

## Reviews of Books

CHAPTERS IN THE ADMINISTRATIVE HISTORY OF MEDIÆVAL ENGLAND :  
THE WARDROBE, THE CHAMBER, AND THE SMALL SEALS. By T. F.  
Tout, Professor of History and Director of Advanced Study in History.  
Vols. I. and II. Pp. xxiv, 317 ; xvi, 364. London : Longmans,  
Green & Co. 1920. 36s. net.

THE late Sir John Seeley, clothing old theories in new garments, emphasized the need for two separate constitutional machines in a free country—the governing organ and the government-controlling organ. In the Great Britain of to-day the first of these is to be found in the machinery of which the monarchy is the centre, including King, Cabinet and administrative departments, the latter is to be found in Parliament. Professor Tout here maintains that the great hierarchy of English historians, from the venerated Bishop Stubbs onwards, have been at fault in overestimating the value of one of these factors in comparison with the other. His main proposition is that Parliamentary control has been exalted to the comparative neglect of the administrative mechanism upon which efficiency depends. Dr. Tout has accordingly set himself, as a supplement to his already weighty contribution to historical science, to redress the balance, and he is carrying through his task with characteristic energy and thoroughness. His main positions have been already outlined in a treatise entitled *The Place of Edward II. in English History*, published by him some two years ago. The present two volumes form the first half of a work intended to establish his thesis by an exhaustive examination of the vast amount of available evidence.

The clue that guides him through many labyrinths is the well-known principle of bifurcation, in accord with which every department of the central government of medieval England tended to split into two or more. As the exchequer became separate from the treasury, so the wardrobe from the king's chamber. Within the wardrobe a second treasury developed, distinct from the treasury of the exchequer, and at first subordinate to the older one, but tending in periods of royal ascendancy to usurp the premier position, while preserving comparative immunity from baronial or other control by professing to be still a department of the king's domestic economy rather than an office of state. Finally, this wardrobe became in fact, in Dr. Tout's own words, 'the War Office and the Admiralty, as well as the Treasury and the Ministry of Munitions.' In resolving a network of allied problems much aid is found from a skilful comparison between the various royal seals in use at different periods.

As to all such points of detail Professor Tout's own lucid pages may safely be left to speak for themselves. As to the value of his contribution to constitutional history as a whole it would be premature to speak until he has concluded his researches. It is likely that there will be differences of opinion as to the extent to which the new light thrown by him will demand a restatement of fundamental principles; as to how far, for example, it may be necessary to abandon the sharp distinction traditionally drawn between the English system of parliamentary control and the bureaucratic methods adopted by the centralised governments of continental Europe, notably by France, where the central administrative machinery proved strong enough to outlive a series of parliamentary constitutions and the revolutions that divided them. Be this as it may, fellow-workers, while they differ, can hardly fail to realise the great value of Dr. Tout's researches. Not only do these afford a view of English constitutional progress from a new angle of observation, but they throw a flood of light on numerous dark places. Future historians of all schools will find here materials wherewith to test or fortify their own conclusions.

Picturesque details of the domestic life of kings of England lighten the technical nature of the main discussion. For example, the man who carried King John's bed had his meals in the royal household, while that monarch was entitled to three baths a year without extra payment to his officials, but each additional tub cost him twopence farthing to the water-bearer. (He profited from this source to the extent of  $4\frac{1}{2}$ d. for the period between 10th April and 3rd August, 1212!) Historians of Scots law will read with surprise the unqualified statement that in Western Europe 'the notarial system had only a late and occasional vogue,' but they have themselves to blame that Scottish institutions are not brought more prominently within the ken of English and continental writers on 'Western Europe'; the constitution of Scotland, considered as a whole, has still to wait for its historian.

Not the least pleasant feature of these volumes is the frequent acknowledgement of help received from pupils of the author's own training. The creation, by him and his able colleagues, of a school of history at Manchester that challenges in friendly rivalry the Oxford School of Modern History itself is no mean achievement.

WM. S. McKECHNIE.

**DUPLEIX AND CLIVE : THE BEGINNING OF EMPIRE.** By Henry Dodwell, M.A. (Oxon), F.R. Hist. Soc., Curator of the Madras Record Office. 8vo. London : Methuen & Co. Ltd. 1920.

MODERN research has, perhaps more frequently than its devotees would be inclined to admit, the task of re-adjusting historical perspective rather than the opportunity of reversing accepted judgments. Mr. Dodwell, however, has some claim to do both. His book is a work of genuine research, and not only does he soften and tone down the violent colours and contrasts and incidentally expunge some of the picturesque details of the authorised version of British Indian history—'Dupleixfatehabad,' for example, the 'City of the Victory of Dupleix,' dwindles down to an insignificant hamlet where no arrogant monument ever commemorated the conquests



of the would-be French empire builder ; but positive errors in statement of fact and opinion are freely corrected by his careful and accurate study of contemporary evidence.

Mr. Dodwell has used the original records of the East India Company, both those in his own care and those at the India Office, and the French archives at Pondichéry and in the Ministry of Colonial Affairs in Paris, and has based on them a really authoritative narrative of the first great contest between the rival nations in India. From this narrative, unquestionably better informed than its predecessors, Dupleix emerges shorn of some of his laurels—less of a political superman, and very much more credible in consequence. Certainly his policy, had it succeeded, would have revolutionised the position of the French Company in India : certainly it supplied both a model and a warning to British administrators and did revolutionise the position of the English company because in their hands it did succeed. But Dupleix's ambition to secure political control over native princes as well as commercial concessions from them grew slowly : the system he built up in the Carnatic and Deccan, in Mr. Dodwell's words, was 'the result of circumstances rather than the fruit of meditation.' Under the circumstances, any European might have built it : indeed the Dutch in Java already conducted their affairs on much the same lines : and the French policy was neither a novelty, nor even a scheme deliberately adopted and consistently followed with all its significance and consequences appreciated and foreseen.

Nor was it simply the short-sighted refusal of support from home that caused Dupleix's failure. The French Company certainly preferred good dividends to the establishment of an Indian Empire, and, like its English rival, did not desire political domination for its own sake. But it was not slow to see that commercial gain would follow political domination. Unfortunately for Dupleix, he could *not* make his wars pay for themselves, though that feat has been claimed for him. The exploits into which his alliances with native states and princes led him made large inroads upon the Company's revenues. Still the Company gave him, Mr. Dodwell considers, as much support as the English Company gave his enemies. It sent him more European recruits, no worse in quality than those of the English, whose superiority Mr. Dodwell attributes to better leading and the more rigid discipline Stringer Lawrence imposed on subordinate officers and men. It was the impossibility of financing in the Carnatic and the Deccan, comparatively poor and barren territories, such ambitious schemes as Dupleix gradually evolved that was the real cause of his ultimate failure. And, as M. Prosper Cultru has pointed out, it was not the French Company which recalled him but the French Ministry, which did not even communicate its decision to the Directors of the Company. (Mr. Dodwell, by the way, has two contradictory statements on this point—in his introduction, p. xvi, and on p. 77. The first is no doubt a slip of the pen.)

