the Chancellor, Richard the Chaplain, and other witnesses were in Scotland with King William in 1167. It is true that David Olifard was never called *de Olifard*. I think it is probable that old David Olifard died before 1167, but it is not of much importance whether the witness was the first David Olifard, King David's friend—or that David's son.

*William Dolepen* was a witness to some of King William's charters. Fantosme calls him 'Friar William Dolepen,' and describes his mission to King Henry in 1170.

The witnesses Thomas de Maundevile and William Latimer were not Scottish men, but they may have accompanied Lambert from England. *Peter de Colville.* None of the family in Scotland in that age was called Peter. *Barnard son of Brian* was a witness in King William's time. *Roger the Chamberlain, Wydo the Marshal,* and *Alexander de Nevill* are not known to me.

A serious objection to this deed is that it is vague. If it were genuine it would have stated what the dispute between the combatants was, whether it was civil or criminal; it purports to be a decisive decree, ending strife, but his document records nothing of the dispute. Does it not look like the work of a forger who desired to make evidence of the existence of a Lambart in the twelfth century, but who could not trust his knowledge to state of what crime Lambart either had accused Olifard or was accused by him? The deed is similar to the later forgery (also relating to a 'duellum') first printed by Lord Hailes

(*Annals Misc. Occ.* sub. 1312), reprinted with comments by Dr. George Neilson in *Trial by Combat*, pp. 207-208, and which Dr. Neilson rightly says must be branded as a fraud.

A. C. LAWRIE.

The Lambart charter is an exceedingly ingenious document and we are all indebted to Dr. Wilson for transcribing its text and ventilating the problem of its authenticity. Taking up Sir Archibald Lawrie's hint I venture to state certain points as regards the bearing of the charter on the generally accredited canons of Trial by Combat in Britain. The charter contains at least four distinct features which puzzled me, and which on full consideration I find difficult to reconcile with authenticity. (1) The Marshal is exhibited exercising a jurisdiction not only in an unprecedented form but at an unprecedentedly early date. (2) There is grave reason to suspect that the charter makes precisely the error of the Elizabethan lawyers and also of Shakespeare, viz. that of confusing the duel of law with the duel of chivalry. In the duel of law the judge had no authority to stop the battle. The duel of chivalry did not become an institution in England or in Scotland until a much later time, and it will be impossible to parallel the features of the Lambart instance in the records of either the duel of law or the duel of chivalry. (3) The reference to 'dignity' savours much more of the spacious days of the sixteenth century than of the simpler twelfth century. (4) The ceremony of reconciliation in a form stereotyped in the sixteenth century, and uncommon before, is another tell-tale voucher of date.

These elements converge towards the inference that the document grossly antedates the historical duel of chivalry. It contains too many contradictions of the understood canons of the evolution of the duel. While I admire the daring and wit of the invention and should for its picturesqueness have been happy to find it not spurious, I confess that (although I have been slow to conclude) the weight of objection seems to me to grow with examination.

GEO. NEILSON.

Having been allowed to peruse Sir Archibald Lawrie's note on the Lambart Deed, I am glad to find myself in general agreement with him. To me also both the law and the phraseology savour of a later period.

At the same time it might well be argued that if the terms of the preamble are unusual, they are not more so than the purport of the document: such a certificate was *a priori* likely to be differenced from an ordinary charter.

Some of the points objected to may be due to the copyist; e.g. the insertion of *de* before Olifard, which is never found in any original writ. But we have 'Willelmo de Olifard' in a notarial copy of a not



otherwise suspicious charter of Alexander II. (*Hist. of Carnegies, Earls of Southesk*, ii. 478).

In the objection taken to the use of *literæ istæ* instead of *hæ literæ*, I do not concur.

If the Deed is a forgery, the forger has chosen his witnesses well. All the names known to Scottish record are those of men living, and likely to have been at King William's court, in 1167. The others must be set down as Englishmen.

But this brings me to a grave objection not stated by Sir Archibald; viz. that arising from the application of the words *Scotis et Anglis*. King William was still addressing his subjects as 'Franci Angli et Scotti,' or 'Franci et Angli, Scotti et Galwelenses' (see *Facsimiles of National MSS.* i. Nos. xxxvi. and xxxviii.). By *Angli et Scotti* he of course meant Saxons and Celts. In this Deed the words are obviously meant to bear the modern sense. This cannot be laid to the account of the the transcriber; if such a phrase in such a sense in 1167 is an anachronism (as I venture to think), then the document which contains it cannot be genuine.

J. MAYTLAND THOMSON.