The second part of Mr. Dodwell's work is an excellent account of the later campaigns in the Carnatic of Lally and Bussy (whom Mr. Dodwell describes as an abler man than Dupleix) and of Clive's great work in Bengal. Mr. Dodwell touches very briefly on such matters as the famous forged treaty with Omichand, but of Clive's administrative genius he

speaks in an unwonted strain of enthusiasm. Indeed, his enthusiasm is well justified. Recognition of what is practically possible and foresight of what will ultimately become desirable are marks of the real statesman ; and Clive's political settlement during his second term of power in 1765-67, based on the first, yet so infused with the second that the one has never impeded the other, shows how eminently he possessed the rare combination of the two qualities.

There is one serious fault in Mr. Dodwell's book. It is totally deficient in maps ; and intelligently to follow his closely knit narrative, bristling with Oriental place-names, from large states to tiny villages, is quite impossible without maps. Although one could hardly expect the book to be furnished with plans on the scale of a large atlas, it certainly should supply the reader with good maps of Deccan and Bengal, and perhaps one of the Carnatic on a larger scale, to enable him to appreciate Mr. Dodwell's work at its full value.

J. W. WILLIAMS.

THE LOLLARD BIBLE AND OTHER MEDIEVAL BIBLICAL VERSIONS. By Margaret Deanesly, M.A. Pp. xx, 483. 8vo. (Cambridge Studies in Medieval Life and Thought.) Cambridge : University Press. 1920. 31s. 6d. net.

THIS is a work of sound scholarship, embodying a great deal of original research, and Miss Deanesly is to be heartily congratulated on her achievement. Written in a critical spirit equally far removed from the extremes of partiality and prejudice, the book is undoubtedly a valuable contribution to medieval history. Such definite results could only have been obtained as a result of great industry. One small section of the book alone, that concerning bequests of Bibles in medieval wills, involved the examination of over 7500 documents.

The subject has a much wider scope than might at first appear. The unity of the medieval church depended in no slight measure on the recognition of the Vulgate as the only authentic text, and at the same time on the exclusive right of the clergy to interpret the Bible. As soon as the general public had access to translations in the vernacular, ecclesiastical unity was imperilled. In Miss Deanesly's opinion it was only the exercise of force that prevented the Reformation from coming in the thirteenth and not in the sixteenth century. This is quite likely ; at the same time the Reformation would have been a very different movement without the added impulse of humanism.

In the Middle Ages the church did not invariably prohibit translations of the Bible into the vernacular. In the early ages of missionary effort such renderings were necessary. They were however made for the use of the clergy. In later times laymen were occasionally allowed to have copies of vernacular Bibles, but this permission depended on a Bishop's licence in the case of Great Britain, and the licence was only granted to persons of distinction. An unused book in a royal library was of no benefit whatever to the general public. As time went on, translations of the scriptures were more and more associated with heresy because the individual laymen began to claim the right to interpret holy writ in his own way.



To a certain extent the development on the Continent and in Britain followed similar lines. The vernacular Bible was a weapon in the hands of the Waldensians of Lombardy, France, and the Empire, just as was the case with the English Lollards. The translation of the Bible was not at first among the objects which Wycliffe strove to accomplish, but towards the close of his life he considered it a necessary step for the achievement of his aims. The translation of the Vulgate is not even mentioned among the heresies for which he was condemned, although it was the logical outcome of those heresies.

Miss Deanesly has convincingly shown, and here lies one of the chief merits of her book, that the reference in Sir Thomas More's *Dialogue* to old English Bibles in the possession of the laity must refer to Wycliffite text without the heretical prologue. No complete Middle English version existed before Wycliffe, and even the partial versions were most likely all written after 1380.

Two minor points may be noted. The statement (p. 140) : 'It is claimed that a written version of the songs of Caedmon exists in a manuscript, which contains the story of Genesis, Exodus and Daniel,' is substantially correct, but its brevity may be misleading. The Anglo-Saxon *Exodus* has many archaisms in phonology and syntax which point to an Anglian original of early date, which may be as far back as Caedmon's time. The *Genesis* and *Daniel* are much later, and the interpolated *Genesis B* is a translation from the Old Saxon, and hence has nothing to do with Caedmon.<sup>1</sup> The discussion of the different dialects of Wycliffite scribes (p. 253) is not quite convincing. The form of the participle is a useful dialect test, although other evidence should be added. But—'and' is not Midland; it is Northern. Nor is 'heo' (presumably the nom. sing. fem. of the personal pronoun) necessarily Southern. It might just as well point to a Lancashire dialect. 'Yspoken' may be Southern, but it may also be Midland.

The carefully edited text of various Lollard tracts in the second Appendix is of considerable interest for students of Middle English.

JAMES M. CLARK.

OLD CROSSES AND LYCHGATES. By Aymer Vallance. Pp. xviii, 198. With 237 Illustrations. Small Quarto. London : B. T. Batsford, Ltd. 1920. 18s. net.

ORIGINATING in an art magazine article, this beautiful volume derives more from its artistic than its antiquarian suggestions. It is nothing short of an album of crosses and lychgates, comprehending the finest examples in England and exhibiting a great variety of skilful drawings and photographs of recent execution as well as reproductions of old pictures of objects no longer existing or now modified by the wear and tear of time or transmogrified by restoration.

As a repertory of crosses the collection may claim a creditable place, and its discussions of antiquarian theory and its particular descriptions are

<sup>1</sup> Paul's *Grundriss der germanischen Philologie*, ii. 1028, Strassburg, 1909.

neither marred by eccentricity nor by dogmatism. Probably the specialist may feel that the vitals of the problems are not always seized, and that scientific archaeology only slips in and out between and among these wonderful old pillars and sockets and fragments of a cult which had its day but has not therefore ceased to be.

There are 199 crosses pictured and 38 lychgates. Particularly happy examples may be referred to, from the author's own camera, viz. the slender and graceful cross of St. Donat Glamorgan and the sombre pillar at Derwen in Denbighshire. The Eleanor crosses in memory of the queen of Edward I. naturally receive special attention, both in picture and in text, that of Geddington being a choice example, while armorial fragments from the Cheapside monument do honour to Plantagenet sculpture. In a brief introduction, what may be called the story of the cross as a medieval emblem in stone is sketched and its varieties of type distinguished, especially Palm crosses, Boundary crosses, Sanctuary crosses and Market crosses. Neville's cross at Durham, scene of a Scottish disaster in 1346, has disappeared, thanks to 'some lewd and contemptuous wicked persons' who in 1589 broke it down. Its characteristics, however, are well described in the *Rites of Durham*, written in 1593. A moderately good account is given of the Preaching crosses, especially that of St. Paul's, from which so often political as well as religious echoes resounded through the land. The space available for archaeological disquisition, no doubt, was inadequate to allow a more detailed historical statement on such subjects as the Northumbrian crosses and the documentary side of the memorials of Queen Eleanor. The author deplores, as well he may, the premature loss of his friend Sir W. St. John Hope, whose promised notes on the Eleanor crosses would have been an invaluable accession of archaeological interest. To many the substantial chapter on Market crosses will be notable for its tendency to exhibit a gradual development of an octagonal or circular type, arched and roofed and usually pinnaced. Comparison with Mr. John W. Small's drawings in his *Scottish Market Crosses* affords room for reflection not always to the discredit of our less ornate ideals. In the matter of the lychgate or covered gateway into the churchyard, of which such rich examples in timber as well as in stone are here presented, Scotland could scarcely enter the lists of comparison at all.

Mr. Aymer Vallance's volume will be found excellent for reference to typical English architectural modes and forms as well as for its tribute to picturesque phases of antiquity.

Geo. Neilson.

THE EARLY CHARTERS OF THE ROYAL BURGH OF RUTHERGLEN, A.D. 1126-1388. Introduction, Translation and Notes. By George Gray Town Clerk. Pp. 31. Crown 8vo. 1920.

THIS modest pamphlet prints the charter of William the Lion *ante* 1189, that of Alexander II. in 1226, that of Robert the Bruce in 1323, and that of Robert II. in 1388, with a capital facsimile of the charter of 1323 and a map exhibiting the extensive bounds within which the burghal liberties were confirmed by that charter. This facsimile would alone make the print notable, for the document counts among the high vouchers of the



generic Scottish burghal constitution. The editor deserves all the heartier and more grateful welcome into the historical field, as his father George Gray *primus*, town clerk before him, was an honoured student of burghs, and, like his son, a watchful guardian of the privileges of Rutherglen.

The arrangement of preface and documents notwithstanding leaves something to be desired, and the discussion of the characteristics of the charters rather tantalises the enquirer, *e.g.* (1) as to the precise relationship with Glasgow, Partick, Renfrew and Ayr; (2) as to the connection with the county of Lanark; and (3) as to the precise constitution of the 'castellany' embracing the rural area dependent on the castle and defining the limits of the burgh's exclusive privilege. In the translation of William the Lion's charter a critic might demur to 'Provost' as a dubious and premature rendering of a twelfth century *prepositus*. Moreover, it rather seems that *ubicunque . . . attingere possit in cujuscunque terra* relates to the catching of an offender 'anywhere in another jurisdiction,' and that Mr. Gray's 'other rights wheresoever' can hardly be the connotation of *ubicunque* where it occurs. However, these are details perhaps for the next parliamentary committee to determine. The extract from the proceedings of 1912 is an obviously relevant reminiscence of the triumph of Rutherglen.

HELLENIC ARCHITECTURE : ITS GENESIS AND GROWTH. By Edward Bell, M.A., F.S.A. Pp. xx, 185. Illustrated. London : G. Bell & Sons, Ltd. 1920. 7s. 6d. net (in paper wrapper, 6s. net).

MR. BELL practically confines himself to a description of Cretan and Mycenaean architecture and of the Doric and Ionic temples, and a discussion of the origin of the three orders. This task he has very well carried out. His style is easy, pleasantly technical and very lucid; and the book is generously illustrated. He rightly rejects the idea that the Doric order is a close translation into stone of an older timber construction, and insists on the probability of Egyptian influence on the formation of the early Doric column. For it is one of the puzzles of the history of Greek architecture that the slender Mycenaean wooden column seems to have been replaced by the remarkably thick stone columns of the Doric temples. Mr. Bell does not give any idea of what a Greek town looked like. Nor does he explain the Greek conception of art—why they showed such little variety in the general type of the temples, but were always aiming at the perfection of certain forms which they thought beautiful; though he hints at it in this admirable sentence: 'The Doric capital by successive experiments was refined in profile and reduced in diameter until it attained that appropriate and satisfactory relation to the whole column which is shown in the most perfect examples of the order' (p. 121). One misses, in fact, a description of the Acropolis as a whole. The temple of Poseidon at Sunium has been more recently studied than 1900 (p. 107); references should be made to the *Ephemeris Archaïologike* of 1911 and following years. Both the treasuries of Knidos and of Siphnos at Delphi had caryatid porches. But these are small blemishes in this well-written book, which, within the limits indicated, gives a very clear account of the growth of Greek architecture.

A. W. GOMME.

## 56 Meyer : Staatstheorien Papst Innocenz' III.

STAATSTHEORIEN PAPST INNOCENZ' III. Von Dr. Erich W. Meyer. Pp. 50. 8vo. (Jenaer Historische Arbeiten, Heft 9.) Bonn: A. Marcus und E. Webers Verlag. 1919.

DR. MEYER's original intention was to deal with Innocent III's political theories and their application in practice. He found himself however obliged to limit the scope of his investigations to the political system of this Pope, which is, after all, the most important aspect of the subject,—Innocent III's practical policy being in the main an adaptation of his theory.

Recent judgments of Pope Innocent III have been rather unfavourable. Hauck declared in his *Kirchengeschichte* that he was an opportunist who knew no scruples, who often descended to deceit and hypocrisy in order to achieve his ends, who did not shrink from deliberate lying or the falsification of facts. Dr. Meyer makes no attempt to rehabilitate Innocent III, but does not judge him quite so harshly, apparently because he considers that politics have no connection with morality. He sees in this pontiff an aggressive potentate who had no ideal mission. He comes to this conclusion after studying Innocent's letters, which are the chief source of our knowledge.

The monograph is admirable for its clearness and conciseness. There is nothing superfluous in it, but simply a well arranged statement amply supported by quotations. Granted Dr. Meyer's conception of Innocent III's character it is impossible not to accept his conclusions. Where we may possibly differ from him is in the first principles.

JAMES M. CLARK.

Mr. Arnold D. McNair modestly describes his scholarly and useful book, *Essays and Lectures upon Some Legal Effects of War* (pp. xiv, 168; 8vo. Cambridge University Press. 1920. 10s. 6d. net) as 'a collection of seven essays and lectures upon several aspects of the Effect of War upon the municipal or national law of England.' Some of his readers might have expected him rather to describe his book as a treatise on the principles of private international law as interpreted by the English law courts in the period of the world war. It is an admirable piece of work, at once scholarly and practical, exhaustive and well arranged, well reasoned and clearly expressed. It may be recommended with confidence to all who are in need of guidance on a thorny and important subject.

WM. S. McKECHNIE.

NEGRO MIGRATION DURING THE WAR. By Emmett J. Scott. Pp. viii, 192. Crown 4to. With one Map. Oxford: University Press, 1920. 1 dollar.

NEGRO migrations from the South take place at intervals. One, which comprised thousands, moved to Kansas in 1879, another to Arkansas and Texas in 1888-89, but this work deals with the three years following 1914 when more than four thousand negroes suddenly went northward. This monograph deals with the facts of the migration, its effects on the labour question both in the South, North, Middle West and East, the public opinion on the movement, and gives an extensive bibliography to illustrate this newer portion of the great negro problem.



CAITHNESS AND SUTHERLAND. By H. F. Campbell, M.A. Pp. x 168. Crown 8vo. With 68 Illustrations and Maps. Cambridge: at the University Press. 1920. 4s. 6d.

A MIXTURE of Picts and Scots, to the last of whom their Christianity was due, occupied Caithness until the ninth century when the Norse filtered in. This book gives, as illustrations of the periods, different brooches which vie with each other. As in most other countries, the Gaels were forced back to the less fertile uplands, while the Norse retained the coasts and grew rich on the corn trade with Norway. In 1150 King David formed the country north of Dornoch into a bishopric, but the early bishops had tragic ends. The country was the scene of the battle of Altimarlach in 1680 between the native Sinclairs and the invading Campbells, and since then matters have been quiet and agricultural. Sutherland, on the other hand, though the name is Norse, is much more Celtic by blood. Continual migrations of Highland clans have made it so. The Mackays arrived early, Murrays later, and Gordons last, and it was through one of those—Sir Robert—that in 1631 Charles I. erected the present county out of that of Inverness. We are given everything we can desire to know about the occupations of the inhabitants, agriculture, fishing and other industries, and enough is said of the antiquities (which are many) of both counties and of the communications to allow the traveller to arrive at their northern locality.

KIRKCUDBRIGHTSHIRE AND WIGTOWNSHIRE. By Wm. Learmonth, F.R.G.S. Pp. 149. Crown 8vo. With 62 Illustrations and Maps. Cambridge: at the University Press. 1920. 4s. 6d.

THIS volume runs on the same lines as the last and is equally successful. We have the same well-chosen illustrations and the same good physical descriptions. The Norse element of the northern countries does not exist so much here though the Northmen conquered Galloway from Northumbria. The people of the country and stewartry were Gaels, and spoke Gaelic until well on into the sixteenth century, and had become Christian since the time of S. Ninian. Fierce and turbulent, Galloway followed its overlords the Balliols and the Douglasses. The Reformation took a great hold, and later the Covenanters. The antiquities include the Deil's Dyke—a rampart of defence from the north—and the crosses of Kirkmadrine, perhaps the earliest Christian monuments in Scotland. These are included in the illustrations, as are 'Candida Casa' and Dundrennan Abbey, founded by Devorgilla Balliol and known as 'Dulce Cor.' Threave Castle, the centre of a storm-tossed past, also figures among the Military Antiquities. There is the same care to instruct the tourist in all ways as in the last book, and the writer has done well.

A. F. S.

TWO CENTURIES OF LIFE IN DOWN, 1600-1800. By John Stevenson, Belfast. Pp. viii, 508. 8vo. With 46 Illustrations. McCaw, Stevenson & Orr, Ltd. 1920. 21s. net.

THIS volume is evidently a successful labour of love. The latter part of this book deals with the kirk, education, letters and doings in Down, much of it connected with descendants in the female line of the Hamilton

family, who with the Montgomerys are dealt with in the first few chapters Brian McFelim O'Neill, Chief of Southern Claneboye, was knighted in 1567 by Queen Elizabeth, yet she granted his lands to Sir Thomas Smith four years afterwards that the people 'might be taught some civility.' A later O'Neill—Con—made a grant of part of his lands to Hugh Montgomery of Braidstone, having fallen into disfavour with James I., but later Montgomery, by the King's action, had to divide his newly gained Irish lands with Sir James Hamilton, son of the minister of Dunlop, who was made Viscount Claneboye in 1622. The other adventurer became Viscount Montgomery of the Ards, and his descendants Earls of Mount-Alexander. These great pioneers were followed by many settlers both English and Scots. 'Generally the scum of both nations, who for debt, or breaking or fleeing from justice . . . came hither, hoping to be without fear of man's notice in a land where there was nothing, or but little, as yet, of the fear of God.' Yet both the lesser and the greater settlers flourished, and we are told much of interest about the turbulent but useful lives of the latter in this book, where information drawn from MSS. of all kinds is put together in a form useful to historians.

A. F. S.

**THE EASTERN QUESTION AND ITS SOLUTION.** By Morris Jastrow, Jun. Pp. iv, 160. Crown 8vo. Philadelphia : J. B. Lippincott Co. 1920. 6s.

THE writer is trying his hand again, but his spirit of prophecy is growing fainter. He appeals more to American than to European readers on his views of the Eastern question. He makes the statement, 'If the world continues to be in a disturbed and restless condition, we will suffer along with European nations.' Yet he only thinks that American help to the East ought not to be refused if it can be given 'without an army of occupation' or 'the danger of entangling alliances.' With these provisos we refer the reader, as he does, to the last chapter of his book.

**GREAT BRITAIN AND THE UNITED STATES.** A Critical Review of their Historical Relations. By J. Travis Mills. 8vo. Pp. 68. Milford, Oxford University Press. 1920. 2s. 6d. net.

TOUCHED with a welcome liveliness this sketch of the political relationships between the two great English-speaking federations of the world from the assertion of American independence down to the League of Nations excellently surveys the movement of the international forces of concord and discord for a century and a half. Perhaps it least satisfies from its deficient interpretation of the basic feeling, for instance, of the American colonist before the Revolution or of the Federalists of the Civil War towards the old country. One hardly gathers how Mr. Mills reads the settled mind of America towards our island. But evidently he regards the Monroe doctrine as finely compatible with fairplay in the world.

**THE COLUMBIAN TRADITION ON THE DISCOVERY OF AMERICA AND OF THE PART PLAYED THEREIN BY THE ASTRONOMER TOSCANELLI.** By Henry Vignaud. 8vo. Pp. 92. Oxford : Clarendon Press. 1920. 3s. 6d. net.

THE voyage of Columbus has now perhaps a bigger mass of myth and disputation around it than that of Jason. Mr. Vignaud disbelieves the



statement of Columbus that the 1492 expedition was in quest of a new route to the East Indies, and he assails the 'legend' of Toscanelli being the instigator, and declares spurious the documents attributed to him. A critic, not specialist on the question, may confess that to his view the attack quite fails.

**MEDIAEVAL FORGERS AND FORGERIES.** By T. F. Tout. Demy 8vo. Pp. 31. Manchester : University Press. 1920. 1s.

REPRINTED from the *Bulletin* of the John Rylands Library, this essay throws much fresh light on the origins of forgery, the methods by which it worked its way from charters into chronicles and decretals, its slow recognition as a crime, and its ramifications through the Middle Ages not terminating when Charles Bertram hoodwinked the antiquaries with 'Richard of Cirencester de Situ Britanniae.' Professor Tout's light and humorous narrative clothes a very solid collection of fact. Perhaps a grateful reviewer might refer the professor to the *Summa Angelica* of Angelus de Clavasio, under the word *falsarius*, for four packed columns of medieval juridical discussion.

**THE ART OF POETRY.** Inaugural Lecture delivered before the University of Oxford, 5th June, 1920. By William Paton Ker. Crown 8vo. Pp. 20. Oxford : Clarendon Press.

A CRITIC who has studied the art of poetry all his life can scarcely be expected to give a simple exposition of it when he speaks to us from the Chair of Poetry at Oxford. He is a difficult interpreter sometimes; this time more difficult than ever, but the grievance against the obscurity of oracles is old. And the reasons for obscurity are not new. Beginning with a stately passage out of Drummond somewhat objecting to reform in Poesie, Professor Ker steps forward to explain the mysterious power of certain formulas, abstract relations of syllables, the abstract frame of harmony in noble thought. He finds the spirit of poetry in Gavin Douglas's fine phrase 'plesance and half wonder.' He seems to prefer the miracles, 'such as Burns did,' in bringing new and fresh things out of old fashions, rather than violent inventions of form. It is a doctrine with which only a very young generation of poets is likely to quarrel. The oracle will be accepted as not only true but imperative in these most shrewd and wise beginnings of Professor Ker's latest and highest function.

To the series of county handbooks issued by the Cambridge University Press there are now added *Dumbartonshire*, by F. Mort (pp. viii, 158, 4s. 6d. net), and *Orkney and Shetland*, by J. G. F. Moodie Heddle and T. Mainland (pp. xii, 170, 4s. 6d. net). A natural diversity of interest among the authors agreeably distributes the emphasis, throwing it on geological and physical geography in the case of Dumbartonshire, on the Norse history and antiquities of Orkney and on the fishing and bird-life of Shetland. Mr. Mort quotes Blind Harry as if he were historically credible and he accepts 'Wallace's great two-handed sword' as the patriot's genuine weapon. The Macgregors will not think that their side of the case has justice done to it. The unusual constitutional interest of the

formation of the county has escaped attention, and the significance of 'the Murragh' in that connection might well have appealed to Mr. Mort. One wonders on what authority it is said that 'as early as 1170' Kirkintilloch was made a burgh of barony.

In the Orkney and Shetland book Mr. Heddle takes the former group of islands for his province and Mr. Mainland takes the northern group. Mr. Heddle is a specialist, and his chapters on natural history and on history and antiquities compress much observation and study. Norse speech, he tells us, lingered until 1750. One topographical feature which has for some years aroused attention has unfortunately not been taken up: it is the relationship by way of journey in early times between Orkney and the mainland of Scotland. A law paper of the eighteenth century reveals the fact that 'John o' Groat's' was the house of the ferryman to the Orkneys. This explains much and accounts for the fame of the familiar but tiny place known more or less to every schoolboy or girl who has to learn Scottish geography. This fame it has plainly because of its vital position on the line of the great northern highway to Ultima Thule, wherever that was. The ferry was, of course, a normal part of the ancient roads. What was the Orkney end of it? And what was its continuation to Shetland? A historical term of abuse, the 'ferry-loupers' (applied to Scots intruders), illustrates the important part the ferry played in Orcadian life.

Dealing with Shetland, Mr. Mainland might have made more of the whale fishery and its customary lore. History fares less satisfactorily here than in Orkney, but special notes on Norse words and on the wild life of these remote isles make up for some historical shortage. The picture of a shoal of whales is most impressive, but the maps—both of Shetland and of Orkney—would admit of improvement in distinctness.

*The Western Towers of Glasgow Cathedral*, by J. Jeffrey Waddell (4to, pp. 8) is a reprint from the Scottish Ecclesiological Society's *Transactions*. It deplores the removal of the towers in 1846 and 1848: and Mr. Waddell has the courage to propose their re-erection as a war memorial.

A recent *Bulletin* (History and Political Science) of Queen's University, Kingston, Canada, *John Morley: a Study in Victorianism*, is a fine essay by Professor John L. Morison. No such glowing paper has appeared in the series to which it belongs. The Victorian Morley gets his meed, perhaps with something over, and the appreciation illustrates the influence which his high and distant spirit exercised over the generation which felt him at his prime. Striking things in the estimate are (1) the admirably drawn contrast between Morley and Arnold, (2) the sketch of Morley's transition through journalism to high politics, and (3) the poised judgments upon *Gladstone's Life* as compared with the *Reminiscences*. The view perhaps leans too greatly to the favour of the former. Some critics may prefer to see in the latter the last and greatest word of Morley—a consummately ambitious literary performance, singularly combined with an unexpected proconsular revelation not too welcome.

The latest issue of the *Bulletin* is *Elizabethan Society: a Sketch*, by J. B. Black. It is a clever composite picture of the period, deducing its mentality



from contemporary authors. The inference, however, of a 'callous and cruel heart' and of an 'unprincipled scramble for wealth' is most likely no truer than similar generalisations would be to-day. Professor Black, whose sojourn in Canada has been short, writes with a marked culture of the art of expression, and bids fair to achieve a style. This essay garners many quotations round which its propositions crystallise.

Two of the 'University of Illinois Studies' have reached us. One is *The History of Cumulative Voting and Minority Representation in Illinois* (University of Illinois, Urbana; 8vo, pp. 71), in which Dr. Blaine F. Moore claims that the cumulative method in practically all cases secures minority and even proportional representation, although admitting that when parties are closely balanced party initiative tends to be crippled. The other is Dr. J. W. Lloyd's *Co-operative and other Organized Methods of Marketing California Horticultural Products* (*ibid.* pp. 142), which states and examines the conditions of the fruit trade in all aspects.

The July issue of the *English Historical Review* excels in variety. It opens with an important constructive paper by the editor, Dr. R. L. Poole, on the 'Masters of the Schools at Paris and Chartres in John of Salisbury's Time.' This is a biographical commentary on this author's *Metalogicus*, written towards 1160, in which his studies in France are described. The most interesting feature of the article is its examination of the *Metamorphosis Goliae Episcopi*, describing a group of doctors in divinity, philosophy and rhetoric circa 1142. William Miller discusses the Venetian Revival in Greece in the stand against the Turk, 1648-1718.

G. Davies returns to an old problem, namely, that of James Macpherson and the papers of David Nairne. In 1896 Col. Arthur Parnell submitted reasons for his belief that Macpherson had forged certain of those papers to discredit the loyalty of Marlborough. The re-examination of the question (one is glad to note, without prejudice to Ossian) results in a thoroughgoing vindication of Macpherson's honesty. Dr. Round writes on the 'waite-fe' or payment to the castle watchmen of Norwich in the twelfth and thirteenth centuries.

Prof. F. M. Powicke supports Prof. M'Kechnie's interpretation of *abbrevientur* (*i.e.* to be 'shortened') in Number 13 of the Articles of the Barons in 1215. H. G. Richardson prints documents of Edward III.'s reign proving forgeries of fines. Margaret Tout (a name one welcomes) adds to the vouchers of Bracton's 'Comitatus Paleys' of Chester (1238), a plea roll of that shire in 1310, styling it 'comitatus pallacii.' The Royal Charters of Winchester from Edward the Confessor to Henry II. are edited—there are forty-nine of them—by V. H. Galbraith with excellent annotations.

*Somersetshire Archaeological and Natural Society Proceedings during the Year 1919* (fourth series, vol. v. pp. lxxxiv, 163; Taunton, 1920) demonstrate the maintenance against all adverse conditions of a high spirit not only in research but also in the adventure of production now grown so difficult. Matter of the first merit appears in Sir H. Maxwell Lyte on 'Burci, Falaise and Martin,' Norman settlers in Somerset at the

Conquest. Equally valuable and richly illustrated is an instalment of Dr. A. C. Fryer's 'Monumental Effigies in Somerset,' devoted to thirteenth-fourteenth century civilians and of importance for feminine costume. Mr. Henry Symonds, under the heading 'A By-Path of the Civil War,' edits a bundle of transcripts of local documents dating from the spring of 1645 and relative to the political disturbances of the period. The paper is water-marked 'G. & S. 1812.' May these transcriptions not have been done for the old Record Commission, the 'copy' for which did not all reach print, and sometimes passed into private hands?

The final chapter—unfortunately final in more senses than one—of Lord Guthrie's articles on R. L. Stevenson appears in the June number of the *Juridical Review*, brightened by three sketches of corners of Swanston Cottage and by several quotations from the correspondence of the Stevenson circle. Mr. C. M. Aitchison writes on 'Courts-Martial' and Dr. Th. Baty on the 'Basis of Responsibility,' the latter showing the present tendency to carry the source of liability beyond tort to something like an obligation of insurance.

*The Caledonian*, as 'An American Magazine,' is miscellaneous and comprehensive in its May number, which includes a portrait of Rev. Donald MacDougall, a native of North Uist, founder of the paper, who died in March this year. Themes of this issue include Clan Skene, 'Glasgow Scenes and Memories,' and chronicles of transplanted Scots. In June Clan Gunn has its biography, and Judge Benet trounces 'the Sinn-Fein Circus.' A reprinted poem, 'The Kirky Brae,' recalls the many-sided interest of Cromarty and its kirkyard.

The issue of this magazine for August *apropos* the reinterment of Major Duncan Campbell, hero of Stevenson's poem 'Ticonderoga,' repeats in an article by F. B. Richards the half legendary story of Jane M'Crea, who was assassinated in 1777 by an Indian chief. One of the illustrations is a plate of the Major's tombstone. He died in 1758 'of The Wounds He Received In The Attack of The Retrenchments of Ticonderoga.'

It strikes us on this side of the water as a novel experiment to find the *Iowa Journal of History and Politics* devoting the entire October (1919) number to a statement of the legislation effected by the Thirty-eighth General Assembly of Iowa which met January 13, 1909, and adjourned April 19 following. Perhaps, however, no better mode could have been devised to mirror the public spirit seen in a State Legislature. Out of 1,134 bills and resolutions introduced 406 were passed. Subjects embraced codification, woman suffrage, state officers and salaries, powers of the governor, municipal management, highways, motors and schools—all types familiar to ourselves. Food and drugs, housing, liquor, hotels, corporations, taxation, the 'red flag' are all here too. America is only Europe writ over again. One real novelty there is: a statutory authority to a sick or storm-stayed judge to adjourn his court by telephone! The patient and very instructive analysis of the enactments is the work of Assistant Professor John E. Briggs and Instructor Cyril B. Upham, both exponents of Political



Science in Iowa State University. One Americanism is interesting: 'dead timber' signifying laws in desuetude.

In the *Iowa Journal* for April the chief contribution is G. F. Robeson's article on 'Special Municipal Charters in Iowa, 1836-1858' exhibiting the methods and conditions of incorporation and the powers, offices and organisation. Taxation was jealously regulated, the average maximum being a half per cent. on the assessed valuation of taxable property. Finance, schools, fire, liquor control and the constitutions of mayorate and judiciary were subjects of definition. In the score of years reviewed sixty special charters were granted to forty cities and towns. In 1858 special incorporation was forbidden, and a General Incorporation Act substantially reaffirmed the former special provisions. A description of 'North-western Iowa in 1855' by a surveyor, J. L. Ingalsbe, contains particulars of Red Indian characteristics, which rather serve the part assigned to them as 'antidote to Hiawatha.'

The *Iowa Journal* for July has an article by Charles R. Keyes discussing the materials for local archaeology in which the effigy mounds are the most distinctive element although rivalled by the linear mounds and conicals. Neither the linears nor the effigies, however, have produced relics. The great enclosures with earthen ramparts have been the chief sources of archaeological treasure in stone and copper implements and ornaments.

As is usual in such phases of enquiry, the American investigators started with theories of a vanished race of mound builders, greater than the types known to the oldest settlers. This view of the mound builders as a separate people has gradually given way before the advancing opinion tending to establish the red man as the builder race. The modern archaeologists are concerned equally with mound exploration as the primary task and with the difficult problem of the permanent preservation of the finds as well as of the mounds themselves, the disappearance of which would be an irreparable loss. Antiquity best retains its hold by continuing visible.

In the same number Donald L. M'Murry, writing on the 'Soldier Vote' in the election of 1888, recalls the hubbub in 1887 that followed President Cleveland's order for the return to the Southern States of certain captured Confederate battle flags held by the War Department. He had to cancel the order. In 1905 they were returned without protest. Shall we ever send back to Ireland the cannon taken at the Boyne?

The *French Quarterly* for March contains an important article by M. Lanson on '*Le Discours sur les passions de l'amour*, est-il de Pascal?' which no student of Pascal can ignore. The distinguished French writer, after a careful examination, decides in favour of the view that the authorship of this curious treatise must be attributed to Pascal. M. Maillet propounds an interesting theory on '*La Civilisation égéenne et la vocabulaire méditerranéen*,' and M. Albert Mathieu deals with '*Un Projet d'alliance franco-britannique en 1790*,' on which interesting light is cast on the secret mission of Pitt's agents, Hugh Elliot and W. A. Miles.

## Communications

ALEXANDER, SON OF DONALD, EARL OF MAR. I am indebted to one of my colleagues in the Public Record Office for the following transcript from 'Accounts, etc. (Exchequer), Box 356, No. 8, m. 5 d,' which throws light upon the hitherto unknown fate of Alexander, the third son of Donald, Earl of Mar, who, for convenience of reference, is styled the sixth Earl in *The Scots Peerage*.

The account of him given in that work<sup>1</sup> is as follows :

'3. Alexander, who was imprisoned in the Tower of London by order of King Edward I. on 12 December, 1297, along with Edward Baliol, the son of King John Baliol. No further notice of him has been found.' The writer of the article refers to Bain's *Calendar of Documents relating to Scotland* as his authority.

King Edward I. was absent on the Continent between the dates 22nd August, 1297, and 14th March, 1298. The entry on the Close Roll<sup>2</sup> of the warrant instructing the Constable of the Tower to take over Edward Baliol, Alexander, son of the Earl of Mar, and Robert de Stratherne from the household of the Prince of Wales is set out in common form, and it does not necessarily follow that the order originated from the king overseas. John Baliol had been transferred to the Tower on 6th August, 1297, and those young hostages were sent to join him four months later. The young member of the house of Mar must have died towards the end of April, 1299,<sup>3</sup> after seventeen months of uninterrupted confinement.<sup>4</sup>

It is stated in the *Chronicle of Lanercost*<sup>5</sup> that in 1337, when Edward Baliol was doing his utmost to wrest the Scottish crown from David Bruce, he informed against three Scottish knights who tried to persuade

<sup>1</sup> *The Scots Peerage*, vol. v. p. 578.

<sup>2</sup> Close Roll, 26 Edw. I. m. 16. Stevenson, *Documents Illustrative of the History of Scotland*, vol. ii. pp. 251-2, and Bain, *Calendar of Documents relating to Scotland*, vol. ii. No. 964, give m. 17 wrongly. Both these editors have seen that the Close Roll gives 'Septembris' in error for 'Decembris.' The editor of the *Close Roll Calendar* covering the period has overlooked this point.

<sup>3</sup> Transcript below.

<sup>4</sup> Bain, vol. ii. p. 265, where expenses of confinement for 1297-98 in the Tower are given from the Pipe Roll; and transcript below, which gives expenses for last six months before Alexander's death. From the details of expenses in Stevenson, vol. ii. No. dlvi., it is clear that the captives were well treated.

<sup>5</sup> Stevenson's Bannatyne Club edition, vol. ii. p. 290.



him to break his oath of allegiance to Edward III. and to become an independent and national king. Perhaps at the earlier date there was a similar disposition among the leaders of the Scottish national party, inspired by its victory on 11th September, 1297, at Stirling Bridge and ready to abandon John Baliol as a weak and resourceless king, to adopt Edward Baliol as their leader, try to kidnap him and set him at the head of national resistance; and knowledge of this disposition, or fear that it might arise, induced the English Council, taking no risks in the absence of their king, to transfer Edward and his young associates from their gentle captivity at Hertford in the household of the Prince of Wales to honourable, but safer, custody in the Tower. Alexander would be both a hostage for the loyalty of his family, then stout partisans of Edward I., and a companion to Edward Baliol.

The account, from which the following is an extract, is a cash account of wardrobe receipts and payments for 1299. 'Stebenbeth' is Stepney.

W. R. CUNNINGHAM.

Radulfo de Stikebourn custodi Alexandri filii comitis de Mar pro minutis necessariis dicto Alexandro emptis per eundem ut pannis lineis caligis sotularibus et stipendio lotricis sue dictum Alexandrum et pannos suos lavantis per dimidium annum xij. s. Eidem pro diversis electuariis et speciebus emptis per eundem ad opus ejusdem Alexandri, et pro stipendio cujusdam medici capientis curam ad eundem per xxiiij<sup>or</sup> dies mense Aprilis per quos languebat ante mortem suam viij. s. ix. d. ob.

Eidem pro expensis factis circa humacionem dicti Alexandri defuncti ut in oblacionibus participatis ad missas celebratas pro eodem die sepulture sue et in factura fosse in qua sepeliebatur, et in uno lapide empto ad ponendum super sepultura ejusdem, et aliis minutis expensis factis eodem die xxij. s. vij. d. per manus proprias apud Stebenheth' viij<sup>o</sup> die Maii.

Summa xliij. s. iiij. d. ob.

Pacatur.

**A CURIOUS WORD FOR GREAT NEPHEW.** In a contract of 1609 is the word *EIROY*, which occurs latinised as *Pronepos* in the sasine following on the contract. The two deeds are amongst the writs of the Lands of Kirnan or Keirnan in the Barony of Glasrie (Argyll), for ages held by a branch of the MacEwir Campbells.

On 29th. Dec. at Dudop. Sir James Scrymgeour of Dudop, Knight Constable of Dundee, and Alexander McEwir eiroy to umquhile Johne McAllester (MaKewir) of Keirnan enter into a contract about the augmented Rental of the 4 marklands of the two Keirnanes and 1 markland of Auchaleck in the Barony of Glastrie, Shire of Argyll, which had long been held of Dudop by the ancestors of Keirnan, and which after Resignation into the superiors hands are regranted at higher feu duty.

Now after perusing the original deed in the Poltalloch Charter Chest I was amused to see that in the Chartulary the word 'eiroy' has been rendered v<sup>c</sup>roy by a bewildered scribe!

But on examining the sasine taken on — January 1618, which is in the usual Latin, it bears to be in favour of Alexander MaKewir as pronepos of

umquhle Iain (or John) MaKewir of Kerenane, to which the MacEvir Campbell Lairds of Barmolloch and Leckuary and others are witnesses. I think that 'oy' is always the word for grandson, so 'eiroy' is the old word for great-grandson, but I have never before happened to meet it. 'Pronepos' is given in dictionaries as either a nephew's son or great-grandson.

ARGYLL.

Inveraray Castle.

A NOTE ON ROMAN LAW IN SCOTLAND. The Chartulary of Melrose contains a *compositio* or *concordia* between the Knights of St. John of Torphichen and Reginald le Cheyn and his wife Eustachia regarding the right of patronage of the Church of Ochiltree (Howiltre) in the diocese of Glasgow.<sup>1</sup> The parties submitted the dispute to the Bishop of Glasgow and the instrument, which is fortified with the consent of the Cathedral Chapter, embodies his decision. Cosmo Innes attributes the instrument to the reign of Alexander III. (1249-1285-6), and the Bishop concerned was Robert Wishart, who was consecrated in 1272-3. The Bishop decided that the Knights of St. John should receive a yearly payment from the Parish of £14, and that the patronage should remain with Eustachia le Cheyn and her heirs. The payment to the Knights is carefully provided for, and the carrying out of the arrangement is secured by penal clauses and oaths.

The instrument concludes: '*renunciando specialiter restitutioni in integrum per actionem sive per officium judicis petende sue implorande et conditioni ex lege et sine causa vel injusta causa actioni etiam in factum et exceptioni doli et metus et omnibus litteris et indulgentiis a sede apostolica impetratis et impetrandis litteris regiis et omni actioni et exceptioni consuetudini et cavellacioni sibi vel successoribus suis seu haeredibus quocumque jure seu titulo contra supradictam ordinationem vel presens scriptum competentibus vel competere valentibus. Renunciavit etiam praedicta domina Eustachia pro se et haeredibus suis de consensu expresso mariti sui predicti beneficio senatus consulti Vellezani et etiam legis Iulii fundi dotalis et omni juris remedio canonici et civilis sibi et suis haeredibus contra praedictam ordinationem seu praesens scriptum quocumque jure vel titulo competentibus vel competere valentibus.*'

It will be noted that the foregoing clauses contain renunciations of the civil law remedies and pleas such as *In integrum restitutio*, *condictio* and *exceptio*,<sup>2</sup> and a renunciation by Eustachia le Cheyn, the owner of the right of patronage, of her disabilities under the *Senatusconsultum Velleianum* and the *Lex Julia de fundo dotali*. The whole passage quoted is of interest as evidence that at least some scraps of Roman legal terminology were in use in Scotland in the

<sup>1</sup> *Liber de Melros*, i. 228. In the fourteenth century the Church of Ochiltree was granted by the Bishop of Glasgow to Melrose Abbey, and this probably accounts for the presence of the instrument in the Chartulary of that house.—*v. Registrum Glasguense*, i. 224.

<sup>2</sup> Cf. *Liber de Calchou*, p. 181, where a similar series of renunciations occurs in an argument of 1287 between Kelso Abbey and the Templars, without, however, the special feature of the Melrose Charter.



thirteenth century; but the renunciation by a married woman of the protection which that law provided recalls an interesting chapter in the later history of Roman jurisprudence.<sup>1</sup>

The *Lex Julia* dated from 18 B.C., and the *Senatusconsultum Velleianum* from 46 A.D.<sup>2</sup> The former, in the words of Sohm, 'prohibited the husband from alienating or mortgaging any *fundus italicus* comprised in the *dos*. Justinian extended this prohibition to any *fundus dotalis* whatever. Not even the wife's consent can make a mortgage or (according to Justinian's enactment) a sale of the *fundus dotalis* by the husband valid. The object is to preserve the land intact for the wife, to whom the *dos* will presumably revert.'<sup>3</sup> The significance of the latter and its persistence in the legal practice of most European countries is the subject of Paul Gide's *Etude sur la Condition privée de la femme*. (2nd edition, by Esmein, Paris, 1885.)

The object of the *Senatusconsultum* was to prevent a married woman from undertaking obligations of a cautionary or similar character on behalf of her husband and, by subsequent extension of the enactment by Justinian, on behalf of third parties. Its effect was personal, and in this respect presented a contrast to the *Lex Julia*, which was directed to the property involved. This distinction was pleaded in support of the view that the benefit of the *Senatusconsultum* could be renounced, while the inalienability of the *dos* was independent of the action of the wife. A heated debate on this point marked the revival of Roman law in France in the twelfth and thirteenth centuries—a revival which was followed by a warm recognition by the jurists of the benefits of the *Senatusconsultum*.

During the centuries which preceded this revival the later feudal law imposed no restrictions of this nature on the capacity of a 'landed' wife, but when the study of Roman law was revived, the benefits of the *Senatusconsultum* were embodied both in documents and in customary law. Gide quotes or cites a number of French Charters of the latter half of the thirteenth and beginning of the fourteenth century to this effect, e.g. a Burgundian Charter of 1302 which contains the following renunciation by a married woman: '*Et toutes les choses dessus dictes et une chacune, je contesson de Genove, femme doudit Monseignor Jehan, seinghor de Mireboul, de ma bonne volonté et san cohercion nulle, dou comandement et l'autorité dou dit Monseignor Jehan mon mari, lou veul et ottois et approvois . . . et renonçons en ce faiât à certaine science et pas notre saviement . . . à toutes graces et privilèges qui sont ottoiées en favor des femmes, à la loi Julie dous fons de doaire non aliéner et à la loi dou saige Voleyen; à toute hayde de droit decanon et de lois, et à toutes ex-*

<sup>1</sup> It is not safe to infer any extensive knowledge of Roman jurisprudence from the references to Roman law which are found in many of the chartularies of religious houses. Fitting has devoted much ingenuity to tracing the life of civil law through the dark ages by this means, but his conclusions have been successfully challenged by his French colleagues, and notably by Flach. Cf. *Mélanges Fitting* (Montpellier, 1908), i. 383, ii. 203.

<sup>2</sup> D. xvi. 1 C. iv. 29: Nov. 134 cap. 8 and D. xxiii. 5.

<sup>3</sup> *Institutes*, S. 82.

*ceptions, droits, raisons, allégations, deffensions de fait et de droit et autres queles queles soient.*<sup>1</sup>

The point of contact between Scotland and Europe in the thirteenth century was probably Normandy. In that duchy the legists found little difficulty in reconciling the provisions of the *Senatusconsultum* with their customary law, and its provisions continued to be in force in Normandy long after they had been abandoned in most of the French provinces. In Normandy again the pre-Justinian view of the *Lex Julia* prevailed which permitted alienation of the wife's heritage with her consent.<sup>2</sup> Attendance at the Law School of Orleans may have made Scotch students familiar with the much debated questions arising from the *Senatusconsultum*. The canonists, however, had played the most important part in the introduction of the clause by which the benefit of the *Senatusconsultum* was renounced. The Church was interested in removing obstacles from the path of pious ladies who desired to give practical expression to their devotion, and by the time of Pope Alexander III. a papal decretal recognised the right of a married woman to bind herself along with her husband.<sup>3</sup>

The clause of renunciation of the benefits of the *Senatusconsultum* is frequently found in French Charters of the thirteenth and fourteenth centuries. It was inserted by notaries in many instruments without much reference to their content. It pleased these worthies to make a parade of tag ends of Roman law which exhausted their knowledge of the subject. It is probable that it is to the work of a foreign scribe in the employment of the Knights of St. John that we owe the appearance of the clause in the Melrose Charter. Someone, however, may be tempted to search through the chartularies for further evidence for the thesis that the dotal system, with a Norman complexion, prevailed in Scotland in the thirteenth century. The *communio bonorum* was inconsistent with the disability created by the *Senatusconsultum* and with the provisions of the *Lex Julia*.<sup>4</sup>

DAVID BAIRD SMITH.

<sup>1</sup> Gide, *Op. cit.* 393 n. 1. Viollet quotes an instrument of 1277 which contains a clause to the effect that the wife had had the purport of the S.C. explained to her—'asserens se esse certioratam quod sit senatus consultum Velleianum.'—*Etablissements de St. Louis* (Paris, 1883), iii. 192 n. 5 and 215; cf. Brissaud, *Droit français* (Paris, 1904) ii. 1141 n. 7.

<sup>2</sup> Viollet, *Histoire du droit civil français* (Paris, 1905), p. 850.

<sup>3</sup> *Decret. Alex. III.* Tit. 28, cap. 8.

<sup>4</sup> Kames' *Elucid.* Art. 1; Fraser, *Personal and Domestic Relations* (Edinburgh, 1846) i. 247 and 322 *et seq.* Tardif, *Coutumiers de Normandie* (Paris, 1896), ii. 244. *De Bueri Maritaglii Impedite*; Pollock & Maitland, *History of English Law* (2nd Ed.), ii. 399.